

**ITEM #25<sup>(1)</sup>**

Substitute Exhibit 1  
(Operating Agreement)

**ADDITIONAL MATERIAL**

**REGULAR MEETING**

**FEBRUARY 11, 2025**

**SUBMITTED AT THE REQUEST OF**

**COUNTY ATTORNEY OFFICE**



**SECOND AMENDED AND RESTATED OPERATING AGREEMENT BY AND AMONG BROWARD COUNTY, ARENA OPERATING COMPANY, LTD., FLORIDA PANTHERS HOCKEY CLUB, LTD., AND SUNRISE SPORTS & ENTERTAINMENT, LLC, FOR THE BROWARD COUNTY CIVIC ARENA**

This Second Amended and Restated Operating Agreement (“Agreement”) is by and among Broward County, a political subdivision of the State of Florida (“County”), Arena Operating Company, Ltd., a Florida limited partnership (“Operator”), Florida Panthers Hockey Club, Ltd., a Florida limited partnership (“Team”), and Sunrise Sports & Entertainment, LLC, a Delaware limited liability company (“SS&E”) (each a “Party” and collectively referred to as the “Parties”).

**RECITALS**

A. County is the owner of the Facility and the Project Site, located in Sunrise, Florida, which includes the Broward County Civic Arena.

B. County and Operator entered into an Operating Agreement dated June 4, 1996, for the Arena, as amended (“Original Operating Agreement”).

C. In addition to the Original Operating Agreement, on June 4, 1996, County, Operator, and Team entered into a License Agreement, as subsequently amended (“Original License Agreement”), pursuant to which Team agreed, among other things, to play its Home Games in the Arena in accordance with the terms of the Original License Agreement.

D. The Parties agreed to amend and restate, in its entirety, the Original Operating Agreement to clarify, consolidate, and restate their respective rights and obligations concerning the management and operation of the Facility, and the future development of the Project Site pursuant to that certain Amended and Restated Operating Agreement by and among Broward County, Florida, Arena Operating Company, Ltd., and Florida Panthers Hockey Club, Ltd., a Florida limited partnership, and Sunrise Sports & Entertainment, LLC, dated as of January 12, 2016, as amended (the “Amended and Restated Operating Agreement”).

E. Concurrently with entering into the Amended and Restated Operating Agreement, County, Team, and Operator entered into the Amended and Restated License Agreement by and among Broward County, Florida, Arena Operating Company, Ltd., and Florida Panthers Hockey Club, Ltd. (the “Amended and Restated License Agreement”).

F. The Amended and Restated Operating Agreement and the Amended and Restated License Agreement both expire on June 30, 2028.

G. The continued operation of the Facility is important to the continued encouragement, promotion, attraction, stimulation, development, growth, and expansion of business, commerce, and tourism within Broward County.

H. In view of the foregoing, the Parties agree it is in their best interests, and in the best interest of the welfare of County’s residents, to amend and restate in its entirety the

Amended and Restated Operating Agreement in accordance with the terms and conditions specified in this Agreement.

I. Concurrently herewith, County, Team, and Operator are entering into that Second Amended and Restated License Agreement to amend and restate in its entirety the Amended and Restated License Agreement.

J. The Parties acknowledge that in their exercise of the rights, duties, obligations, and privileges hereunder, each of them shall act in compliance with the requirements of Chapter 31½-16 of the Code and Section 125.0104, Florida Statutes, as amended from time to time, concerning the use of Tourist Development Tax (“TDT”) proceeds.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1. DEFINITIONS**

As used in this Agreement, capitalized terms shall have the meanings set forth below unless otherwise defined herein. Certain other capitalized terms which are not defined herein shall have the meanings provided in the License Agreement.

1.1. **AAA** has the meaning set forth in Article 17.

1.2. **Abatement Periods** means any period for which the time for performance or the deadline for satisfaction of a condition or the expiration date under any of the Related Agreements is extended as a result of events described in any of the Related Agreements. Any Abatement Period under any of the Related Agreements shall be deemed to be an Abatement Period for every other such Related Agreement

1.3. **Accounts** means any accounts that are required to be maintained by Operator under the terms of this Agreement including, without limitation, the Operating Fund, the Renewal and Replacement Account, and all other accounts for the deposit of the Facility Operating Revenues as provided in Article 5.

1.4. **Act** has the meaning set forth in Section 4.14.

