



Bar Name:

## **WAKA KICKBALL DIVISION RESTAURANT/BAR AGREEMENT GENERAL INFORMATION**

### **About Affiliating with a WAKA Kickball Division**

Affiliating with a WAKA Kickball Division is simple, affordable, and pays off instantly.

WAKA helps:

- Create lasting relationships with hundreds of adults in your area;
- To bring 21-35 year-young professionals to your establishment; and
- Expose you to not just one team, but an entire WAKA "Division" of 200 to 416 players.
- WAKA's co-ed nature ensures a fun and social atmosphere for all.

### **Benefits of being a WAKA Kickball Division Bar**

WAKA Kickball "Division Bars" receive the following benefits:

- The Division usually sends all of its players and other subscribers a weekly newsletter, and each Division's restaurant/bar is usually promoted in these newsletters.
- The Division Bar is set as the only restaurant/bar with scheduled events for the WAKA kickball players in its Division during the Division's regular game nights. Experience shows between 50% to 75% of all players visit their Division Bar at least once per week, and often more.
- Affiliation opens the door for a lasting relationship with the local WAKA Division leaders and presents the potential for other special events both during the season and after the season has passed. These additional opportunities are at the discretion of the local Division leadership and your establishment.

### **WAKA Kickball Schedule**

- Each team plays one game a week.
- There are 7-10 games and a couple of tournament games each season.
- Winter Season games generally run from January through March.
- Spring Season games generally run from April through June.
- Summer Season games generally run June through August.
- Fall Season games generally run from September through November.
- Weeknight games are generally played at 6:30 and 7:15 (later if lights are available), on Saturdays generally 2:00 and 2:45pm and on Sundays 4:00 and 4:45pm.
- Upon signing the WAKA Kickball Restaurant/Bar Affiliate Agreement, a detailed schedule of game dates and times will be sent to the Division Bar.

### **WAKA Kickball Division Affiliation Fee**

The affiliation fee for a WAKA Kickball Division is a one-time payment of \$12.00 per player, per division per season. Within two weeks after the start of the Division, a total tally of Division players will be given to the Division Bar. This method ensures that prior to receiving an affiliation fee invoice the affiliated restaurant/bar has been seeing people come into their establishment for close to one month. Invoicing is based on the payment plan selected (see the attached Agreement) and is due 30 days from receipt.

In addition to the affiliation fee, all Division Bars are required to provide a discount on food and beverage (generally 20%) to all WAKA Division players during the season. This discount helps to ensure the lasting relationship with the Division that matures throughout the season.

THIS AFFILIATION AGREEMENT (the "Agreement"), beginning on this page 2 and concluding with the signatures on page 5, is made this \_\_\_\_\_ day of \_\_\_\_\_, by and between the WAKA, LLC., a Virginia corporation (the World Adult Kickball Association, or as used herein, "WAKA") with its principal place of business at P.O. Box 516, Front Royal, VA 22630, and \_\_\_\_\_, ("AFFILIATE") a \_\_\_\_\_ corporation, with its principal place of business at \_\_\_\_\_. In consideration of the promises, terms and conditions contained herein, and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

**I. Affiliation**

WAKA hereby grants to AFFILIATE a non-exclusive affiliation with the following WAKA Kickball Divisions (listed below), commencing upon the execution of this agreement and continuing through \_\_\_\_\_, unless revoked by WAKA before this date in pursuant to this Agreement (the "Term").

**DIVISIONS INCLUDED IN THIS AGREEMENT:** (List ALL 2011 Divisions & Check Season)

<u>DIVISION NAME</u>	<u>2011 SEASON</u>			
_____	<input type="radio"/> Winter	<input type="radio"/> Spring	<input type="radio"/> Summer	<input type="radio"/> Fall
_____	<input type="radio"/> Winter	<input type="radio"/> Spring	<input type="radio"/> Summer	<input type="radio"/> Fall
_____	<input type="radio"/> Winter	<input type="radio"/> Spring	<input type="radio"/> Summer	<input type="radio"/> Fall
_____	<input type="radio"/> Winter	<input type="radio"/> Spring	<input type="radio"/> Summer	<input type="radio"/> Fall
_____	<input type="radio"/> Winter	<input type="radio"/> Spring	<input type="radio"/> Summer	<input type="radio"/> Fall
_____	<input type="radio"/> Winter	<input type="radio"/> Spring	<input type="radio"/> Summer	<input type="radio"/> Fall

**II. Affiliate Obligations; Fee and Food/Beverage Discounts**

AFFILIATE will provide sufficient space and staffing on WAKA game nights in an effort to ensure a positive experience for WAKA players. AFFILIATE will notify WAKA of any promotions or events that coincide with WAKA game nights at least 14 days prior to affected game night(s).

