

Waste Management Phoenix Open 2021/Corporate Hospitality Terms and Conditions

(amended July 1, 2020)

These terms and conditions (the “Terms”) apply when you (“Purchaser”) purchase from The Thunderbirds any corporate hospitality package and related benefits (i.e. Skybox, E18hteen, Scorekeepers, Cove, Bay Club, and Greenskeepers Suite, Members Club, Greenskeeper, Clubhouse, and Chairman’s Club) (the “Hospitality Package”) at the Waste Management Phoenix Open Golf Tournament (the “Tournament”) commencing on February 1, 2021 (the “Tournament Week”) at the TPC Scottsdale Golf Course located in Scottsdale, Arizona (the “Golf Site”) through the website - <https://wmphoenixopen.com/> (the “Website”). The Thunderbirds will only sell Hospitality Packages on these Terms and Purchaser’s acceptance of these Terms is a condition to the purchase of a Hospitality Package through the Website. These Terms shall not apply to and shall not amend in any manner any separate Sponsorship Agreement or other agreement entered into by The Thunderbirds with a third party related to corporate hospitality or other sponsor benefits set forth in such separate agreement.

1. **Acceptance; Entire Agreement.** All purchases of a Hospitality Package are governed exclusively by these Terms. These Terms, together with the Order Form and Email Order Acknowledgement or similar form issued by The Thunderbirds and referencing these Terms (collectively, the “Agreement”) constitute the entire agreement between The Thunderbirds and Purchaser pertaining to the Hospitality Package, and supersede all prior or contemporaneous negotiations, discussions, understandings or agreements between the parties.

2. **Hospitality Package; Payment Terms; Changes related to Health and Safety.** The Thunderbirds agree to provide Purchaser with the Hospitality Package for the Tournament in return for payment by Purchaser of the price set forth in the Order Form completed by Purchaser. No refunds will be made to Purchaser with the exception of the provisions set forth in Section 6 below. The Thunderbirds reserve the absolute right to cancel the Agreement in the event Purchaser fails to pay any fee in a timely manner and Purchaser shall forfeit any rights to use and occupy the Hospitality Space pursuant to the License granted pursuant to Section 4 below. If Purchaser fails for any reason (with the exception of excuse of performance for a Force Majeure Event as set forth in Section 6 below) to occupy or use the Hospitality Space during the Tournament, no refund of fees shall be made and all fees required pursuant to the Agreement, including any disbursements or expense incurred by The Thunderbirds in connection therewith, shall be retained by The Thunderbirds as liquidated damages and not by way of penalty. The availability of the purchased Hospitality Package may be limited or restricted for use and the number of daily credentials and general admission tickets, as applicable, may be reduced or limited based upon PGA Tour guidelines or federal and/or state restrictions, orders, regulations, or guidance related to health and safety, including as a result of Covid 19.

3. **Term; Right to Cancel.** The term of the Agreement (“Term”) shall commence as of the date Purchaser completes the Order Form for the applicable Hospitality Package and shall terminate, unless terminated earlier as provided for herein, as of the conclusion of the Tournament and Purchaser’s right to occupy the Hospitality Space. Purchaser shall have the right to cancel the purchase of a Hospitality Package by providing written notice by sending an email to The Thunderbirds at orders@wmphoenixopen.com on or before September 1, 2020. If Purchaser elects to cancel its purchase of a Hospitality Package on or before September 1, 2020, Purchaser shall be entitled to a full refund of all deposits made to The Thunderbirds prior to such termination. If Purchaser does not elect to terminate its purchase of a Hospitality Package on or prior to September 1, 2020, all deposits and payments made by Purchaser in connection with the purchase of a Hospitality Package shall be non-refundable except as provided in Section 6 dealing with the cancellation of the Tournament due to a Force Majeure Event.