1.5. **Additions and Capital Repairs** means collectively, any or all installations, alterations, improvements, and purchases of additional or replacement furniture, machinery or equipment at the Facility, the depreciable life of which, according to generally accepted accounting principles, is in excess of one (1) year, and expenditures for maintenance or repairs which extend the useful life of the assets being maintained or repaired for a period in excess of one (1) year. Except as set forth in Article 8, Additions and Capital Repairs shall be paid for from the Renewal and Replacement Account. For the avoidance of doubt, Capital Repairs and Capital Improvements are included within the meaning of Additions and Capital Repairs.

- 1.6. **ADR** has the meaning set forth in Article 17.
- 1.7. **Advance Approved Projects** has the meaning set forth in Section 15.1.10.5.
- 1.8. **Advance County Capital Contribution** has the meaning set forth in Section 15.1.10.5.
- 1.9. **Advertising** means all announcements, acknowledgments, banners, signs, show bills, and other audio or visual commercial messages displayed, announced, or otherwise presented in the Arena or installed on the Facility including video messages, but excluding Sponsor Signs or other signs, announcements, acknowledgments, and other audio or visual commercial messages displayed, announced, or otherwise presented in the Arena or installed on the Facility, including dashboard and other displays, which Team has the right to market and sell under the License Agreement.
- 1.10. **Advertising Revenue** has the meaning set forth in Section 4.5.
- 1.11. **Agreement** means this Second Amended and Restated Operating Agreement between the Parties, as may be amended from time to time.
- 1.12. **AICPA** has the meaning set forth in Section 7.3.3.
- 1.13. **Amended and Restated Operating Agreement** has the meaning set forth in the preamble.
- 1.14. **Annual Contributions** means the Contract Year payments made by County to Operator in accordance with Sections 15.1.9 and 15.1.10.
- 1.15. **Annual Operating Expense Plan and Budget** has the meaning set forth in Section 8.8.
- 1.16. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, and ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.
- 1.17. **Approved Plans** has the meaning set forth in Section 8.1.2.
- 1.18. **Arbitration** has the meaning set forth in Article 17.
- 1.19. **Arena** means the Broward County Civic Arena, a multipurpose facility for NHL hockey games, concerts, or other events, located at One Panther Parkway, Sunrise, Florida 33323.
- 1.20. **Arena Management Firm** means any subsequent Person specializing in the management of public assembly facilities similar to the Facility, which is contracted by Operator, or County pursuant to Section 2.6, to manage and operate the Facility.
- 1.21. **As-Built Plans** has the meaning set forth in Section 8.1.1.
- 1.22. **Audited Consolidated SS&E Financial Statements** has the meaning set forth in Article 7.

- 1.23. **Award** has the meaning set forth in Section 13.1.
- 1.24. **Bankruptcy Event** means, with respect to Team, Operator, or SS&E, the occurrence of any event specified below:
- 1.24.1. An assignment for the benefit of creditors; or
  - 1.24.2. Filing a voluntary petition in bankruptcy; or
  - 1.24.3. Adjudged bankrupt or insolvent, or has entered against Team, Operator, or SS&E an order for relief, in any bankruptcy or insolvency proceeding; or
  - 1.24.4. Filing of a petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; or
  - 1.24.5. Filing an answer or other pleading admitting or failing to contest the material allegations of a petition filed against Team, Operator, or SS&E in any proceeding of this nature; or
  - 1.24.6. Seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of Team, Operator, or SS&E or of all or any substantial part of their properties; or
  - 1.24.7. If, within 120 days after the commencement of any proceeding against Team, Operator, or SS&E seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or regulation, such proceeding has not been dismissed, or if within ninety (90) days after the appointment without Team's, Operator's, or SS&E's consent or acquiescence of a trustee, receiver or liquidator of Team's, Operator's, or SS&E's properties or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or if within ninety (90) days after the expiration of any such stay, the appointment is not vacated.
- 1.25. **Base Management Fee** means a fee paid to an Arena Management Firm annually for its services under this Agreement, if and when such Arena Management Firm is contracted by Operator or County.
- 1.26. **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.27. **Bonds** means the total amount of the Broward County Professional Sports Facility Tax and Revenue Refunding Bonds, Series 2006 (Broward County Civic Arena Project), outstanding from time to time and at any time, including interest and other payment requirements and any restructuring or refundings thereof, and related costs, which County incurred or incurs for the purpose of financing the development, construction, and improvement of the Facility.

