

**FIRST AMENDMENT TO SPORTS MEDICINE AGREEMENT BY AND BETWEEN
BLACK HILLS ORTHOPEDIC & SPINE CENTER, PC, BLACK HILLS SURGICAL HOSPITAL, LLP,
AND BLACK HILLS SOCCER FEDERATION, INC.**

This First Amendment to the Sports Medicine Agreement (“First Amendment”) is made effective the __ day of April 2019 (“Effective Date”), by and between Black Hills Orthopedic & Spine Center, PC, (“BHOSC”), Black Hills Surgical Hospital, LLP and Black Hills Urgent Care, LLC (collectively “BHSH”), Rapid City, SD, The Rehab Doctors, P.C., Promotion Physical Therapy (collectively “Sports Medicine Team”) and the Black Hills Soccer Federation, Inc., (“BHSF”), Rapid City, SD.

Whereas, the parties entered into the Sports Medicine Agreement on August 31, 2018;

Whereas, the parties desire to amend the Sports Medicine Agreement to modify certain provisions under that Sports Medicine Agreement and to make such other revisions as further provided herein.

NOW, THEREFORE in consideration of the foregoing premises and the mutual covenants contained herein, and for other valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

AGREEMENT

Section 1. Amendments

“Effective Date”: The “Effective Date” for purposes of the Sports Medicine Agreement shall be the date April __, 2019.

Paragraph “4.1.b.” is hereby amended to clarify the availability of orthopedic surgeons to ATs and this Paragraph will be replaced in its entirety with the following:

Sports Medicine Team board certified physicians and physician assistants will be available for consults with ATs as their schedule permits. Additionally, Sports Medicine Team will be generally accessible to provide, during customary business hours at their place of business, Sports Medicine Services (as defined above), at their usual and customary rates.

Paragraph 5.a is hereby amended to extend practice shirt and other expense sponsorship by two years to match new five year term as provided in amendments:

Sports Medicine Team members (BHSH, BHOSC, BHUC, The Rehab Docs, Promotion Physical Therapy) agree to each pay \$500 per year for five years for the purchase of practice shirts or for other expenses as determined by BHSF. Total paid in aggregate will be \$2500/year and aggregate for entire 5 year contract will be \$12,500-

Paragraph “5.b.ii.” is hereby amended by adding clarity as to the signage rights and such section “5.b.ii.” will now provide in its entirety as follows:

Sports Medicine Team members will be provided an opportunity for signage and wraps at all home athletic venues (indoor and outdoor) (where available), including on any windows, training room door, and flags. No signage will be installed without the express written consent of BHSF, which consent shall not be unreasonably withheld. No signage rights pursuant to this First Amendment can conflict with any pre-existing Donor Agreement, and any such rights under this First Amendment will be void to the extent of any conflict. In addition, signage must not obstruct visibility of any event, coach, staff, volunteer staff, or violate any of the BHSF’s player contact rules. BHSF reserves the right to have Donor, at its expense, to promptly remove any signage if it violates the letter or intent of this section. It is further understood and agreed that the Sports Medicine Team signage, wraps, and other public displays and advertising shall be subject to the approval and authority of the Rapid City Parks and Recreation Advisory Board.

Sports Medicine Team shall be permitted to display signage recognizing each member of the Sports Medicine Team as the “official health care, sports medicine, and athletic training services provider” of BHSF and its athletes. The location and placement of the signage must be mutually agreed upon by Sports Medicine Team and BHSF. All costs of Sports Medicine signage creation, placement and maintenance shall be at Sports Medicine Team expense. **Included in rights is as follows:**

- a) **Bleachers – 2 bleachers with space for a total of 8 sign panels (4 per bleacher).**

- b) **4 Parking Lot End Cap Faces Located in Parking Quadrant #4 (i.e., has 2 End Cap Signs with a total of 4 sign faces)**
- c) **Boulevard of Champions (north) – Boulevard signs #2-#5.**

Paragraph “5. b.” is hereby amended by adding a provision section “5.b.ix” which will provide in its entirety:

Complex Usage. Sports Medicine Team shall individually be allowed to use the sports complex located generally on Elk Vale Road, with a legal description of Section Twenty-One (21), Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian (BHM), Pennington, South Dakota, (“Complex”) without cost to conduct camps and other special events throughout the year subject to Complex availability provided such camps and special events must be related to health and wellness. BHSF agrees to coordinate use schedules with Sports Medicine Team with the understanding that BHSF sponsored sports activities shall have priority. Sports Medicine Team shall be responsible for any staffing of its events at the Complex and shall indemnify and hold harmless BHSF and City from any liability that may arise out of Sports Medicine Team’s activities at the Complex.

