AGREEMENT

This agreement is made between the
SANTA BARBARA COMMUNITY COLLEGE DISTRICT,
hereinafter called, "COLLEGE," and
SANTA BARBARA SPIKERS PRO VOLLEYBALL,
hereinafter called "SPIKERS,"

AS FOLLOWS:

WHEREAS, COLLEGE operates a sports and entertainment facility (hereinafter referred to as Sports Pavilion) at Santa Barbara City College; and

WHEREAS, the Sports Pavilion is suitable for professional volleyball games (hereinafter referred to as "The Event"); and

WHEREAS, the COLLEGE desires to allow the events therein;

NOW, THEREFORE, COLLEGE and SPIKERS agree as follows:

1. Delivery of Possession. In accordance with the agreed upon schedule shown as Exhibit "A" and attached herewith, COLLEGE will make the Sports Pavilion available to the SPIKERS for the period from May 1 to and including August 24, 1979, for twenty (20) regular season home matches. COLLEGE shall furnish the Sports Pavilion in good working condition to include all seats, (including back where available) doors, lights, scoreboard, public address system, pay telephone, court surface, bleachers, locker rooms, showers, training room, VIP room, and all other items necessary for such an event in good working order. Such facilities shall be available for use by 4:30 p.m. on day of scheduled use. "All other items necessary for such event" shall include only those items mutually agreed to by the SPIKERS and the COLLEGE.

2. Facility Availability: SPIKERS are permitted to use the Sports Pavilion for exhibitions, matches, play off games, and practice sessions at times agreed to by COLLEGE but in no event more than five (5) additional times without additional cost, except as herein provided. Such exhibitions, matches, play off games and practice sessions shall not conflict with COLLEGE use or COLLEGE contracted use of the Sports Pavilion. COLLEGE shall make the Sports Pavilion available from 4:30 p.m. to approximately 11:00 p.m. on days of regular season events. All other matches, play off games, exhibitions and practice sessions shall be individually scheduled but shall not exceed four (4) hours of use per day.

3. Showers, Dressing Room and Towels. COLLEGE shall provide for showers, dressing rooms and towels as may be required by SPIKERS. Two dozen towels shall be provided by COLLEGE for each event at SPIKERS' expense. SPIKERS shall pay for laundry and lost or stolen towels as may be billed by COLLEGE.

Revised
Enc. #1
5.2-b
3/8/79
4. **Public Address System.** Public address system shall be provided by COLLEGE as part of the financial consideration. Public address system shall be operated according to rules and regulations established by COLLEGE.

5. **Electrical.** No electrical connections may be made nor disconnected by any person whomsoever other than a licensed electrical contractor and the contractor to be used for the events shall be Renz Electrical Company, Santa Barbara.

6. **Utility Liability.** If any services, including without limitation water and electricity, are furnished, with or without charges by COLLEGE to SPIKERS, COLLEGE shall in no event be liable for a failure to provide such services when prevented by strikes, accidents or other causes beyond the control or prevention of COLLEGE or during the repairing of equipment or apparatus in the Sports Pavilion which is provided by COLLEGE for such purposes.

7. **Compliance with Laws.** SPIKERS shall comply with the requirements of all applicable laws, orders and regulations of Federal, State, County and Municipal authorities and with any lawful direction of public officers which shall impose any duty upon COLLEGE or SPIKERS with respect to Sports Pavilion or the use and occupancy thereof. SPIKERS shall not use the Pavilion for any political purpose.

SPIKERS shall comply with all rules, orders, regulations or requirements of the City Fire Department or any other similar body and shall not do or permit anything to be done in or about the Sports Pavilion or bring or keep anything therein except as permitted by the Fire Department or any other authority having jurisdiction. No gasoline, acetylene or other fuel or other combustible will be permitted in the Pavilion without the written approval of the COLLEGE and the Fire Marshall of the City of Santa Barbara. Any decorating or other work and the material therefore, done or furnished by SPIKERS shall be subject to approval by COLLEGE and, if necessary in COLLEGE'S sole judgment, the Fire Department, and unless so approved, may be prevented or removed by COLLEGE. All decorations and other combustible materials must be fireproofed, and SPIKERS shall deliver if necessary in COLLEGE'S sole judgment to COLLEGE a flameproofing certificate in the form specified or required by and satisfactory to any local governmental body, having jurisdiction with respect thereto.

8. **Permits.** SPIKERS agree to furnish at its expense such governmental permits and other licenses and permits as may be required for "The Event," including, but not limited to, building permits and business licenses.