- 1.28. **Business Days or business days** means Monday, Tuesday, Wednesday, Thursday, or Friday, excluding County holidays.
- 1.29. **Capital Expenses** means all costs and expenses incurred with respect to Additions and Capital Repairs.
- 1.30. **Capital Improvements** means any capital additions to the Facility that would not constitute Capital Repairs or work included in Article 4.
- 1.31. **Capital Repairs** means all capital repairs, capital replacements, capital restoration, or other capital work reasonably required to be performed on the Facility (including, but not limited to, all equipment, fixtures, furnishing, facilities, surfaces, structures or Components therein and thereof), that have an expected useful life of one (1) year or more and are necessary or appropriate to (i) repair, restore or replace Components of the Facility no longer suitable for their intended purpose due to any damage, destruction, ordinary wear and tear or defects in construction or design; (ii) prevent permanent damage to the roof, foundation, or structural integrity of the Facility; or (iii) comply with all Applicable Laws or the Comparable Arena Standard.
- 1.32. **Capital Schedule and Budget** has the meaning set forth in Section 8.3.1.
- 1.33. **CBE** has the meaning set forth in Section 4.14.
- 1.34. **Challenge** has the meaning set forth in Section 15.6.4.
- 1.35. **Challenge Proceeding** has the meaning set forth in Section 16.4.
- 1.36. **Change of Control** means an event or series of events by which any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934), other than the Current Owners, becomes the holder(s) of and entitled to vote the controlling interests of Team and Operator or SS&E. For purposes of this definition, a “controlling interest” is that amount of outstanding equity capital interests of Team, Operator, or SS&E sufficient to allow the holder(s) to appoint and approve a majority of the board of directors or to appoint the manager of Team, Operator or of SS&E.
- 1.37. **City** means the City of Sunrise, Florida, a municipal corporation of the State of Florida.
- 1.38. **Code** means the Broward County Code of Ordinances.
- 1.39. **Commissioner** means the Commissioner of the National Hockey League.
- 1.40. **Communication System** means all the audio and visual communication systems within or at the Facility, including but not limited to scoreboards, television and loudspeaker systems, public address systems, timers, clocks, message centers, video screens, signs, and marquees.
- 1.41. **Comparable Arena Standard** means the average standard of quality or performance, including construction of the improvements, ordinary wear and tear excepted, fan amenities and

ambiance provided by the following arenas: (1) Nationwide Arena, Columbus, Ohio; (2) Lenovo Center, Raleigh, North Carolina; (3) Amalie Arena, Tampa, Florida; (4) Excel Energy Center, St. Paul, Minnesota; (5) Bridgestone Arena, Nashville, Tennessee; (6) KeyBank Center, Buffalo, New York; (7) and any other sporting and entertainment facilities in the United States constructed between January 1, 1996, and December 31, 2003, where the primary tenant is a member of the NHL and the facility is not used (other than on an occasional basis) by a member team of the NBA. In the event that any one or more of the arenas hereinabove referenced shall be closed or shall, as generally reputed within the arena industry, cease to be maintained and operated in accordance with the standards of service and quality generally accepted within the arena industry for first class arenas, then (a) such arena or arenas shall be deleted from the list set forth in the foregoing sentence, and (b) County, Operator, and Team shall agree upon the substitution of another arena or arenas to replace the deleted arena or arenas, with approximate adjustments to reflect newer building and technology than that possessed by the Arena. In applying the Comparable Arena Standard to construction/design issues and customer service issues, due consideration shall be given to South Florida's unique competitive market conditions, climate, and topography.

1.42. **Comparable Events** has the meaning set forth in Section 15.1.7.

1.43. **Comparable General Price** has the meaning set forth in Section 1.90.

1.44. **Competing Facility** has the meaning set forth in Section 15.1.7.

1.45. **Completion Bonds** means the First Florida Governmental Financing Commission Series 2005B Bonds that were funded by the Broward County, Florida Non-ad Valorem Taxable Refunding Note, Series 2018, outstanding from time to time and at any time, including interest and other payment requirements and any restructuring or refundings thereof, and related costs.

1.46. **Components** means those items and systems of real or tangible property incorporated in the Arena and/or integral to the operation of the Arena, limited to (i) heating, ventilation, air conditioning, and cooling; (ii) plumbing and irrigation; (iii) electrical; (iv) mechanical; (v) telecommunications and audio/visual infrastructure; (vi) roof systems; (vii) structural systems; (viii) vertical lift systems (e.g., escalators and elevators); (ix) wi-fi systems; (x) retractable seating; (xi) camera and security systems, fire and emergency systems; (xii) flooring, slab repair, pavers, sidewalks and parking lots; and (xiii) other items and systems incorporated in or integral to the operation of arenas that meet or exceed the Comparable Arena Standard.

