

LICENSE AGREEMENT

This License Agreement ("Agreement") is entered into this 15th day of October, 2019, by Ice Castles, LLC, a limited liability company organized in the State of Utah hereinafter referred to as "User" and the Town of Dillon, hereinafter referred to as "Owner."

WHEREAS, Owner is willing, subject to town approval, to make available certain land and other real property in Dillon, CO known as the Dillon Town Park and more particularly described in Exhibit "A" attached hereto and made a part hereof, together with certain improvements thereon (collectively the "Premises");

WHEREAS, User creates, maintains and operates castle-like structures made of water and ice with walking paths inside ("Ice Castles"). User charges visitors a fee to visit the Ice Castles.

WHEREAS, User desires to use the Premises to create, maintain and operate an Ice Castle at the Premises upon the terms and conditions set forth herein.

WHEREAS, Owner is willing to allow User to create, maintain and operate an Ice Castle on the Premises in exchange for the consideration and on the terms and conditions set forth herein.

WHEREAS, USER will provide the OWNER with a mutually agreed upon number of passes to be used at the Owner's discretion on a space available basis.

NOW THEREFORE, in consideration of the promises herein recited and the covenants, conditions and agreements set forth herein User and Owner agree as follows:

1. USE. Owner hereby permits, subject to town approval, User to create, maintain and operate an Ice Castle and its related activities on the Premises, for the Term and upon the conditions hereinafter provided.
2. TERM OF USE. User shall be permitted to use the Premises from October 16, 2019 through May 30, 2020 (the "Term"), with limited access by User starting in early October, as mutually agreed to by the Parties. User shall be permitted to run water in November at a mutually agreed upon time by both parties.
3. COMPENSATION. User shall pay compensation for the water needed for User's operations at a rate of \$3.00 per thousand gallons used up to the first million gallons of water used monthly and \$6.00 per thousand gallons for any usage over one million gallons in each month. User will be charged monthly on the first day of the month for water used in the month prior. Additional conservation measures will include turning down the flow in order to implement trickle measures on days where the temperature is higher than 30 degrees. USER shall provide the OWNER with a mutually agreed upon number of passes to be used at the Owner's discretion on a space available basis.

USE OF PREMISES. User shall use the Premises only for the creation, maintenance, operation and removal of the Ice Castles attraction. User shall have mutual use of the Premises throughout the Term. User shall provide the following information for the Owner's approval: Ice Castle design including area foot-print, clearly identified boundaries outlining the User's scope of responsibility including entrances and exits, ticketing booth and maintenance or workshop areas. The User understands that all areas of the operation are customer facing and unsightly piles of equipment are not permitted and must be cleared from the Premises immediately upon notification from the Town. User must submit in writing any proposed changes to the site map during the operational season for Owner's approval.

4. SCHEDULE OF EVENT: User's operation is weather dependent, and the dates set forth below may change based on weather patterns that User cannot control. The dates set forth in this section are subject to change and are included only to provide an example timeframe that User has seen in the past. The User will communicate changes to the schedule of events to Town of Dillon employees. Dillon contacts include: Public Works Director, Scott O'Brien, Public Works Manager, Stephen Gardner, Marketing & Events Manager, Kerstin Anderson, Marketing & Events Coordinator, Suzanne Phillipson or Town Manager, Tom Acre.
- Early October: Ice Castles will utilize premise to build the workshop adjacent to Town Hall in early October and mark the field. Will not fence off the field until Oct 21st, but will be making markings, placing deck blocks, trailers, the box to protect the water source.
 - Late October: User will set up infrastructure to make ice. This includes laying out irrigation pipe, setting up water manifold, setting up trailers and other equipment and fencing the Ice Castles parameter.
 - November – December: User expects to create the Ice Castles out of ice.
 - December – Early March: User expects to be open to the public.
 - Beginning March 1, 2020, or earlier based on weather conditions, User will actively communicate with Stephen Gardner and Kerstin Anderson on a weekly basis regarding water usage and expected closure dates.
 - Once a closure date has been established User will only run water for maintenance and safety and not to increase the size of the structure.
 - April: User will dismantle the ice walls to expedite melting and/or expedite the removal of ice. User will remove to a mutually agreed upon height no less, than 18" above lawn level.
 - April: User will remove lighting elements and as much irrigation material as possible from the ice. User may use alternative methods to expedite melting and removal of elements.
 - May- User removes any remaining items from the ice that may be frozen within.
 - Once operations have ended, User will communicate closure plan, timeline, and staffing levels to Stephen Gardner and Kerstin Anderson on a weekly basis.
 - User shall provide resources to remove all ice, ice byproducts, materials, and equipment from the Premises, and restore the Premises to the condition that

existed prior to User's use as soon as reasonably possible and no later than May 30, 2019, so that the Town may resume using Town Park for public use Premises by June 1, 2020.

