

LEASE AGREEMENT

DATED AS OF _____, 2022

by and between

**THE TOWN OF COHASSET,
AS LANDLORD**

and

**COHASSET YOUTH BASEBALL AND SOFTBALL ASSOCIATION, INC.,
AS TENANT**

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease"), dated as of the ___ day of _____, 2022 (the "Effective Date"), is entered into by the **TOWN OF COHASSET** ("Landlord"), having an address at 41 Highland Avenue, Cohasset, MA 02025, and **COHASSET YOUTH BASEBALL AND SOFTBALL ASSOCIATION, INC.** ("Tenant"), a nonprofit corporation, having an address of 207 N. Main Street, Cohasset, MA 02025.

Recitals

WHEREAS, Landlord is the fee owner of that certain parcel of land with a building, fields and other improvements thereon, located at 185 North Main Street Cohasset, MA 02025, containing 8.62 acres of land, more or less, and described more particularly on Exhibit A, attached hereto and incorporated herein (the "Property");

WHEREAS, Tenant wishes to lease a portion of the Property for sports and recreational purposes for the benefit of the Town of Cohasset and members of the public; and

WHEREAS, Landlord desires to lease a portion of the Property to Tenant for such purposes all as more particularly set forth in this Lease.

NOW, THEREFORE, in consideration of the premises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

Agreement

1. **Lease of Premises.** Subject to the terms and provisions of this Lease, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the portion of the Property that consists of three (3) baseball fields known as the Chase, Freedom and Barnes Fields (including a back-stop thereto), concession stand, bathrooms, and a parking area abutting such areas and related fencing (the "Premises"), for the Lease Term (as defined below) for the Permitted Use (as defined below) only, subject to all present and future restrictions, liens, encumbrances, rights and interests of others on, in or to the Property.

2. **Condition of Premises.** Landlord makes no warranty or representation that the Premises is suitable for the Permitted Use, it being assumed that Tenant has satisfied itself with respect thereto. Tenant has inspected the Premises and accepts the condition of the same "AS IS," "WHERE IS," with all faults, and agrees that Landlord is under no obligation to perform any work (other than mowing, as set forth in Paragraph 5(a)) or provide any materials to prepare the Premises for Tenant or otherwise during the Lease Term, except that Landlord shall be responsible for (a) ensuring that the use of the Property by Landlord and others entitled thereto does not interfere unreasonably with the rights granted to the Premises hereunder and (b) Landlord shall repair the Premises and/or any improvements, equipment or other property thereon damaged by Landlord and/or the other Landlord Parties.

3. **Term of Lease.** The term of this Lease shall be ten (10) years, beginning at 12:01 a.m. on the Effective Date (the “Commencement Date”) and, unless terminated sooner in accordance with this Lease, shall expire at 11:59 p.m. on said tenth (10th) year (the “Lease Term”). As used herein, the term “Activities Period” shall mean the periods during the Lease Term when the Premises are being utilized by Tenant for scheduled activities for the Permitted Use.

4. **Permitted Use.** Tenant shall use the Premises for the purpose of using and maintaining the recreational fields and facilities thereon, constructing, installing, placing, maintaining, repairing, replacing and, with Landlord’s prior written consent, relocating within the Premises improvements related to the Permitted Uses, and allowing the public to use the Premises for recreational purposes only, including, without limitation, outdoor sports (including, without limitation, use of the baseball fields on the Premises for baseball and softball games and practices) (collectively, the “Permitted Use”).

5. **Tenant’s Covenants.** Tenant agrees to use the Premises in accordance with the provisions set forth in this Lease as well as other reasonable rules and regulations implemented from time to time by Landlord or any agent of Landlord, a current copy of which is attached hereto as Exhibit C and incorporated herein. Landlord shall be entitled to review and approve Tenant’s plans for any large events that Tenant intends to hold at the Premises consistent with the Permitted Use, which approval shall not be unreasonably delayed, conditioned or withheld. In addition to complying with the reasonable rules and regulations of Landlord, Tenant shall comply with, and cause all Tenant Parties (as defined below) to comply with the following rules, regulations, terms and conditions:

(a) Tenant shall not (i) strip, overload, damage, deface or permit any nuisance in or about, the Premises and will comply with all Laws (as defined below), all governmental authorities, and requirements of all insurance companies pertaining to the Premises, (ii) do or permit to be done anything on the Premises which is unlawful, improper, or otherwise offensive or injurious to person or property, or (iii) damage any of the improvements, landscaping or personal property on or at the Premises from time to time (including any signage, fencing, bleachers and the like). Tenant shall be responsible for any damage caused to any improvements, landscaping or personal property on or at the Premises by any of the Tenant Parties and shall, during any Activities Period, keep the Premises in a clean, tenantable, attractive and sanitary condition and in good and safe repair, order and condition in all respects, including, without limitation, weed-whacking and generally landscaping the Premises as and when required, all at Tenant’s sole cost and expense, so the same remains in substantially the same condition as exists on the Commencement Date and suitable condition for the Permitted Use, reasonable wear and tear excepted. Notwithstanding the foregoing, Landlord agrees that its Department of Public Works will mow the Premises.

(b) Tenant shall not introduce, release, generate, permit, store or dispose of any hazardous materials or substances in, on, from or about the Premises except in compliance with applicable environmental Laws, including, without limitation, the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §6901 et seq., the

Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, as amended, the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E, as amended, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 et seq., any regulations adopted pursuant to said Act, and all other applicable codes, regulations, ordinances and laws (collectively, “Environmental Laws”). “Hazardous substances” and “hazardous materials” as used in this Lease shall mean “hazardous substances” and “hazardous materials” as defined under applicable Environmental Laws (“Hazardous Materials”). Landlord shall have the right to make such inspections as Landlord shall reasonably elect from time to time to determine if Tenant is complying with this section. It is hereby agreed that neither Tenant nor any of the Tenant Parties shall be responsible for any Hazardous Materials on or emanating from the Property, including the Premises, prior to the Effective Date. However, Tenant shall be responsible for any Hazardous Materials on or about the Premises or the Property on and after the Effective Date to the extent caused or exacerbated by any of the Tenant Parties and/or for any breach of any Environmental Laws on after the Effective Date to the extent caused by Tenant or the other Tenant Parties.

(c) Tenant shall comply with all governmental rules, regulations, ordinances and laws, including, without limitation, any and all procurement and/or prevailing wage rate laws (if applicable), and Environmental Laws (collectively, “Laws”), applicable to the Premises and the Permitted Use. Prior to the Commencement Date, Tenant shall obtain and provide Landlord with copies of any permits and other approvals necessary to utilize the Premises for the Permitted Use. -

(d) All improvements, fixtures, equipment, merchandise, supplies and other property on or about the Premises shall be at Tenant’s sole risk and hazard and Landlord shall have no responsibility for monitoring, inspecting, securing or maintaining the Premises or for any theft, loss, damage thereof or thereto, however caused, including, without limitation, with respect to any vehicles parked in or about the Premises. Tenant will be solely responsible for all personal injuries and property damage occurring in or about the Premises to the extent caused by or related to the actions, omissions, negligence and/or the intentional conduct of any of the Tenant Parties, except to the extent caused by the negligent actions or omissions or the intentional misconduct of Landlord and/or its agents, employees, contractors, and representatives (collectively, with Landlord, the “Landlord Parties”).

6. **Description of Lease.** (a) Nothing contained herein shall be construed as granting to Tenant any property or ownership rights in the Premises, or creating a partnership or joint venture between Landlord and Tenant, (b) the scope of this Lease is strictly limited pursuant to the terms expressly herein set forth, and (c) Tenant shall permit Landlord, at all times and without notice, to enter the Premises to view the same, inspect the operations thereof, make such repairs, alterations, additions or improvements as Landlord, in its sole discretion, deems appropriate, and show the same to prospective tenants and purchasers.

7. **Rent; Utilities.**

(a) The rent payable by Tenant hereunder shall be One Dollar (\$1.00) per calendar year, payable to Landlord on or before January 1st of each calendar year during the Lease Term.