1.47. **Concessionaire(s)** means any Person, including Operator, operating a Concession.

1.48. **Concession(s)** means the business of selling, furnishing, or renting of foods, beverages, apparel, game programs, sporting equipment, goods, novelties, or merchandise (but not including parking) in, at, from, or in connection with the operation of the Arena whether sold, furnished or rented from shops, kiosks, or by individual vendors circulating through the Arena including, without limitation, any restaurant (whether open to the public or restricted to members thereof), club, membership dining room, or other facility therein for sale of food or

beverages, and including sales to fill orders for any such items received by any Concessionaire operating a Concession at the Arena by mail, facsimile, telephone, or other medium of communication.

1.49. **Consolidated Revenue** has the meaning set forth in Section 20.4.1.

1.50. **Consolidated Revenue Thresholds** has the meaning set forth in Section 20.4.

1.51. **Construction Documents** has the meaning set forth in Section 8.1.1.

1.52. **Consulting Engineer** has the meaning set forth in Section 8.4.1.

1.53. **Consumable Concessions** means items of food, drink, or other items for consumption which are sold or dispensed at the Facility.

1.54. **Contract Year** means the twelve (12) month period commencing July 1 and ending on June 30 of the immediately following year and shall refer to each contract year during the Term or, following a termination of this Agreement, any part thereof.

1.55. **County** means Broward County, Florida, a political subdivision of the State of Florida, any of its administrative departments, divisions, and functions, and its successors and assigns.

1.56. **County Administrator** has the meaning set forth in Section 2.4.

1.57. **County Allocated Operating Expenses** means those Facility Operating Expenses to be funded by the Annual Contribution.

1.58. **County Allocated Operating Expenses Fund** has the meaning set forth in Section 5.1.

1.59. **County Annual Capital Contribution** has the meaning set forth in Section 15.1.10.

1.60. **County Event Revenue** has the meaning set forth in Section 6.2.

1.61. **County Events** means Non-Commercial Events conducted or sponsored or co-sponsored by County or its designee pursuant to its rights and obligations established in this Agreement.

1.62. **County Indemnitees** has the meaning set forth in Section 10.1.

1.63. **County Representative** has the meaning set forth in Section 2.4.

1.64. **County Share** has the meaning set forth in Section 20.1.

1.65. **County Share of Expansion Proceeds** has the meaning set forth in Section 20.2.

1.66. **Current Owners** means the Person(s) who directly or indirectly own and control all of the outstanding capital interests of Team, Operator, and SS&E on the date hereof, Vincent Viola,



Douglas Cifu and any trusts or other estate planning vehicles for the benefit of Vincent Viola, Douglas Cifu, or any of their respective family members.

1.67. **Days or days** means calendar days.

1.68. **Development Proposal Period** has the meaning set forth in Section 20.3.

1.69. **Dispute** has the meaning set forth in Article 17.

1.70. **EBITDA** means earnings before interest, taxes, depreciation, and amortization of SS&E on a consolidated basis calculated in accordance with GAAP (except as otherwise provided in this Agreement) on an accrual basis. EBIDTA shall not include the Annual Contributions and expenses paid for with the Annual Contributions from County.

1.71. **Effective Date** has the meaning set forth in Section 3.1.

1.72. **Emergency** means any condition or situation which threatens (or if not promptly acted upon will threaten) the health, safety, or welfare of users of the Facility, or the structure or systems of the Facility itself or any portion thereof.

1.73. **Emergency Expenditure** means any Facility Operating Expense or expenditure for an Addition and Capital Repair undertaken by Operator and deemed necessary by it because of an Emergency.

1.74. **Equitable Litigation** has the meaning set forth in Article 17.

1.75. **Environmental Laws** means any federal, state, County, or applicable municipal law, statute, code, ordinance, rule, regulation, or judicial or administrative decision, order, or directive relating to environmental matters, historic preservation matters, or industrial health or safety matters, including, without limitation, any of the foregoing regulating or applying to any toxic or hazardous substance or waste or any environmental pollutant, as those terms are defined in any of the foregoing.

1.76. **Event of Default** has the meaning set forth in Section 16.1.

1.77. **Event Related Expenses** means those costs and expenses that will be incurred by Operator in connection with, and directly attributable to, each event or performance at the Facility and pursuant to an agreement relating to such event or performance (i) will be reimbursed by the user or the promoter out of the ticket sales for such event or performance or (ii) will otherwise be paid by the user or promoter in addition to any other charges for the use of the Facility for such event or performance, including, but not limited to, expenses for personnel (including ticket takers, ushers, internal, and external security, police, maintenance, and cleanup personnel, emergency medical technicians, concierge, restroom assistants, stagehands, box office personnel, and other maintenance personnel, utilities, and insurance) necessary for the conduct of an Event.

