



EMPLOYMENT AGREEMENT – CHIEF EXECUTIVE OFFICER

This Employment Agreement (“**Agreement**”) is made effective and entered into as of the 13 day of July , 2022, by and between GREEN VALLEY RECREATION, INC., an Arizona non-profit corporation (“**GVR**” or “**Corporation**”), and Scott Somers (“**CEO**”). Throughout this Agreement, CEO and GVR are individually referred to as a “Party” and collectively as the “Parties.”

WHEREAS, GVR desires to employ CEO as its Chief Executive Officer and CEO desires to be employed by GVR in that capacity;

WHEREAS, CEO will devote CEO’s full-time best efforts to the benefit of GVR;

WHEREAS, GVR will give CEO access to its proprietary and confidential information necessary for CEO to perform CEO’s duties, but which GVR would not otherwise make available but for CEO’s signing and agreeing to abide by this Agreement.

In consideration of the mutual promises and agreements contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Section 1. Term.

CEO’s employment under this Agreement shall begin on January 4, 2021 (“**Employment Date**”) and shall continue indefinitely until terminated by one of the Parties as set forth herein (the “**Term**”).

Section 2. Expectations of Position.

2.1 **Position, Duties and Responsibilities.** CEO will serve as GVR’s Chief Executive Officer. As CEO, CEO shall manage GVR’s employees and operations and perform such services for GVR as are customarily performed by a person holding a CEO position as well as the duties described herein, in the GVR governing documents, and in the “CEO Position Description” prepared by GVR’s Board of Directors attached hereto as Exhibit A and as may be revised by time to time in GVR’s sole discretion.

2.2 **Best Efforts.** CEO shall use CEO’s best efforts, energies, and skill to perform the duties and responsibilities of the position. To this end, CEO will devote CEO’s full time and attention exclusively to the business of GVR. Membership on other boards or other endeavors must be pre-approved by GVR’s Board prior to CEO’s engaging in any such activities.



2.3 **Reporting.** CEO shall report directly to the GVR Board of Directors of GVR (“GVR Board of Directors”) and will seek direction and guidance from the GVR Board of Directors on all matters of policy. The GVR Board of Directors shall oversee CEO’s performance in accordance with the Bylaws of GVR and as the Bylaws may be amended from time to time. CEO shall report to the Board at all Regular meetings of the Board. The Parties recognize and agree that CEO is the only GVR employee who reports directly to the Board. Although CEO may delegate authority to some positions, CEO shall remain accountable for all GVR operations and employees and shall be ultimately responsible for carrying out the directives of the Board.

2.4 **Annual Work Plan.** By January 31 of each calendar year of this Agreement, CEO shall prepare and submit to the Board for approval, a proposal for CEO’s Work Plan in accordance with the Board’s practices and processes, to be achieved during the forthcoming governance year (effectively, April 1 – March 31).

2.5 **Exclusive Services.** CEO shall devote substantially all of CEO’s business time and attention to the business and affairs of GVR and shall faithfully serve GVR. CEO shall use CEO’s best efforts to promote and serve the interests of Corporation and shall not, directly or indirectly, render services to any person or organization or engage in any other business activity, whether or not such activity shall be engaged in for pecuniary profit, without the consent of the GVR Board of Directors. The CEO, however, may (i) serve on corporate, civic, or charitable boards of directors or engage in charitable activities without remuneration with the prior express written consent of the Board, and (ii) manage CEO’s personal investments and affairs, provided that such activities do not conflict or interfere with CEO’s job or violate any other provisions of this Agreement.

2.6 **No Interference.** CEO is authorized to perform the duties described above without interference of individual Board members acting in their individual capacity and outside of Board meetings or authorized actions.

Section 3. Compensation.

3.1 **Salary.** During the Term, GVR shall pay CEO an initial base salary at an annual rate of \$170,000.00 (“**Salary**”), which will be paid in periodic amounts at the times GVR pays other management-level employees and in accordance with applicable law. In its sole discretion, the GVR Board of Directors shall review and set CEO’s Salary each year (but shall not decrease CEO’s Salary from the amount stated in this Paragraph, absent a written modification signed by both Parties).

3.2 **Bonuses.** The Board reserves the right, but is not required, to recognize and reward exemplary performance by CEO by approving a bonus at any time. The making and amount of a bonus award, if any, shall be determined by the Board in its sole discretion.

3.3 **Employee Benefits.** During the term of CEO’s employment and this Agreement, CEO shall be eligible to participate in all benefit plans, practices, policies, and programs that GVR makes available generally to its management-level employees from time to time, including a 401(k) plan in which GVR agrees to contribute not less than 5% annual salary on a dollar-for-dollar match (as long as



such contributions are legal under the plan). In addition, CEO shall receive such fringe benefits and perquisites as provided generally to other management-level employees of GVR from time to time, except that any increase to CEO's compensation first requires GVR Board of Directors approval.