9. **College Regulations.** SPIKERS shall, and shall cause its servants, agents, employees, licensees, patrons and guests to abide by such reasonable rules and regulations as may from time to time be adopted by COLLEGE for the use, occupancy and operation of the Sports Pavilion.
10. **Copyrights.** SPIKERS shall assume all costs arising from the use of patented and/or copyrighted materials, equipment, devices, or dramatic rights used on or incorporated in the conduct of "The Event." SPIKERS agree to indemnify and hold harmless COLLEGE and their duly authorized representatives from all damages, costs and expenses, including attorney's fees, for or on the account of the use of any patented and/or copyright materials, equipment, devices, processes or dramatic rights furnished or used by SPIKERS in connection with this Agreement. In this regard, SPIKERS' attention is particularly directed to the use of copyrighted music.

11. **Workers Compensation Insurance.** If required by law, SPIKERS shall provide Workers Compensation Insurance for all its employees participating in "The Event." A certificate verifying such coverage shall also be delivered as specified in paragraph 12.

12. **Insurance.** SPIKERS shall obtain insurance and provide a certificate for the COLLEGE showing public liability insurance by the insurer in the amount of no less than one million dollars ($1,000,000) each occurrence for COLLEGE, its officers, agents and employees, as well as SPIKERS and all activities carried on in connection therewith. This insurance shall be at SPIKERS sole cost and expense and such certificate shall be delivered to the Assistant Superintendent, Business Services, of COLLEGE at least ten (10) days prior to the initial date of "The Event." Failure to provide such policy and certificate shall be considered cause to cancel the activities. SPIKERS shall indemnify and hold harmless COLLEGE from all claims, whether or not included in the insurance provided for above, for personal injuries, including injuries resulting in death, received by any person, firm or corporation in or about the Sports Pavilion, the entrances and exits thereof, the sidewalks, streets, and approaches adjoining the Pavilion or any portion of the Pavilion used by SPIKERS.

13. **Security.** Security shall be provided by SPIKERS. SPIKERS agree to diligently police all event-related activities and agree to pay for any damage caused as a direct result of its activities (other than normal wear and tear), including but not limited to participants and spectators. No smoking or alcoholic beverages are permitted in the Pavilion. Security shall take actions necessary to enforce these rules and regulations.

14. **Pavilion Staffing.** Ticket sellers, ticket takers, parking attendants, and physicians, but not necessarily limited to those persons, shall be provided by SPIKERS.
15. **Entrances and Exits.** Expense of maintaining guards and special police, as required by COLLEGE, at all exits and entrances of the Pavilion shall be employees paid by the SPIKERS. Articles, fittings, fixtures, materials and equipment shall be brought into or removed from the Sports Pavilion only at entrances and exits designated by COLLEGE.

16. **Ejection.** SPIKERS hereby agree to refuse admission to or to cause to be removed from Sports Pavilion any person deemed undesirable by COLLEGE. Any persons employed by SPIKERS shall be under the supervision and control of SPIKERS while in or about the Sports Pavilion and may be refused entrance to or ejected from the facility by COLLEGE for noncompliance with any provision of this Agreement or for objectionable or improper conduct without any liability on COLLEGE'S part for such refusal or ejection. Such refusal or ejection by COLLEGE shall not be capriciously enacted.

17. **Use of Facilities.** COLLEGE and their officers, directors, servants, employees, agents, shall at all times have free access to the Sports Pavilion upon presentation of Campus passes issued to them by COLLEGE. SPIKERS may issue photo and press passes permitting selected persons access to specified areas of the Pavilion normally closed to the public. COLLEGE at such reasonable time or times as it may deem necessary may have announcements made over the sound system in the Pavilion during "The Event."

18. **Alterations.** SPIKERS shall not mark, paint, drill into or in any way mar or deface any part of the Pavilion, or buildings and grounds of COLLEGE.

19. **Tickets.** SPIKERS shall print and sell or distribute no more than two thousand six hundred (2,600) tickets for each event, including season tickets. Tickets shall be prenumbered and numbered consecutively. SPIKERS shall pay for printing of all tickets and all tickets shall be sold and/or distributed by SPIKERS.

20. **Advertising, Promoting and Publicity.** Advertising for "The Event" is to be conducted by and through the SPIKERS. No advertising shall indicate or imply the event is sponsored by or endorsed by COLLEGE. SPIKERS shall have the right to display signs, banners, and other publicity materials in the Sports Pavilion. The placement and manner of posting shall first be approved by COLLEGE, such approval shall not be capriciously withheld. SPIKERS shall have the right to sell nonfood or beverage items at the events, such as souvenir and novelty items. SPIKERS reserve to itself and shall have the exclusive right to broadcast, rebroadcast, disseminate, or transmit, by television, communication or exhibition, all events held, exhibited or played by the SPIKERS in the Sports
Pavilion and that any revenue derived therefrom shall accrue to the SPIKERS solely as its property. Notwithstanding the above, all sponsors of television and radio coverage must be approved in writing by COLLEGE. Such approval shall not be capriciously withheld.