1.78. **Event(s)** means all revenue or nonrevenue producing sports, entertainment, cultural, civic, and other activities and events which are conducted at the Facility and scheduled by Operator.

1.79. **Extension Payment** has the meaning set forth in Section 5.8.

1.80. **Facility** means the Arena and the Parking Areas, with all improvements, additions, facilities, fixtures, furniture, machinery and equipment, attachments, and appurtenances now or hereafter attaching thereto.

1.81. **Facility Advertising Agreement** means that certain agreement to be entered into between Operator and Team pursuant to Section 7.1 of the License Agreement, as may be amended from time to time by Operator and Team.

1.82. **Facility Operating Expenses** means and includes all expenses as determined on an accrual basis, made, or incurred by Operator or its designee, or the Arena Management Firm, within the scope of Operator's authority or responsibility under this Agreement in managing and operating the Facility and incurred to obtain Facility Operating Revenue.

1.83. **Facility Operating Revenues** means all revenues as determined on an accrual basis including, without limitation, revenues from the sale and/or licensing of Premium Seating (including deposits), revenues derived from the sale or licensing of personal seat licenses (including deposits), revenues from the sale of name sponsorship (including Naming Rights), Advertising Revenue, box office revenues, parking revenues, revenues from the sale of Consumable and Non-Consumable Concessions, sponsorship revenues, rent, and other fees under the License Agreement, all other licensing and use fee revenues, interest income (except interest earned on funds deposited in the Renewal and Replacement Account), forfeited security deposits, ticket convenience fees, equipment rental fees, and Seat Use Charges, earned by Operator (i) for the use of, operation, or admission to, the Facility or any portion thereof, (ii) for the right to sell, or in respect of the sale of, any product or advertisement in the Facility including all rents, royalties, and concessions from tenants, Concessionaires, and Licensees, (iii) from interest on or proceeds of investment of any Accounts (except the Renewal and Replacement Account) required to be maintained hereunder, (iv) for rental or use of the Facility equipment, or (v) as fees for services rendered at the Facility; but excluding, in all events, (a) sums received or collected by Operator for and on behalf of and actually paid to a user of the Facility and (b) any revenues reserved to Team pursuant to the License Agreement.

1.84. **Facility Rights** means any rights, the sale of which would give rise to Facility Operating Revenue.

1.85. **FEMA** has the meaning set forth in Section 12.2.

1.86. **First Extension Term** has the meaning set forth in Section 3.2.1.

1.87. **Fixed and Permanent Advertising** means all Advertising other than Temporary Advertising.

1.88. **GAAP** means generally accepted accounting principles in the United States of America as in effect at the time of application hereunder.

1.89. **General Manager** means the Chief Operations Officer of Operator or Arena Management Firm, his designee or successor, in every case designated in writing by Operator to County.

1.90. **General Seating** means all of the seats at the Facility that are not Premium Seating including but not limited to rinkside/courtside seating or any other type of preferred location seating which is not Premium Seating. Team will sell "General Seating" for its own account at the prices that Team determines and may include such other benefits for hockey ticket purchasers as Team may determine, including, without limitation, membership in the "Panthers Club" or some other club memberships of Team sponsors, season ticket holders, or others. The provision of a club membership or other benefits to a Ticket purchaser does not change seating designated as General Seating to Premium Seating. Notwithstanding the foregoing, for purposes of determining the portion of the hockey ticket price that Team receives for the all-inclusive seating in the restricted access location on the ground concourse level of the Facility designated as "Amerant Vault" or the Corona Beach House on the third level concourse in the Facility as of the date hereof to be payable to Team shall be equal to the price of comparable "General Seating" on the same concourse level in the Facility (the "Comparable General Price"). The excess of such hockey ticket price (excluding taxes, fees and other charges) received over the Comparable General Price in such club shall be deemed to be Facility Operating Revenue for so long as such ticket price includes unlimited food and beverage and valet parking. All costs of operating such club including but not limited to food and beverage and valet parking expenses shall be included in Facility Operating Expenses.