4. **Grant of License.** In connection with the purchase of the Hospitality Package and payment of the applicable fee, The Thunderbirds hereby grant to Purchaser a temporary and conditional license (the “License”) for access to the hospitality space (the “Hospitality Space”) and the Golf Site applicable to the Hospitality Package purchased by Purchaser at the Golf Site. Purchaser and its guests’ right to access to the Hospitality Space and the Golf Site pursuant to the License granted herein shall be during the daily hours of the Tournament Week (“Hours of Occupancy”). Hours of Occupancy are subject to change based upon tee times and TV broadcast times as determined by The Thunderbirds and the PGA Tour. Purchaser and its guests will completely vacate the Hospitality Space and the Golf Site by the end of the Hours of Occupancy. Purchaser acknowledges that access pursuant to the License to the Hospitality Space and the Golf Site is limited to the Hours of Occupancy. The Thunderbirds shall have the right to assign where the Hospitality Space is located at the Golf Site, as applicable, based upon the Hospitality Package purchased by Purchaser. The Thunderbirds shall have the right to control the use and occupancy of the Hospitality Space and all other portions of the Golf Site at all times. In connection with the Hospitality Space and the License granted to Purchaser, Purchaser agrees to (a) comply with the Tournament’s wristband policy for all Purchaser’s guests; (b) use the Hospitality Space in a safe and peaceful manner; (c) not to cause any disturbance to interfere with other Hospitality Space or other guests’ enjoyment of the Tournament; (d) use the Hospitality Space consistent with the degree of decorum and respectful behavior appropriate for a PGA Tour event; and (e) surrender and/or vacate the Hospitality Space, as applicable, at the end of the Term and leave the Hospitality Space and the furnishings in the same condition in which they existed at the date of the commencement of the term (ordinary wear and tear excepted).

5. **Use of WMPO Trademarks.** Purchaser acknowledges that Purchaser shall not use the Waste Management Phoenix Open name or logo, or any other trademark owned by The Thunderbirds for any purpose without the prior written consent of The Thunderbirds.

6. Excuse of Performance (Force Majeure Event). If the Tournament is terminated or cancelled prior to commencement of the Tournament or during the Tournament Week due to a Force Majeure Event, The Thunderbirds shall be excused from performance of the Agreement and the granting of the License for access to the Hospitality Space and the Golf Site. A Force Majeure Event shall mean an event beyond the reasonable control of The Thunderbirds, whether foreseeable or unforeseeable, including an act of God, severe weather, war, act or omission of any government authority, including any order, rule, regulation or advisory that impacts, cancels or limits the playing of the Tournament, disaster, fire, flood, accident or other casualty, strike or threat of strike, civil disorder, act and/or threat of terrorism, curtailment of transportation services or facilities, epidemic, pandemic, quarantine, virus outbreaks, shortages of supplies, power or other infrastructure, or any other event or circumstance not within the control of the Thunderbirds, whether similar or dissimilar to any of the foregoing, making it illegal, impossible or impracticable to hold, or reschedule the Tournament and/or provide the Hospitality Space to Purchaser. Purchaser acknowledges that if the current Covid 19 pandemic results in a cancellation of the Tournament for public health and safety, including due to government order or regulation, and the Tournament is not rescheduled, this shall constitute a Force Majeure Event and the Thunderbirds shall be excused from performance under the Agreement. Purchaser acknowledges that if the Tournament is rescheduled and if the Hospitality Space is provided to Purchaser by The Thunderbirds, then Purchaser shall be obligated to perform its obligations under the Agreement. In the event the Tournament is cancelled and not rescheduled based upon a Force Majeure Event, Purchaser shall be entitled to a return of the amount paid for the Hospitality Package less an amount reasonably determined by The Thunderbirds and applied on a pro-rata basis with other similar purchases of Hospitality Packages that is necessary to pay the reasonable and contractually required out-of-pocket expenses directly related to the Tournament already incurred by The Thunderbirds before termination or cancellation of the Tournament.

7. No Warranties. No representation, warranties or agreements, oral or written, expressed or implied, have been made by either party hereto with respect to the Agreement, the Hospitality Package or the Hospitality Space, except as are expressly stated herein. Although the Hospitality Space and the food and beverage services provided to Purchaser pursuant to the Agreement are obtained from sources believed to be reliable, they are provided “as is”, with no warranty, including, but not limited to, a warranty of merchantability or fitness for any particular purpose.