21. **Food Services.** COLLEGE shall make food services available at all events as covered by this Agreement, at no cost to SPIKERS except as herein provided. Proceeds from such services shall accrue to COLLEGE Food Services and shall be provided from facilities for this purpose at the Sports Pavilion. Menu and times of services shall be prepared by COLLEGE and reviewed by SPIKERS. Changes in any aspect of the food services shall first be mutually agreed upon, except that COLLEGE maintains the right to substitute items provided as it deems necessary to meet needs of the users and COLLEGE. COLLEGE will provide food and beverages at an agreed upon cost to SPIKERS for service in a designated VIP room as may be requested by SPIKERS. At any time food services do not meet the needs of SPIKERS, a meeting shall be requested by SPIKERS with COLLEGE to discuss recommended changes. COLLEGE shall make recommended changes as it deems necessary to provide quality food service. It is the SPIKERS' responsibility to not permit food, beverages or smoking in the Sports Pavilion.

22. **Additional Obligations of SPIKERS.** SPIKERS shall:
   a. Transport or arrange for transportation of all personnel, properties, facilities and equipment necessary for "The Event" to and from the Sports Pavilion.
   b. Present "The Event" in the most advantageous manner and style practicable.
   c. Timely pay all governmental taxes (including admission taxes) and levies due as a result of "The Event."

23. **Surrender.** Four (4) days, ninety-six (96) hours, after the conclusion of "The Event" SPIKERS shall immediately quit and surrender the Pavilion to COLLEGE. Upon such quitting and surrender, the Pavilion shall be in the same condition as at the beginning of "The Event" and in good order, ordinary wear and damage excepted. SPIKERS shall remove from the Pavilion any goods or chattels brought or permitted by it in or about the facilities. SPIKERS shall pay COLLEGE for any expense incurred by COLLEGE in removing and/or storing such goods or chattels.

24. **Risk of Loss.** SPIKERS agree that all of its property or property of others brought or permitted by it upon the Sports Pavilion shall be at the risk of SPIKERS and the COLLEGE shall not be liable to SPIKERS for any loss or damage whatsoever caused.
25. **Ambulance Service.** If SPIKERS or its agents, representatives, managers, employees, patrons, players, performers or participants in or about the Sports Pavilion shall at any time accept or use the services of a physician or surgeon, or accept or use an ambulance service or any service in connection with an injury or sickness occurring in any person or persons while within or about the Pavilion during the term of this Agreement, even though such service or services be made available or be obtained through COLLEGE, SPIKERS accept full responsibility for the acts and conduct, or services rendered, of any physician or surgeon or ambulance or other service, and will hold COLLEGE harmless from all responsibility or liability therefor.

26. **Default.**

a. If before or during the term of this Agreement (1) SPIKERS make a general assignment for the benefit of creditors or take the benefit of any insolvency act; (2) a receiver or trustee is appointed for SPIKERS or SPIKERS' property; (3) execution is issued pursuant to a judgment rendered against SPIKERS; (4) this Agreement is assigned, passed to or devolves upon any person, firm or corporation other than SPIKERS or SPIKERS' attempt to assign this Agreement without the prior written consent of COLLEGE; or (5) SPIKERS default in the performance or observance of any of its obligations or agreements contained herein, including the agreement to make payments as provided herein, then in any event, this Agreement shall at COLLEGE'S option expressed in a twelve (12) hour written or telegraphic notice to SPIKERS, expire as fully and completely as if such date and time expiration were the date and time definitely fixed herein for the expiration of the term of the Agreement, and shall then quit and surrender its rights to COLLEGE, but shall remain liable as hereinafter provided.

b. COLLEGE or any other person by its order may immediately upon expiration of this Agreement as provided in subparagraph (a) above, or at any time thereafter, enter Sports Pavilion and remove all persons and all or any property therefrom by summary unlawful or wrongful detainer proceedings, or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution or damages therefor, and possess and enjoy Pavilion facilities together with all additions, alterations and improvements.
c. In the event of a breach or threatened breach by SPIKERS, or any of its agreements, or obligations hereunder, COLLEGE shall have the injunction and the right to invoke any remedy allowed at law or in equity or otherwise as if entry, summary proceedings in other remedies were not provided for herein.

d. In the event of entry by COLLEGE, COLLEGE at its option may store at the cost of SPIKERS any personal property of SPIKERS or its servants, employees and agents then in or about Sports Pavilion, but in such case COLLEGE shall not be obligated to store such property for more than two (2) months and thereafter may dispose of such property in any way it sees fit, upon ten (10) days notice in writing to SPIKERS. If COLLEGE shall sell such personal property, it shall be entitled to retain from the proceeds thereof the expense of the sale and the cost of the storage.

e. The filing of a voluntary petition in bankruptcy for SPIKERS before or after commencement of the term, whether for the purpose of seeking a reorganization or otherwise, or the admission in writing by SPIKERS of its inability to pay its debts generally as they become due, shall constitute a breach of this Agreement, and in either such event this Agreement shall forthwith terminate without notice, entry or any other action by COLLEGE.