1.91. **Governmental Authority** means any government, whether federal, state, local, municipal, or of any other political jurisdiction, and any agency, authority, instrumentality, court, board, commission, bureau, arbitrator, arbitration tribunal, or other tribunal, or any quasi-governmental or other entity, insofar as it exercises a legislative, judicial, regulatory, administrative, expropriation, or taxing power or function of, or pertaining to government.

1.92. **Governing League Policies** means Team's NHL Franchise Agreement, the Constitution and Bylaws of the National Hockey League, agreements between the National Hockey League and third parties and any other agreements, rules, regulations, policies, or requirements of the Office of the Commissioner of the National Hockey League, the Commissioner, and/or any NHL entity, and the Commissioner's interpretation and application of each of these, all as the same may now exist or may be amended or adopted in the future.

1.93. **Impositions** means all governmental assessments, franchise fees, excises, license and permit fees, levies, charges and taxes, general and special, ordinary and extraordinary, of every kind and nature whatsoever (irrespective of the nature thereof, including, without limitation, all such charges based on the fact of a transaction, irrespective of how measured) which at any time

during the Term hereof may be assessed, levied, confirmed, imposed upon, or grow, or become due and payable out of or in respect of, or become a lien on: (i) all or any part of the Facility; (ii) any payments received from any holders of a leasehold interest or license in or to the Facility, from any guests or from any others using or occupying all or any part of the Facility; or (iii) this transaction or any document to which Operator or Team is a party which creates or transfers rights with respect to all or any part of the Facility.

1.94. **Initial Term** has the meaning set forth in Section 3.1.

1.95. **Insurance Deficiency** has the meaning set forth in Section 12.2.

1.96. **Insurance Proceeds** has the meaning set forth in Section 12.1.

1.97. **License Agreement** means that certain Second Amended and Restated Broward County Civic Arena License Agreement among Broward County, the Arena Operating Company, Ltd., the Florida Panthers Hockey Club, Ltd., and Sunrise Sports & Entertainment, of even date herewith, and as may be amended or restated from time to time.

1.98. **License Commencement Date** means September 19, 1998.

1.99. **Licensee** means any licensee other than Team, including licensees of Concessions, Premium Seating, Advertising, Arena restaurant, and other users of privileges in or around the Arena for a fee.

1.100. **Licenses** means Premium Seating Licenses, licenses with Concessionaires, licenses with other users of the Facility, and all booking and use agreements as described herein.

1.101. **Liens** means all encumbrances, liens, security interests, pledges and claims in, to, against or in any way applicable to any portion of the Facility or the Accounts.

1.102. **Loss Appraiser** has the meaning set forth in Section 12.2.

1.103. **Major Event Contribution** has the meaning set forth in Section 15.1.10.

1.104. **Major Events** means an Event that would be conducted at the Arena or the Facility that is of national or international significance, whether cultural, entertainment or sports related. Examples of Major Events includes International, or U.S. Olympic Committee sanctioned events, NCAA Tournament games, and NHL All Star or NHL Draft events, and similar events.

1.105. **Management Fees** means Base Management Fee and incentive fees, if any, paid to an Arena Management Firm, for its services under this Agreement, as set forth under Section 4.14 herein.

1.106. **Management Services** means the services which Operator or its designee, including any Arena Management Firm, is required to render in connection with the management of the Facility pursuant to this Agreement.

- 1.107. **Measurement Period** has the meaning set forth in Section 20.2.
- 1.108. **Mediation** has the meaning set forth in Article 17.
- 1.109. **Named Windstorm and Flood Limits** has the meaning set forth in Section 11.1.1.
- 1.110. **Naming Rights** has the meaning set forth in Section 4.6.
- 1.111. **Net Operating Income** means, as to each Contract Year during the Term, the net of Facility Operating Revenues for such Contract Year less Facility Operating Expenses for such Contract Year, distributed by, or on behalf of, Operator pursuant to Section 5.2 for such Contract Year.
- 1.112. **Net Profits** means the net profits realized by the Current Owners upon the conclusion of a Change of Control shall be determined as follows. The calculation of Net Profits shall be equal to (i) the aggregate proceeds received by the Current Owners including proceeds received by the Current Owners from any sales of equity capital interests of Team, Operator, or SS&E that is not a Change of Control, less the transaction costs incurred by the Current Owners in connection with such Change of Control; less (ii) the repayment of all indebtedness, accrued interest, and other liabilities to the extent that such indebtedness, interest thereon, and other liabilities are paid or satisfied at the closing of the Change of Control (and not assumed by the purchaser); less (iii) the aggregate purchase price stated in note 3 of the 2014 consolidated audited financial statements of SS&E that was paid by Current Owners to acquire SS&E, Team, and Operator; and less (iv) all capital contributions (owner equity) made by Current Owners to SS&E, Team, and Operator from and after September 27, 2013, net of any distributions to Current Owners from such date as described in Note J in the 2024 consolidated audited financial statements of SS&E (or successor notes regarding stockholders' equity in future audited financial statements of SS&E).
- 1.113. **Neutral** has the meaning set forth in Article 17.
- 1.114. **NHL** means the National Hockey League.
- 1.115. **NHL Expansion** has the meaning set forth in Section 20.2.
- 1.116. **Non-Commercial Events** has the meaning set forth in Section 15.1.8.
- 1.117. **Non-Consumable Concessions** means all Concessions items other than Consumable Concessions.
- 1.118. **Notice of Non-Performance** has the meaning set forth in Section 2.6.1.
- 1.119. **OESBD** has the meaning set forth in Section 4.14.
- 1.120. **Operating Fund** means the account which shall be established for the deposit of all Facility Operating Revenue and from which all Facility Operating Expenses required by this Agreement shall be paid and from which Net Operating Income and other distributions shall be made. Operator may establish the Operating Fund in a bank or other financial institution located in