(b) Tenant, and not Landlord, shall be responsible for furnishing all electric, water and other utility services to the Premises, and Tenant shall pay all charges therefor directly to the utility providers thereof. Upon prior notice and approval by Landlord, Tenant may supplement and/or modify Landlord's existing wires, risers, conduits and other electrical or utility equipment of Landlord serving the Premises. Tenant agrees that it will not make any material alteration or material addition to the electrical and/or utility equipment, piping, conduits and/or appliances serving and/or located on, under or within the Premises without the prior written consent of Landlord, which consent will not be unreasonably delayed, conditioned or withheld. Landlord shall not be liable in any way to Tenant for any failure or defect in the supply or character of electrical energy or any other utilities furnished to the Premises by reason of any requirement, act or omission of the public or other utility serving the Premises with electricity or other applicable utilities unless due to the negligence or willful misconduct of Landlord. Landlord shall not be liable or responsible to Tenant for any loss, damage or expense that Tenant may sustain or incur if the quantity, character or supply of electrical energy or other utilities is changed or is no longer available or suitable for Tenant's requirements.

8. **Alterations and Improvements.** Tenant shall have the right to construct or install such alterations and/or improvements in or to the Premises as are customary or related to the Permitted Uses, such as the installation, construction and/or repair of, fencing and/or backstops for the applicable recreation areas within the Premises provided, however, that Tenant shall not construct or install a field house or other permanent buildings or structures, including any lighting structures, within the Premises without the prior written approval of Landlord, which consent may be granted or withheld in Landlord's sole and absolute discretion. Tenant shall provide plans and/or specifications to Landlord, showing the proposed permanent structures at least forty-five (45) days prior to installing the same and obtain Landlord's consent thereto. All such alterations and improvements will be at Tenant's sole cost and expense. In the event that any of the same are permitted by Landlord's written consent, all improvements, installations, maintenance, alterations or additions shall be performed by Tenant in a good and workmanlike manner and in compliance with all applicable Laws and Tenant shall comply with any other reasonable requirements imposed by Landlord in connection with the approval or performance of the same. Tenant will not permit any mechanics', materialmen's or other liens or notices of lien or intention to be recorded, perfected or otherwise attach to the Premises or the Master Property by reason of anything done by or at the request or with the consent of Tenant, and, without limitation, upon any such recording, perfecting or attachment, Tenant will cause the same to be discharged and released of record within sixty (60) days of notice of the same, all at Tenant's expense.

9. **No-Assignment by Tenant.** Tenant shall not assign this Lease or sublease or otherwise transfer any of its rights under this Lease, by operation of law or otherwise, without the prior written consent of Landlord, which consent may be granted or withheld in

Landlord's sole and absolute discretion. Any such transfer without Landlord's consent shall, at Landlord's option, be null, void and of no effect.

10. **No Encumbrances on Lease.** Tenant covenants with Landlord that it shall not grant nor permit any liens, encumbrances, security interests or the like whatsoever in this Lease (or the rights of Tenant under this Lease), the Premises, or any improvements located thereon.

11. **Insurance/Liability.**

(a) Throughout the Lease Term, Tenant shall purchase and maintain, and shall cause any of its contractors that will enter upon the Premises to purchase and maintain, adequate insurance coverage for the benefit of Landlord, which coverage shall meet the following minimum requirements:

- (i) Commercial General Liability Insurance covering claims of bodily injury, personal injury and property damage arising out of Tenant's operations and contractual liabilities, including coverage formerly known as broad form, on an occurrence basis, with minimum primary limits of \$1,000,000 each occurrence and \$2,000,000 annual aggregate (and not more than \$25,000 self-insured retention) and a minimum excess/umbrella limit of \$2,000,000.
- (ii) Massachusetts Worker's Compensation insurance in compliance with applicable federal and Massachusetts law and Employer's Liability insurance with limits of not less than \$500,000 per occurrence for all persons to be employed by Tenant and its contractor(s).
- (iii) Tenant shall obtain property insurance on an all risk basis on a replacement cost basis covering all property it may own, rent or otherwise use in connection with operations under this Lease.
- (iv) Landlord and Tenant acknowledge that the provisions of G.L. c. 17C, §21, the so-called Recreational Use Statute, limit Landlord's and Tenant's liability for injury to persons occurring on or within the Premises, provided that such injury was not caused by Landlord's or Tenant's gross negligence and neither Landlord nor Tenant charge a fee for such public recreational use.