- o If the User defaults on its exit and removal obligations, and the Town is required to assist with the removal of ice, Ice Castles by-products and field restoration, the User shall reimburse the Owner for all associated costs. This scenario may preclude User's ability to partner with the Owner in future years.

In the event that all of the ice is not melted by May 15, 2020 due to weather patterns and temperatures, User shall not be considered to be in default of this contract. However, User is obligated to establish a new exit timeline and plan in conjunction with Town Employees.

5. ACCESS; SNOW PLOWING. Owner shall be responsible for providing snow plowing of the main parking area on Buffalo Street and Buffalo Street sidewalk during User's operations. User shall be responsible for ice melt and mitigation of hazardous conditions from opening to close in the main parking area each day. In the event that ice forms on Buffalo or other adjacent areas as a result of User's operations, the User is responsible for all costs associated with re-establishing safe public conditions. Dillon Public Works Department will not be available, and the User will be responsible for contracting a third party to remove ice within 24 hours or a reasonable time as established between Town Employees and User. User is responsible for maintaining walkway(s) into the facility as shown in Exhibit A.
6. ACCESSIBILITY. User shall comply with all applicable federal, state and local accessibility requirements to ensure access to the Premises and Ice Castles by all interested visitors.
7. CONDITION OF PREMISES. The Premises is not designed for the use provided for herein. No representation, statement or warranty, expressed or implied, has been made by or on behalf of the Owner as to the condition of the Premises. The taking of possession of the Premises by User shall be conclusive evidence that User accepts the Premises "as is". In no event shall Owner be liable for any defect in the Premises.
8. MAINTENANCE OF PREMISES. User shall keep and maintain the Premises and all improvements in a safe, sanitary, and professional looking condition, in good repair, and shall restore and yield the same back to Owner upon the termination of this Agreement in such condition and repair as shall exist at the commencement of this Agreement. User shall not damage or cause waste to the Premises and shall maintain all areas of the Premises in a safe, sanitary, functional and orderly condition always, free of refuse and objectionable noises, odors or nuisances, including drainage and run-off resulting from the creation, maintenance and operation of the Ice Castles. User shall provide a detailed

map of workshop area and planned areas to store materials. User must receive written approval from Town Employees for any deviation from the proposed plan.

9. Ice Castles LLC will work in good faith with Carlos Trujillo, the owner of LaRiva, to provide additional cleaning and monitor bathrooms located at LaRiva for the duration of Ice Castles operation.
10. Ice Castles LLC will work with TOD staff in order to develop an event, amenity of offer of benefit to Dillon residents.
11. FOOD. User shall have the exclusive right, either of itself or through its partners, to offer food and beverages for sale on the Premises. The Owner receives a 5% share of any fees collected through on-site concessions. User and/or vendor shall have the appropriate licenses from the state, town, and county, and have health department approvals as required. User shall employ a “Dillon First Policy” as it relates to selecting concessionaires. Concessionaires shall not directly compete in product category with restaurants located in LaRiva.
12. SIGNS. User may place signage on and off the Premises advertising its activities on the Premises. All signage must be in compliance with City Code and ordinances and be approved in advance by Owner. The Owner will require a \$20 sign fee in addition to any sponsorship fee that may be required by the User.
13. ALTERATION OR IMPROVEMENT; LIENS. All structures and equipment installed on the Premises shall be approved in advance by the Owner and User shall obtain any required permits or licenses, including building permits, necessary for such structures or equipment. Any alterations, additions and improvements which may be made or installed by User shall be removed from the Premises by May 30, 2020. If User fails to remove any alterations, additions, improvements, equipment or personal property upon termination of this Agreement, Owner may remove and dispose of such items in Owner’s sole discretion at User’s sole cost. User covenants and agrees to keep the Premises and improvements situated thereon free and clear of any and all liens in any way arising out of its use and will indemnify and save Owner harmless from any and all such liens which may arise by reason of alterations or improvements made by User.
14. RIGHT TO ENTER. Owner, its agents and representatives may at any and all reasonable times during the day and night enter to view and inspect the Premises, or to clean and maintain the same, or to make repairs, or to make such improvements or changes in the Premises as Owner may deem proper. Should any such repairs or improvements need to be made, Owner shall coordinate with User so as not to disrupt User’s use of the Premises. The Town shall have no liability by reason of inconvenience, annoyance or injury to business on account of any such entry or acts by Owner, its agents or representatives.
15. DAMAGE. If the Town Manager reasonably determines that any portion of the Premises, surrounding landscape or parking lot is damaged by the act or failure to act of

User, its employees, agents, or visitors during the term of this Agreement, beyond normal wear and tear, User will be responsible to repair and restore the damaged areas to the condition in which such areas were before User took possession. A \$10,000 refundable damage deposit shall be paid to Owner upon execution of this agreement to be drawn upon should damage occur that is not properly remediated by User.