Broward County. Operator may deposit, invest or otherwise employ the funds in the Operating Fund provided that such funds will be available as necessary to pay Facility Operating Expenses as and when they become due.

1.121. **Operator** means Arena Operating Company, Ltd., a Florida limited partnership, its successors and assigns.

1.122. **Operator Exclusive Areas** has the meaning set forth in Section 21.1.

1.123. **Operator Improvement Debt** has the meaning set forth in Section 8.5.

1.124. **Operator Indemnitees** has the meaning set forth in Section 10.2.

1.125. **Operator Representative** means the person authorized to issue and receive notices on behalf of Operator with respect to this Agreement and shall be the Chief Executive Officer of Team, or the Operator Representative's designee and shall have all the rights, duties, and responsibilities set forth in Section 2.5.

1.126. **Original License Agreement** has the meaning set forth in the preamble.

1.127. **Original Operating Agreement** has the meaning set forth in the preamble.

1.128. **Panthers** means the Florida Panthers Hockey Club, Ltd., a member club of the NHL. "Panthers" is used interchangeably with "Team."

1.129. **Parking Areas** means the areas of the Facility designated for parking.

1.130. **Parties** has the meaning set forth in the preamble.

1.131. **Person** means any individual, trust, estate, partnership, joint venture, company, corporation, association, or any other legal entity, business, or enterprise.

1.132. **Premium Rate** means a rate of interest equal to two percent (2%) in excess of the rate of interest announced from time to time by Bank of America, N.A., or by any other bank located in the County and designated by the Operator and the County, as the "prime rate" of interest

1.133. **Premium Seating** means the executive suites, party suites and club suites at the Facility designated by Team which have exclusive access for its patrons and is serviced by separate catering. Premium Seating shall not include any of the General Seating.

1.134. **Premium Seating License** means the form of that certain Agreement for execution by Premium Seat Licensees as amended from time to time and all such executed forms of the agreement as are executed and in effect from time to time.

1.135. **Proceeding** has the meaning set forth in Section 16.4.

1.136. **Project Site** means the entire tract of land on which the Facility is located.

1.137. **PSL** has the meaning set forth in Section 4.15.

1.138. **Public Entity Assignee** means an entity which has, or is intended to have, a class of capital stock registered under the Securities Act of 1933, as amended, and that owns or is intended to own Operator or Operator's material assets.

1.139. **Records** means all of the books, records, contracts, agreements, documents, financial statements, and accounts of SS&E, Team, or Operator related to this Agreement.

1.140. **Related Agreements** means this Agreement and the License Agreement.

1.141. **Related Party(ies)** has the meaning set forth in Accounting Standards Codification Number 850.

1.142. **Renewal and Replacement Account** means the Account established for funds deposited and used pursuant to Section 5.5.

1.143. **Request** has the meaning set forth in Article 17.

1.144. **Restricted Material** has the meaning set forth in Section 7.5.4.

1.145. **Sawgrass Arena Ramps Agreement** means that Turnpike Sawgrass Arena Ramps/Right of Way Agreement by and among Broward County, Florida, Arena Operating Company, Ltd., Arena Development Company, Ltd., and the State of Florida Department of Transportation dated as of August 12, 1997.