AFFILIATE will remit to WAKA within 30 days of receipt of an invoice a fee of \$12.00 per player, per division, per season, as determined by the Division tally published during the third week of the Division's Season. If payment is made by check, check must be made payable to WAKA Kickball.

AFFILIATE further will provide to all players in its affiliated Division a discount on food and beverage (generally 20%) defined herein:

Drinks:	_____
Food:	
Other:	

The above specials  DO  DO NOT include all applicable Taxes. \_\_\_\_\_ (initials)

### III. Affiliation Payment

WAKA will, at its sole discretion, extend credit to bar affiliates that qualify. If credit is extended, affiliate may choose one of the following payment options by initialing payment option of choice.

#### **SELECT ONE PAYMENT OPTION - If paying via credit card please complete page 6.**

##### **Option #1 - One payment/Invoice (initial here)**

- Credit Card: \$0 processing fee, Automatic 4% Discount
- Check: \$125 processing fee, No Discount

One payment / invoice the 3<sup>rd</sup> week of games

##### **Option #2 - Two Payments/Invoices (initial here)**

- Credit Card: \$0 processing fee, Automatic 2% Discount

One payment / invoice 3<sup>rd</sup> week of games

One payment / invoice 7<sup>th</sup> week of games

##### **Option #3 - Four Payments (initial here)**

- Credit Card Only: \$0 processing fee

One payment on the last Friday of each month

Notes applicable to all payment options:

1. Invoices paid within 15 days of the invoice date are eligible for a 2% discount.
2. A late payment charge of 18% annually, compounded monthly, will be applied to all portions of outstanding balances that are more than 30 days overdue.
3. Accounts that are 45 days past due will be sent a final statement. If payment is not received within 15 days of postmarked statement date, the account will be turned over to a profit recovery organization.
4. Affiliate will be invoiced 30 days in advance of each payment due date. In those instances when contract is signed either within 30 days of start of season or after the season has started, invoicing will occur when signed contract is received by WAKA.

#### **IV. Affiliation Benefits**

In exchange for complying with the obligations set forth in Section II hereof, a) AFFILIATE may be promoted in newsletters sent to players in its affiliated Division, and b) AFFILIATE shall be designated as the only restaurant/bar with scheduled events for the players in its affiliated Division during regular game nights.

#### **V. Revocation of Affiliation**

Affiliation status is automatically revoked without notice in the event that: a) AFFILIATE fails to remit any required payment within 45 days after invoice date, or b) AFFILIATE fails to abide by the discounts outlined in Section II of this Agreement. WAKA may reinstate affiliation status at its sole discretion.

#### **VI. Intellectual Property and Confidential Information**

The name "World Adult Kickball Association," the acronym "WAKA", all logos of WAKA, and all other WAKA trademarks, service marks, trade names, and logos (hereinafter collectively referred to as the "Marks"), and all copyrighted or proprietary information and materials provided by WAKA to AFFILIATE during the Term of this Agreement (collectively, the "Proprietary Information", and together with the Marks, the "Intellectual Property") are and shall remain at all times the sole and exclusive property of WAKA. WAKA's Intellectual Property may not be used in any way without the express prior written approval of WAKA.

#### **VII. Relationship of Parties**

The relationship of WAKA and AFFILIATE to each other consists of nothing more than a referral (or, independent contractor) relationship pursuant to which, in exchange for the referral fee, WAKA refers all scheduled Division events to the restaurant/bar premises of AFFILIATE. Nothing herein shall create any association, joint venture, partnership, employer or agency relationship of any kind between the parties. The parties acknowledge and agree that WAKA shall have no right of control over the business operations, actions or omissions of AFFILIATE. Unless expressly agreed to in writing by the parties, neither party is authorized to incur any liability, obligation or expense on behalf of the other, to use the other's monetary credit in conducting any activities under this Agreement, or to represent to any third party that AFFILIATE is an agent of WAKA.