(b) The minimum limits of insurance required to be carried by Tenant shall not limit Tenant's liability. Such insurance shall: (i) be issued by an insurance company that has an A.M. Best rating of not less than A-VIII; (ii) be in form and content reasonably acceptable to Landlord; and (iii) provide that it shall not be canceled or materially changed without thirty (30) days' prior written notice to Landlord (if commercially available, and otherwise such notice of cancellation or change shall be timely given by Tenant), except that ten (10) days' prior written notice may be given in the case of nonpayment of premiums. Tenant's Commercial General Liability Insurance shall (x) name Landlord and any other party designated by Landlord (collectively, "Additional Insured Parties") as additional insureds, and (y) be primary insurance as to all claims thereunder and provide that any insurance carried by

Landlord is excess and non-contributing with Tenant's insurance. Tenant shall deliver to Landlord, on or before the Commencement Date and at least fifteen (15) days before the expiration dates thereof, certificates from Tenant's insurance company on the forms reasonably required by Landlord from time to time. Upon Landlord's request, Tenant shall deliver to Landlord, in lieu of such certificates, copies of the policies of insurance required to be carried under this Section showing that the Additional Insured Parties are named as additional insureds. If excess/umbrella insurance is provided, any such certificate shall evidence coverage specifically with respect to the Premises and the amount of coverage allocated thereto in compliance with this Section.

(c) Tenant hereby releases from all responsibility, and waives any rights of recovery against, Landlord and each of its officers, agents, attorneys, servants, employees, successors, assigns, representatives, tenants, subtenants, contractors, subcontractors, licensees, invitees, trustees and mortgagees for damage to Tenant's property, except to the extent such damage is caused by Landlord or the other Tenant Parties, and such release and waiver shall apply whether or not such damage is covered by insurance. Tenant shall cause any of its contractors and vendors that will enter upon the Premises and conduct activities pursuant to this Lease to provide same release and waiver prior to their entry upon or use of the Premises pursuant to this Lease.

12. **Indemnity.** Tenant shall defend, indemnify and hold harmless Landlord and its agents, employees, board and/or commission members, and representatives (collectively, the "Landlord Indemnitees") from and against any and all claims, liabilities, losses, damages, penalties, fines, forfeitures, demands, causes of action, suits, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees and costs of litigation actually incurred) (any, the "Claims"), relating to or arising out of (a) any default or breach by Tenant under this Lease, or (b) any accident, injury, loss, death or damage whatsoever of or to any person (including bodily injury or personal injury), or of or to the property of any person, occurring in or about the Premises and related to, arising out of, or in connection with Tenant's use or occupancy of the Premises; any of Tenant's activities under this Lease in any way, including environmental contamination or the release or threat of release of Hazardous Materials by Tenant or the other Tenant Parties in violation of the provisions of this Lease; the acts, omissions or negligence, directly or indirectly, of Tenant or any of the other Tenant Parties. The indemnification obligations set forth in this Lease shall not be limited by the existence of any insurance policy. Landlord shall have full control over how any claims against Landlord in relation to this Lease are defended, including settlement thereof. The indemnification obligation(s) under this Section shall survive the expiration or earlier termination of this Lease.

13. **No Personal Liability.** No manager, member, board and/or commission member, trustee, partner, shareholder, director, employee, agent, parent, or officer of Landlord or Tenant shall be personally liable for any obligation, express or implied, under this Lease. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