Paragraph “6. Term:” is hereby amended and replaced in the entirety with the following:

Unless termination occurs as provided in section seven (7), the term of this Agreement shall be for five (5) consecutive years commencing on the Effective Date of this Amendment (Initial Term). Sports Medicine Team shall have the right, but not the obligation, to renew this agreement for an additional five (5) year term under the same terms and conditions (Renewal Term). During this Agreement and for a period of one hundred eighty (180) days prior to the expiration of the Renewal Term, the parties shall negotiate a renewal under such terms as the parties may mutually agree, provided that BHSF shall not negotiate for the provision of such services with any other party during this period.

BHSF acknowledges that it has a lease with the City of Rapid City for rental of the Complex which, if not renewed, will expire before the expiration of Sports Medicine’s renewal term under this Agreement, if Sports Medicine Team elects to renew for a successive five (5) year term. BHSF agrees that it will use its best efforts to renew its lease with the City of Rapid City for the Complex for an additional ten (10) year term, prior to the expiration of the term for their current lease with the City of Rapid City. Should BHSF, or its assigns, not renew the lease with the City of Rapid City, for any reason, then the Sports Medicine Agreement, and all amendments thereto, will likewise terminate as of the date of termination of the lease, and Sports Medicine Team shall have no further rights or obligations under the Sports Medicine Agreement.

Paragraph “7. Termination:” is hereby amended and replaced in the entirety with the following:

Either party may terminate this Agreement for cause, which shall mean a material breach or default in any of the terms or conditions of this Agreement by the other party upon not less than 60 days written notice to the other party specifying the alleged breach or default and the date on which termination will be effective; provided however, the party receiving such notice shall have 45 days from such notice to cure the alleged breach or default. Notice to BHOSC shall be sent to 7220 Mt. Rushmore Rd, Rapid City, SD, attn.: Kyle Wiese, CEO.

Section 2. Miscellaneous.

(a) Continuing Effectiveness. All terms and provisions of the Sports Medicine Agreement, except as expressly modified herein, shall continue in full force and effect and are hereby restated. It is agreed that a Donor Agreement executed by MFC and/or BHSF shall be permitted notwithstanding anything contrary in this First Amendment or the Agreement and that the allowance of that shall not be deemed a waiver of any provision of this First Amendment or the Agreement..

(b) Choice of Law; Venue. THIS FIRST AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF SOUTH DAKOTA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. THE EXCLUSIVE JURISDICTION AND VENUE OF ANY DISPUTE RELATING TO THIS FIRST AMENDMENT ARE THE STATE AND FEDERAL COURTS LOCATED IN THE CITY OF RAPID CITY AND COUNTY OF PENNINGTON, STATE OF SOUTH DAKOTA.

(c) Miscellaneous. THIS FIRST AMENDMENT MAY BE MODIFIED ONLY BY A WRITING SIGNED BY ALL PARTIES. Each provision hereof is severable from every other provision hereof when determining its legal enforceability. Sections and subsections are titled for convenience, and not for construction. Neither party may assign or pledge this Agreement. The terms and conditions hereof inure to the benefit of and are binding upon the parties’ respective permitted successors and assigns. This Amendment may be executed by the parties hereto in counterparts, and all of such counterparts taken together shall be deemed to constitute one and the same instrument. A scanned or electronic signature page or counterpart shall be deemed, and have same force and effect, as an original.

[Signatures on next page, page 3]

Executed at Rapid City, South Dakota on the above date.

**BLACK HILLS ORTHOPEDIC &
SPINE CENTER, PC**

(signature)
By: Kyle Wiese
Its: CEO

**BLACK HILLS SOCCER
FEDERATION, INC**

(signature)
By: _____
Its: _____

THE REHAB DOCTORS, PC

(signature)
By: _____
Its: _____

**BLACK HILLS SURGICAL
HOSPITAL, LLP**

(signature)
By: Jack Kaup
Its: CEO

**PROMOTION PHYSICAL
THERAPY**

(signature)
By: _____
Its: _____

BLACK HILLS URGENT CARE

(signature)
By: Jack Kaup
Its: CEO