3.3.1 **Paid Time Off.** CEO shall be entitled to six weeks of Paid Time Off ("PTO") per calendar year; provided, however, that CEO will not take more than two (2) weeks of PTO within any four (4) week period without prior approval from GVR President. The number of PTO days will be prorated for the first and last calendar years of employment and shall be determined by multiplying thirty (30) by a fraction, the numerator of which is the number of days CEO is employed by GVR during the applicable year and the denominator of which is 365. In January of each year, retroactive to CEO's start date with the Corporation, CEO shall be paid his accrued but unused vacation from the prior year, up to 80 hours, for which CEO was unable to use during the prior calendar year, and which otherwise exceeds the 80 hour maximum roll over allowed under policy.

Section 4. Employment Termination.

4.1. **Termination of Employment.** Either Party may terminate this Agreement as provided below.

4.2. **Termination by GVR.** GVR may terminate this Agreement for or without "Cause."

4.2.1. **Termination for Cause.** The termination is for Cause if Corporation terminates this Agreement because the CEO: (i) engages in willful misconduct, gross negligence, or breach of fiduciary duty; (ii) is charged with a felony or a crime involving moral turpitude, including the illegal use of drugs; (iii) engages in fraud or misappropriates or embezzles money or other property of GVR or any other member of Corporation or any customer or supplier of GVR or any other member of Corporation; (iv) engages in misconduct that violates applicable law or causes GVR or any other member of Corporation to violate applicable law; (v) fails to comply with any directive from the Board that is lawful and consistent with GVR's Bylaws, or materially breaches this Agreement, if CEO has not cured that breach within ten business days of GVR's delivery of written notice of such breach to the CEO.

4.2.2. **Termination Without Cause.** A termination is without Cause if GVR terminates the Agreement for any reason that does not constitute Cause, as defined in Section 4.2.1.

4.3. **Termination by the CEO.** The CEO may terminate this Agreement with or without Good Reason, after providing GVR with notice of intent to terminate this Agreement at least 30 days before the Termination Date.

4.3.1. **Good Reason.** Good Reason exists for the CEO to terminate this Agreement if it is the result of a Constructive Discharge (as such term is defined under Arizona Law). Good Reason also exists if the Corporation, or its members, acts to amend any provision of the Bylaws, or any Governing Documents, such as the Corporate Policy Manual, that materially changes the role, powers, duties, authority, or responsibilities of the CEO's position.



4.3.2. **Without Good Reason.** Any termination of the Agreement by CEO for a reason other than one constituting Good Reason under Section 4.3.1 is a termination without Good Reason.

4.4. **Notice of Termination of Employment.** Any termination of this Agreement shall be communicated by written “Notice of Termination” to the other Party.

4.5. **Resignation from All Offices and Positions.** Upon the termination of this Agreement for any reason, CEO shall immediately resign from all offices and positions CEO then holds as an officer, director, employee and member of any board or committee of GVR. CEO shall be required to execute such writings as are required to effectuate any such resignation.

Section 5. Payments to CEO Following Termination of this Agreement.

5.1. **Payments to CEO Regardless of Reason for Termination.** Regardless of the reason for the termination of this Agreement, following termination CEO shall be entitled to (i) payment of any accrued but unpaid Base Salary through the Termination Date; and (ii) payment of vested benefits (if any) in accordance with the terms of the applicable Corporation benefit plans and programs in effect from time to time (collectively, the “Accrued Amounts”). The Accrued Amounts shall be paid as soon as reasonably practicable and in accordance with applicable law.

5.2. **Severance Payment to CEO for Termination by Corporation Without Cause, or by CEO for Good Reason.** Subject to this Section 5.2, if CEO’s employment is terminated by GVR without Cause, or by CEO for Good Reason, CEO shall be entitled to receive (i) a payment in an amount equal to six months of CEO’s Base Salary at the rate in effect immediately prior to the Termination Date plus payment for any accrued, but unused PTO days (consistent with Section 3.3.1) paid out at the per-business-day Base Salary rate then in effect; and (ii) a payment equal to six months of paid health care benefits for CEO and his spouse, which will be calculated by determining the COBRA amount, and subtracting CEO’s portion of the regular contribution toward health care benefits (the “Severance Amount”).

5.2.1. GVR’s obligations to pay the Severance Amount shall be conditioned upon the CEO’s execution, delivery and non-revocation of a valid and enforceable general release of claims (the “Release”), substantially in the form utilized by GVR from time to time when terminating management level employees, within 21 days after CEO’s Termination Date.

5.3. **No Other Severance Benefits.** CEO acknowledges and agrees that CEO shall not be entitled to any other form of severance or termination payments or benefits from GVR, including, without limitation, payments or benefits otherwise payable under any of severance policies, program or arrangement of GVR.

Section 6. Continuing Obligations of CEO.