14. **Default, Right to Cure.** In addition to any other default specifically described in this Lease, each of the following occurrences shall, if not cured within the applicable cure

period, be a “Default”: (a) Tenant’s failure to pay any monetary amounts when due hereunder and the same is not cured within fourteen (14) days from written notice from Landlord, specifying the amount of the payment to be made and the reasons therefor (a “Monetary Default”); (b) Tenant’s failure (other than a Monetary Default or a default for which a shorter cure period is expressly provided herein) to comply with any term, provision, condition or covenant of this Lease (a “Non-Monetary Default”), if the failure is not cured within thirty (30) days after written notice to Tenant; provided, however, if Tenant’s failure to comply cannot reasonably be cured within such thirty (30) day period, then Tenant shall be allowed additional time (not to exceed sixty (60) additional days) as is reasonably necessary to cure the failure so long as Tenant begins the cure within such initial thirty (30) day period and diligently pursues such cure to completion; (c) Tenant permits an assignment, sublease or other transfer without Landlord’s required approval or otherwise in violation of Section 9 of this Lease; (d) Tenant becomes insolvent, makes a transfer in fraud of creditors, makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts when due or forfeits or loses its right to conduct business; or (e) Tenant’s leasehold estate is taken by process or operation of Law. All notices sent under this Section 16 shall be in satisfaction of, and not in addition to, any notice required by Law.

15. **Remedies for Failure to Cure.** Upon a Default by Tenant, Landlord shall have the right to terminate this Lease by no less than thirty (30) days’ prior written notice delivered to Tenant, in which case Tenant shall surrender the Premises to Landlord at the end of said thirty (30) day period. If Tenant fails to surrender the Premises, then Landlord, in compliance with Law, may enter upon and take possession of the Premises and remove Tenant, Tenant’s personal property and any party occupying the Premises. Tenant shall pay to Landlord, on demand, all past due amounts due under this Lease and other losses and damages Landlord suffers as a result of Tenant’s Default. Landlord may exercise such rights and remedies available to it under applicable law.

If Tenant is in Non-Monetary Default of any of its non-monetary obligations under this Lease, Landlord shall have the right to perform such obligations. Tenant shall reimburse Landlord for the actual and reasonable cost of such performance upon demand together with an administrative charge equal to ten percent (10%) of the cost of the work performed by Landlord. No right or remedy of Landlord shall be exclusive of any other right or remedy. Each right and remedy shall be cumulative and in addition to any other right and remedy now or subsequently available to Landlord at Law or in equity.

(a) Tenant shall pay all of Landlord's costs and expenses, including legal fees and expenses, incurred by Landlord in enforcing or attempting to enforce Tenant's obligations and liabilities under this Lease.

16. **Yield-Up.** Upon the expiration or earlier termination of this Lease, Tenant shall, at Tenant’s sole cost and expense, remove all of Tenant’s personal property from the Premises and, at Landlord’s request, all alteration and/or improvements made by Tenant at the Premises pursuant to Section 8. Further, Tenant shall restore the surface of the land to its condition as of the Commencement Date, as closely as practicable, including, without limitation, any re-grading, re-paving, re-seeding and re-planting required in connection therewith, reasonable wear and tear excepted. Tenant shall be responsible for any damage to

the Property caused by Tenant or any Tenant Parties. Additionally, promptly following each Activities Period, Tenant shall, at Tenant's sole cost and expense, remove all temporary equipment, trash and debris from the Premises. If Tenant fails to repair any such damage within thirty (30) days of notice thereof from Landlord (or, if the damage is such that it cannot reasonably be repaired within said thirty (30) day period, if Tenant fails to commence the repair within said thirty (30)-day period and cure the same within a reasonable period of time), Landlord may repair any such damage at Tenant's sole cost and expense. Tenant shall reimburse Landlord for any reasonable amounts expended by Landlord for such purpose within thirty (30) days after receipt of an invoice for same. This Section shall survive the expiration or earlier termination of this Lease.

17. **Estoppel Certificates.** Landlord and Tenant each shall from time to time, within fourteen (14) days after written request from the other, execute, acknowledge and deliver a statement (a) certifying that this Lease is unmodified and in full force and effect or, if modified, stating the nature of such modification and certifying that this Lease as so modified, is in full force and effect (or if this Lease is claimed not to be in force and effect, specifying the ground therefor), (b) acknowledging that there are not, to such party's knowledge, any uncured defaults on the part of Landlord or Tenant hereunder, or specifying such defaults if any are claimed, and (c) certifying to such other matters as Landlord or Tenant may reasonably request.