**VIII. Indemnification**

AFFILIATE shall indemnify, save and hold harmless WAKA, its subsidiaries, parents, affiliates, partners, agents, officers, managers, directors, employees, members, volunteers, participants, attorneys, heirs, successors, and assigns, from and against any and all claims, actions, demands, damages, judgments, and expenses (including reasonable attorneys' fees and expenses), and liabilities of every kind and character whatsoever, which may arise by reason of (i) any act or omission by AFFILIATE or any of its affiliates, partners, officers, directors, employees, participants, volunteers, owners or agents having actual or apparent authority, or patrons of AFFILIATE while on or off the premises owned or controlled by AFFILIATE (including players or participants in the affiliated WAKA Division), or (ii) the inaccuracy or breach of any of the covenants, representations and warranties made by AFFILIATE in this Agreement. The provisions of this Section shall survive the termination of this Agreement.

**IX. Non-Compete & Non-Disclosure**

AFFILIATE hereby agrees not to directly or indirectly own, manage, operate, consult, or be employed in any business similar to or competitive with the present business of WAKA and its successors and assigns, or any other business activity in which WAKA may engage during the Term and for a period of five (5) years following termination hereof for any reason. AFFILIATE acknowledges that WAKA may, in reliance upon this Agreement, provide AFFILIATE access to trade secrets, customers, and other confidential and proprietary information, including but not limited to prototypes, graphics, data, computer code, trade secrets, financial information, and intellectual property relating to all aspects of WAKA's business, services, products, and other property (both intangible and tangible) (collectively, the "Confidential Information"). AFFILIATE agrees to retain said information as confidential and not to use said information for personal use or benefit, or disclose same to any third party; and AFFILIATE further agrees to take all necessary actions to ensure that its affiliates, owners, officers, directors, volunteers, employees, contractors or agents retain such information confidential and use such information only in furtherance of, or in connection with, this Agreement. In connection therewith, AFFILIATE agrees not to disclose any Confidential Information to third parties, including the provisions or existence of this Agreement, without the express written permission of WAKA, except for information a) which AFFILIATE can demonstrate by written records was previously known; b) which is now, or shall become in the future, public knowledge other than through acts or omissions of AFFILIATE; or c) which is lawfully obtained by AFFILIATE from sources independent of WAKA.

AFFILIATE grants WAKA the right to be the exclusive kickball affiliate and will not contract or provide support to or with any other organization providing or promoting kickball. The restrictions set forth in this Section 9 shall extend throughout the United States of America, and shall be in full force and effect for five (5) years following the expiration of the Term. WAKA will be entitled to obtain an injunction to prevent threatened or continued violation of this Agreement, but failure to enforce the foregoing restrictions will not be deemed to constitute any waiver hereunder.

**X. Miscellaneous**

A. Arbitration; Venue. Any disputes arising under this Agreement shall be subject to mandatory and binding arbitration which shall take place in Fairfax County, Virginia. Neither party shall have any right to bring an action relating to this Agreement in a court of law, except insofar as to either enforce or appeal the results of any such arbitration. In any such arbitration or subsequent court action, the prevailing party shall be entitled to collect its fees and costs from the non-prevailing party. All questions with respect to the construction of this Agreement or the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the Commonwealth of Virginia. Any legal action taken or to be taken by either party regarding this Agreement or the rights and liabilities of parties hereunder shall be brought only before a federal or local court of competent jurisdiction located within the Commonwealth of Virginia. Each party hereby consents to the jurisdiction of the federal, state and local courts located within the Commonwealth of Virginia.

B. Assignment. This Agreement may not be assigned, nor the rights granted hereunder transferred or sublicensed, by either party without the express prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of each party, its subsidiaries, affiliates, related entities, volunteers, affiliates, agents, officers, directors, employees, heirs, successors, and assigns, without regard to whether it is expressly acknowledged in any instrument of succession or assignment.

C. Entire Agreement; Reasonableness. This Agreement sets forth the entire agreement and understanding between the parties and supersedes all prior discussions between the parties. If one or more of the provisions in this Agreement are deemed unenforceable by law, then the remaining provisions will continue in full force and effect. The parties agree that the restrictions contained herein are reasonable as to geographical area, time, and line of business, and are reasonably necessary to protect legitimate business interests of WAKA. To the extent the duration, geographical area, or line of business of any of the restrictions herein would cause them to be unenforceable in any jurisdiction, the restrictions automatically will be reformed for purposes of enforcement in that jurisdiction to a duration, geographical area, or line of business that is valid and enforceable in such jurisdiction. Reformation of a restriction to validate its enforcement in any particular jurisdiction, however, will not affect the enforcement of the restriction as stated in any other jurisdiction in which it is enforceable as stated. Also, the invalidity of a restriction in any particular jurisdiction will not affect the validity or enforcement of the restriction in another jurisdiction where it is otherwise valid. The duration of every restriction set forth in this Agreement will be extended by any period during which AFFILIATE is in breach of its obligations.