16. INDEMNIFICATION. In consideration of being permitted to use the Premises for the purposes stated in this Agreement, User shall assume all risks incident to or in connection with its uses of the Premises or arising out of any condition of the Premises, and shall be solely responsible for all accidents or injuries of whatever nature or kind to persons or property occurring on the Premises during the term of its use thereof. User shall indemnify, defend and save harmless Owner, its officers, agents, employees, contractors and representatives, from any penalties for violation of any law, ordinance or regulation affecting its operations, and from any and all claims, suits, losses, damages or injuries to persons or property of whatsoever kind or nature arising directly or indirectly out of User's uses of the Premises, or arising out of any condition of the Premises, or resulting, in whole or in part, from the carelessness, negligence or improper conduct of User, or any of its agents or employees. User further agrees to defend, indemnify, and hold Owner harmless from any and all claims, demands, actions and causes of action of any kind or description whatsoever which may arise from User's use of the Premises or any condition of the premises, or resulting, in whole or in part, from the carelessness, negligence or improper conduct of User, or any of its agents or employees, including any and all costs and attorney's fees incurred by Owner in defending any such claims. User's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the Town.

17. INSURANCE. User shall maintain in force during the entire Term of this Agreement, general liability insurance for both personal injury and property damage, in the amount of \$5,000,000. In addition, User shall maintain in force during the entire Term of this Agreement a policy or policies insuring the Premises against loss by fire and other perils in the amount of the full insurable value thereof. All such insurance shall name the Owner as an additional insured. All such insurance shall be effective under a valid and enforceable policy or policies, with terms acceptable to Owner, issued by an insurer of recognized responsibility approved by Owner upon submission of the policy or policies to Owner at least ten (10) days prior to the effective date or any renewal date as the case may be.

18. DEFAULT AND TERMINATION. Any failure of User to perform pursuant to this Agreement shall constitute a Default. Upon any such Default, Owner shall provide written notice to User detailing the Default. User shall have fifteen days from receipt of the notice to cure the Default, unless such Default cannot be remedied within 15 days because of weather, acts of God, or other circumstances out of User's control. If User fails to cure the noticed Default within the provided time, this Agreement shall automatically terminate.

19. NOTICE. All notices required herein shall be in writing and delivered personally, or by certified mail return receipt to the address as shown below and, if mailed, are effective as of the date of mailing:

User:

Ice Castles, LLC
Attn: Kyle Standifird
1054 East 300 North
American Fork, UT 84003

Owner:

20. AUDIT DISCLOSURE AND DATA PRACTICES. Any reports, information, data, etc. given to, or prepared or assembled by User under this Agreement including the amount paid in rent shall not be made available to any individual or organization without User's prior written approval.

21. AGREEMENT. This Agreement embodies the entire understanding of the parties with respect to the subject matter hereof and shall not be amended or modified except in writing signed by the parties. No representations, warranties, undertakings, or promises, whether oral, implied, written, or otherwise, have been made by either party hereto to the other unless expressly stated in this Agreement or unless mutually agreed to in writing between the parties hereto after the date hereof, and neither party has relied on any verbal representations, agreements, or understandings not expressly set forth herein.

22. GOVERNING LAW; VENUE; PERSONAL JURISDICTION. This Agreement shall be deemed entered into in Summit County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement shall be filed in the District Court of Summit County of the State of Colorado, and in no other court. User hereby waives its right to challenge the personal jurisdiction of the District Court of Summit County of the State of Colorado over it.

23. AUTHORITY TO BIND. Each of the persons signing below on behalf of any party hereby represents and warrants that such person is signing with full and complete authority to bind the party on whose behalf of whom such person is signing, to each and every term of this Agreement.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the day and year aforesaid.

ICE CASTLES, LLC

By: _____

Kyle Standifird, Manager

Town of Dillon

By: _____

Carolyn Skowyra, Mayor

Attest:

Adrienne Stuckey, Town Clerk

Exhibit "A"

Description of Property:

TBD