6.1 **Protection of Confidential Information.**



6.1.1 “Confidential Information” means any non-public information not approved or authorized by the Board for public release or dissemination pertaining to GVR’s business disclosed by GVR to CEO or developed or learned by CEO during the course of CEO’s employment with GVR. This includes, without limitation, any confidential information and documents concerning the conditions of other business arrangements, advertising, marketing plans, strategies, goals, objectives, projections, compilations and analyses regarding GVR’s operations, activities, programs, membership, techniques, methods, business plans, knowledge, and data. CEO understands that the foregoing list is not exhaustive, and that Confidential Information also includes other information that is marked or otherwise identified or treated as confidential or proprietary, or that would otherwise appear to a reasonable person to be confidential or proprietary in the context and circumstances in which the information is known or used. CEO understands and agrees that Confidential Information includes information developed by CEO in the course of employment with GVR as if GVR furnished the same Confidential Information to CEO in the first instance. Confidential Information shall not include information that is generally available to and known by the public at the time of disclosure to CEO, provided that the disclosure is through no direct or indirect fault of CEO or person(s) acting on CEO’s behalf.

6.1.2 CEO will not, at any time during employment with GVR or after termination of employment for any reason, directly or indirectly use, make known, disclose, furnish, or make available Confidential Information other than in the proper performance of CEO’s duties contemplated herein.

6.1.3 CEO acknowledges that by virtue of CEO’s employment with GVR, CEO will have access to and knowledge of Confidential Information. CEO agrees that misuse or direct or indirect disclosure of Confidential Information would be detrimental to the interests of GVR and/or its members.

6.2 **Cooperation.** While this Agreement is in effect and following its termination, CEO shall, upon request by the GVR Board of Directors, use reasonable efforts to assist and cooperate with Corporation and its counsel and be reasonably available to Corporation and its counsel (taking into account any other full-time employment of CEO following termination of his employment with GVR) with respect to matters arising out of CEO’s services to Corporation.

Section 7. Miscellaneous.

7.1 **Indemnification.** To the extent consistent with GVR’s Bylaws and Articles of Incorporation, GVR shall indemnify CEO for losses or damages incurred by CEO as a result of all causes of action arising from CEO’s performance of duties for the benefit of GVR, whether or not the claim is asserted while this Agreement is in effect. This indemnity shall not apply to causes of action that the GVR Board of Directors concludes arise from CEO’s acts of willful misconduct or gross negligence. CEO shall be covered under any directors’ and officers’ insurance that GVR maintains for its directors and other officers in the same manner and on the same basis as GVR’s directors and other officers.

7.2 **Amendments and Waivers.** This Agreement and any of its provisions may be amended, waived (either generally or in a particular instance and either retroactively or prospectively), modified or supplemented, in whole or in part, only by written agreement signed by the Parties; provided, that, the observance of any provision of this Agreement may be waived in writing by the Party that will lose the



benefit of such provision as a result of such waiver. The waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach, except as otherwise explicitly provided for in such waiver. Except as otherwise expressly provided in this Agreement, no failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy under this Agreement, or otherwise available in respect of this Agreement at law or in equity, shall operate as a waiver of such right, power or remedy, nor shall any single or partial exercise of such right, power or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

7.3 Third-Party Beneficiaries. Nothing in this Agreement shall confer upon any person who is not a Party, or the legal representatives of such person, any rights or remedies of any nature or kind whatsoever under or by reason of this Agreement.

7.4 Notices. Unless otherwise provided in this Agreement, all notices, requests, demands, claims and other communications provided for under the terms of this Agreement shall be in writing or by email showing confirmation. Any notice, request, demand, claim or other communication under this Agreement that is not sent by email shall be sent by (i) personal delivery (including receipted courier service) or overnight delivery service, with confirmation of receipt, (ii) reputable commercial overnight delivery service courier, with confirmation of receipt or (iii) registered or certified mail, return receipt requested, postage prepaid and addressed to the intended recipient as set forth below:

If to GVR: President, GVR Board of Directors, Green Valley Recreation, Inc., 1070 Calle de las Casitas, Green Valley, Arizona

With a copy to: Human Resources Officer, Green Valley Recreation, Inc., 1070 Calle de las Casitas, Green Valley, Arizona

If to CEO: CEO's home address on file with GVR's Human Resources Department.

All such notices, requests, consents and other communications shall be deemed to have been given when received. Either Party may change its facsimile number or its address to which notices, requests, demands, claims and other communications under this Agreement are to be delivered by giving the other Party notice in the manner applicable when that change is made.

7.5 Entire Agreement. From and after the Effective Date, this Agreement constitutes the entire agreement and understanding between the Parties, and supersedes all prior or contemporaneous negotiations, commitments, representations, agreements and understandings (including any prior or contemporaneous course of dealings), both written and oral, between the Parties with respect to its subject matter.



GREEN VALLEY RECREATION, INC.

CEO

By: _____
Name: _____
Title: _____
Date: _____

Scott Somers
Date: _____

Exhibit A

**Position Description
(Attached)**