D. Notices. All notices and demands of any kind or nature that either party may be required or may desire to serve upon the other in connection with this Agreement shall be in writing and may be served personally, by telecopier, by certified mail, or by overnight courier, with constructive receipt deemed to have occurred on the date of the mailing, sending or faxing of such notice, to the following addresses or telecopier numbers:

If to WAKA: WAKA  
Attn: Partners  
P.O. Box 516  
Front Royal, VA 22630  
Phone/Fax: 1-866-350-1710  
Email: [bars@kickball.com](mailto:bars@kickball.com)

If to AFFILIATE: (include contact name and address of AFFILIATE below)

**Below enter the address where you would like invoices to be mailed.**

Address: \_\_\_\_\_

\_\_\_\_\_

Day Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused duplicate originals of this Agreement to be signed by their respective duly authorized representatives as of the date and year first above written.

**WAKA Signature:** \_\_\_\_\_ **Bar Signature:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_ **Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**BAR OWNER / MANAGER CONTACT INFORMATION**

Bar personnel responsible for relationship with WAKA Kickball (PLEASE PRINT)

**Name:** \_\_\_\_\_

**Mobile Phone Number:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Best means of communication:**  Bar Phone number  Cell Phone  Email  Come to bar

**Best day to contact:**  Monday  Tuesday  Wednesday  Thursday  Friday  Saturday  Sunday

**Best time to contact:**  8 - 10am  10am - 12pm  12 - 2pm  2 - 4pm  
 4 - 6pm  6 - 10pm  10pm - 12am



**WAKA KICKBALL®**  
P.O. Box 516  
Front Royal, VA 22630  
1 (866) 350-1710  
www.kickball.com

**WAKA KICKBALL – THE NEW AMERICAN PASTIME®**

**Easy Pay Form for WAKA Division Bars**

Easy Pay is a way for division bars to now pay their WAKA division bar fee in 4 easy installments. As a participant in Easy Pay, division bars will be mailed 1 comprehensive invoice for all the divisions that attend their bar in a particular season (ie winter, spring, summer, or fall) once registration for all the divisions has closed. This comprehensive invoice will be split into 4 equal payments. WAKA will then, with prior consent and authorization, automatically charge the credit card on file on the last business day of each month until the invoice is paid in full. WAKA bars that participate in Easy Pay will be eligible for a discount (2% - 4%) on the total invoice amount.

If your bar would like to participate in Easy Pay please complete this form by filling in the following information.

Thank you for your support of WAKA Kickball.

**Bar Name:** \_\_\_\_\_

<u>DIVISION NAME</u>	<u>2011 SEASON</u>			
_____	<input type="checkbox"/> Winter	<input type="checkbox"/> Spring	<input type="checkbox"/> Summer	<input type="checkbox"/> Fall
_____	<input type="checkbox"/> Winter	<input type="checkbox"/> Spring	<input type="checkbox"/> Summer	<input type="checkbox"/> Fall
_____	<input type="checkbox"/> Winter	<input type="checkbox"/> Spring	<input type="checkbox"/> Summer	<input type="checkbox"/> Fall
_____	<input type="checkbox"/> Winter	<input type="checkbox"/> Spring	<input type="checkbox"/> Summer	<input type="checkbox"/> Fall

**Credit Card Type**

MasterCard     Visa     AMEX     Discover     Diners

Cardholder Account Number: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Security Code (The Security Code is a three or four digit number printed on the back of your card): \_\_\_\_\_

(The Security Code is a three or four digit number printed on the back of your card)

I, the card holder, authorize WAKA LLC to charge the above credit card in 4 payments for my division bar fee for the above mentioned divisions. I further authorize WAKA to make such charges on the last business day of each month.

Name as it appears on card: \_\_\_\_\_

Billing Address of Card Holder: \_\_\_\_\_

\_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_