27. Additional Remedies. COLLEGE'S failure to seek redress for violation of, or to insist upon strict performance of, any covenant or condition of this Agreement shall not prevent a subsequent act which would have originally constituted a violation from having all the force and effect of an original violation. No provision of this Agreement shall be deemed to have been waived by COLLEGE unless specific waiver thereof by COLLEGE shall be in writing.

28. Payment on Default. Any expense or damage which COLLEGE may incur or sustain by reason of SPIKERS' noncompliance with any of the provisions of this Agreement shall be due and payable by SPIKERS to COLLEGE pursuant to the provisions of paragraph 32 hereof.

29. Excuse of Performance. The parties of this Agreement will be excused from the performance of this Agreement in whole or in part by reason of any of the following causes:

(a) When such performance is prevented by operation of law.

(b) When such performance is prevented by any act of God which could not reasonably have been foreseen and provided for.
In the event performance is excused in accordance with the foregoing provisions, SPIKERS agree to pay to COLLEGE any and all costs and expenses, including amounts provided for in this Agreement, which have been incurred up to the time further performance is excused. SPIKERS hereby waive any claim for damages or compensation from COLLEGE should this Agreement be so terminated as described in this paragraph.

30. **Refund.** If SPIKERS shall fail to occupy or to use the Sports Pavilion as provided herein, COLLEGE shall refund all payments made after payment for all expenses incurred in accordance with paragraph 40.

31. **Waiver.** Waiver of one or more of the terms, provisions, conditions or undertakings of this Agreement shall be restricted to its particular scope and shall not operate as a modification of this Agreement.

32. **Severability.** The invalidity or illegality of any part of this Agreement shall not affect the validity or force of any other part of this Agreement.

33. **No Partnership.** The parties hereto are acting as independent contractors, and this agreement shall not create a partnership.

34. **Assignments.** Neither this Agreement nor any of the rights, duties or obligations of SPIKERS or COLLEGE hereunder shall be assignable in whole or in part, whether by operation of law or otherwise, by SPIKERS, or COLLEGE without the prior written consent of either party.

35. **Notification of City Officials.** SPIKERS will be responsible to notify Police, Fire, and Recreation Departments of the City of Santa Barbara of the date, time, and place of "The Event."

36. **Construction.** This Agreement shall be construed under the laws of the State of California. The SPIKERS shall comply with all applicable laws, regulations and ordinances as applicable to the terms and conditions of this Agreement.

37. **Notices.** Unless otherwise provided herein to the contrary, all notices required under this Agreement shall be deemed given when deposited in the U.S. Mail, postage prepaid, addressed:

(a) To COLLEGE:
Santa Barbara Community College District
721 Cliff Drive
Santa Barbara, California 93109
Attention: Assistant Secretary-Clerk
Board of Trustees

(b) To SPIKERS:
Santa Barbara Spikers Pro Volleyball
8 E. Figueroa Street
Santa Barbara, CA 93101
Attention: General Manager
38. Legal Fees. In the event any legal action is taken under this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, costs of suit and all other costs reasonably related to enforcement of its rights under this Agreement.

39. Changes. No changes whatsoever may be made in contract without the expressed written approval of all parties.

40. Consideration. COLLEGE requires of the SPIKERS that SPIKERS post an eight thousand dollars ($8,000) cashier's check with the Office of the Assistant Superintendent, Business Services by May 1, 1979 or 48 hours before initial use whichever first occurs as rent for the use of the Sports Pavilion as provided by the terms and conditions of this Agreement. This payment shall be returned only if this agreement is cancelled in writing by either party within 48 hours of the initial use of the facilities in accordance with paragraph 30. In addition to the rental fee, SPIKERS shall pay actual cost of COLLEGE required supervisory personnel not to exceed $75.00 per regular match.

41. Consideration for Additional Use. SPIKERS may request and, schedule permitting, may be granted use of the facility for approved events, additional to those provided in Paragraph 2, at a rate of $400.00 per event, plus actual custodial and supervisory costs not to exceed $100.00 per night.

Donald K. Sorsabal  
Assistant Secretary-Clerk  
Board of Trustees

Mike Hollywood  
General Manager  
Santa Barbara SPIKERS Pro Volleyball

Date

Date