18. **Authority and Good Standing.** Each party represents and warrants to the other that it has the right, power and authority to enter into and perform its obligations under this Lease and that it is duly established or organized, validly existing under the laws of the state in which it was formed and is authorized to do business under the laws of the Commonwealth of Massachusetts. Each party agrees to maintain such right, power, and authorization throughout the Lease Term.

19. **Casualty, Condemnation.** In the event (a) of damage to the Premises from fire or other casualty or (b) the Premises (or any part thereof) is taken by any exercise of the right of eminent domain, Landlord shall have the right to terminate this Lease and in no event shall Landlord have any obligation to restore the Premises or any liability for damages to Tenant for inconvenience, annoyance or interruption of the Permitted Use arising from any fire or other casualty or eminent domain. Landlord shall be entitled to any insurance proceeds and damage awards relating to any casualty, condemnation or eminent domain proceedings.

20. **Notices.** Every notice required or given hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand or when mailed by certified or registered mail, return receipt requested, postage prepaid, or when delivered to a recognized national overnight courier such as UPS or Federal Express, as follows:

Landlord:	Town of Cohasset 41 Highland Ave Cohasset, MA 02025 Attention: Select Board
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Tenant: Cohasset Youth Baseball and Softball Association, Inc.
PO Box 121
Cohasset, MA 02025

21. **No Brokers.** Tenant and Landlord warrant and represent to the other that neither has had any dealings with any broker or agent in connection with this Lease. Tenant and Landlord agree to defend with counsel reasonably approved by the other, hold harmless and indemnify the other from and against any and all cost, expense or liability for any compensation, commissions and charges which may be asserted against the other as a result of the other's breach of this warranty.

22. **Limitation.** In no event shall Landlord or Tenant be liable to the other for any punitive, indirect, special or consequential damages.

23. **Severability.** If any term or condition of this Lease is held unenforceable, the remaining terms and conditions shall remain binding upon the parties as though said unenforceable provision were not contained herein.

24. **Amendment; Waiver.** This Lease may not be amended except by a writing signed by both parties. No provision may be waived except in a writing signed by the waiving party.

25. **Successors and Assigns.** This Lease shall run with the land and accrue to the benefit of and be binding upon Tenant and its permitted successors and permitted assigns, and upon Landlord and Landlord's successors and assigns.

26. **No Recording.** Neither this Lease nor any other instrument relating to the Lease shall be recorded by Tenant without the written consent of Landlord, provided, however, that Tenant shall have the right to record a Notice of Lease and Landlord agrees to execute the same upon request on terms reasonably satisfactory to the parties.

27. **Entire Agreement.** The submission of this document for examination and negotiation does not constitute an offer to license, or a reservation of, or option for, the Premises, and this document shall become effective and binding only upon the execution and delivery hereof by both Landlord and Tenant. This Lease and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and shall supersede all prior offers, negotiations and agreements.

28. **Governing Law.** This Lease shall be governed by the laws of The Commonwealth of Massachusetts without regard to conflict of laws and all disputes regarding this Lease shall be brought in the courts of the county in which the Premises are located.

29. **Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original. Executed copies of this Lease may be delivered between the parties via email and shall be deemed to be original executed counterparts.

IN WITNESS WHEREOF, the parties have executed, or have caused their properly authorized representatives to duly execute, this Lease, under seal, as of the date and year first above written.

LANDLORD:

**TOWN OF COHASSET,
By its Select Board**

TENANT:

**COHASSET YOUTH BASEBALL AND
SOFTBALL ASSOCIATION, INC.**

By: _____
Name:
Title:

795105.2A/Cohasset/0129

Exhibit A

Description of Landlord's Property

Exhibit B

Description of Premises

Exhibit C

Rules and Regulations

1. Parking shall be maintained solely within the Premises.
2. No overnight parking on Premise.
3. No amplified music shall be permitted on or from the Premises unless during the All-Star weekend and at such other events as permitted in writing by the Select Board in advance.
4. CYBSA is required to comply with all federal, state and local laws/bylaws and codes.
5. No alcohol is permitted anywhere on the Premises except pursuant to a liquor license.