8. Remedies. In the event of any breach of the Agreement by The Thunderbirds, the Purchaser’s sole and exclusive remedy shall not exceed the amount paid for the Hospitality Package. Neither party shall be liable for any incidental or consequential damages resulting from the breach of the other party hereunder. All late payments may, at The Thunderbirds discretion, be assessed a finance charge of 1-1/2% per month of the outstanding balance or the highest amount allowed by law if less than 1-1/2%. The Thunderbirds will not be responsible for any costs of collection, including legal fees and costs and Purchaser will reimburse The Thunderbirds for any fees paid by The Thunderbirds in connection therewith.

9. Waiver/Indemnification. Purchaser waives any and all claims and Purchaser shall fully indemnify, hold harmless and defend (collectively “indemnify” and “indemnification”) The Thunderbirds and its directors, officers, employees, agents, representatives and affiliates (collectively, “The Thunderbirds Indemnified Parties”) from and against all claims, demands, actions, lawsuits, damages, liabilities, losses, settlements, judgements, costs and expenses (including but not limited to reasonable attorney’s fees and costs), whether or not involving a third party claim, which arises out of or relates to: (i) any breach of any representation or warranty of Purchaser contained in the Agreement, (ii) any breach or violation of any covenant or other obligation or duty of Purchaser under the Agreement or under applicable law, (iii) any injury or damage occurring in or about the Hospitality Space (with the exception of any injury or damage which is directly attributed to the gross negligence or willful or wanton misconduct of The Thunderbirds Indemnified Parties, or (iv) any breach or default on the part of Purchaser in the performance of any covenant to be performed pursuant to the Agreement, or under applicable law, except to the extent caused by the gross negligence or willful or wanton misconduct of any of The Thunderbirds Indemnified Parties. Purchaser assumes all risk and liability for the use and the operation of the Hospitality Space and the loss or damage of Purchaser’s personal property arising from any action attributable to Purchaser, its agents, employees, or other persons invited or admitted to the Hospitality Space by Purchaser. Purchaser acknowledges that The Thunderbirds are not responsible for Purchaser’s property or the property of others.

10. Insurance. Purchaser shall, at its own expense, while the Agreement is in effect, maintain a comprehensive general liability insurance policy with one or more carriers of recognized standing with limits of liability of at least \$1,000,000 per occurrence covering all property damage and personal injury arising out of activities related to the Agreement and the License granted herein. Purchaser waives all rights of recovery against The Thunderbirds and its respective officers, directors, employees and agents for all injury to persons or loss or damage to Purchaser, its property, or the property of others, which is insured against or covered by any insurance benefiting Purchaser or which was required to be so insured or covered as provided in this Section 10.

11. Miscellaneous Provisions. (a) The Agreement contains the entire agreement between the parties and shall be deemed to have been executed under and subject to and constructed in accordance with the laws of the State of Arizona; (b) The terms of the Agreement may not be changed or modified unless agreed to in writing and signed by both parties; (c) The Agreement and any rights herein shall not be assigned,

sublicensed, or otherwise transferred (in whole or in part) by Purchaser without the prior written consent of The Thunderbirds and any attempt by Purchaser to assign, sublicense, or other transfer, whether voluntary or by operation of law, shall be void and of no force and effect; (d) If any term, covenant, condition or provision of the Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of the Agreement or application of such term or provision to any person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, or provision of the Agreement shall be valid and shall be enforced to the fullest extent provided by law; (e) The Agreement shall be deemed to supersede all prior agreements and understandings between the parties in respect to the subject matter addressed in the Agreement; (f) The Thunderbirds reserve the right to terminate the Agreement, effective upon ten (10) days prior written notice to Purchaser if Purchaser shall file in any court pursuant to any statute of either the United States or any state, a petition of bankruptcy or insolvency, or for reorganization, or for the appointment of a receiver or trustee of all or a substantial portion of Purchaser's property or if Purchaser makes an arrangement for the benefit of creditors, or a petition in bankruptcy is filed against Purchaser; (g) All obligations arising prior to the termination of the Agreement shall survive the termination or expiration of the Agreement; and (h) The Thunderbirds reserve the right to remove any person who interferes with others at the Tournament and to exercise this authority through its agents or appropriate law enforcement officials.