1.146. **Seat Use Charge** means the amount that (i) the user of each seat in the Arena shall be charged for use of such seat and (ii) Operator shall collect from each such user. Such amount shall be determined by Operator in its discretion. The Seat Use Charge shall be in addition to, and not in lieu of, admission charges and any taxes that may be payable on such Seat Use Charge. The Seat Use Charge shall be Facility Operating Revenue and shall be collected by Operator for use for Additions and Capital Repairs at the Facility or to improve the roadways and for traffic access improvements.

1.147. **Second Extension Term** has the meaning set forth in Section 3.2.2.

1.148. **Services** has the meaning set forth in Section 4.14.2.

1.149. **Sponsor Signs** has the meaning set forth in the License Agreement.

1.150. **SS&E** means Sunrise Sports & Entertainment LLC, a Delaware limited liability company, the parent of Team and Operator. For purposes of this Agreement, the definition of SS&E also means (i) the Florida Panthers Hockey Club, Ltd.; (ii) Arena Operating Company, Ltd.; (iii) Arena Development Company, Ltd.; (iv) Florida Team Shop, LLC f/k/a SSE Publications, LLC; (v) SSE Development, LLC f/k/a OZ Development, LLC; (vi) SSE Promotions, LLC; (vii) Parq93, LLC f/k/a SSE Consulting, LLC; and (viii) PHGP, LLC.

- 1.151. **Subcontractor** means an entity or individual, including subconsultants, providing services to County through the Operator or Team, regardless of tier.
- 1.152. **Substantial Taking** has the meaning set forth in Section 13.1.
- 1.153. **Sunrise Letter of Agreement** means that certain Letter of Agreement dated as of April 13, 1996, as amended, by and among Team, County, and City.
- 1.154. **Supplemental County Preferred Revenue Payment** has the meaning set forth in Section 20.4.
- 1.155. **Taking** has the meaning set forth in Section 13.1.
- 1.156. **Taking Date** has the meaning set forth in Section 13.1.
- 1.157. **TDT** has the meaning set forth in the preamble.
- 1.158. **Team** has the meaning set forth in the preamble.
- 1.159. **Team Expansion Proceeds** has the meaning set forth in Section 20.2.
- 1.160. **Temporary Advertising** means Advertising in connection with any Event which is to be removed or terminated at the conclusion of such Event.
- 1.161. **Term** has the meaning set forth in Section 3.1.
- 1.162. **Title Exceptions** has the meaning set forth in Section 15.1.5.
- 1.163. **Tourism Promotion** has the meaning as set forth in Section 5.6.

## **ARTICLE 2. ENGAGEMENT OF OPERATOR**

2.1. Engagement of Operator. Except as otherwise provided in Section 2.6, Operator or its designee shall be the sole and exclusive manager and operator of the Facility during the Term hereof with sole responsibility and full control and discretion in the operation, direction, management, and supervision of the Facility and its staff, subject to and as more fully described in this Agreement. Operator shall have the right to delegate all or a portion of its duties and responsibilities hereunder to an Arena Management Firm and/or to Subcontractors or agents.

2.2. Authority of Operator. Operator shall have the exclusive right and authority to exercise, or delegate the exercise of, all rights, powers, and duties conferred or imposed on Operator in this Agreement. The powers of Operator with respect to the Facility shall be plenary, subject only to the limitations expressly set forth in this Agreement.

2.3. Duty and Liability. Operator shall owe to County a duty to perform its obligations under this Agreement and to conduct the management and operation of the Facility at all times with



integrity and good faith, and in a manner which is in the best interests of County, the Facility and its tenants, users, and licensees, including Team, and consistent with the terms of this Agreement.

2.4. County Representative. The Broward County Administrator (“County Administrator”), or the County Administrator’s authorized written designee, shall be County’s authorized representative who shall act as liaison and contact person between County and Operator in administering and implementing the terms of this Agreement (“County Representative”). County shall have the right to designate a substitute authorized representative at any time by providing written notice thereof to Operator. Except as otherwise provided in this Agreement, the County Representative, or authorized designee, shall respond to requests for review, consents, or waivers within fourteen (14) days after submittal, and failing a written notice of approval within such time period, the request shall be deemed denied and the consent not granted. County agrees to employ a commercially reasonable standard in considering and responding to such requests. Notwithstanding the foregoing, the Board shall be required to consent to any amendment to this Agreement or to any other request for consent that is not related to administration of the terms of this Agreement. All administrative and ministerial consents shall be given by the County Representative on behalf of County. In any situation requiring Board approval, County’s failure to provide a written notice of approval within thirty (30) days of submittal of any request, consent or waiver by Operator or its designee, shall be deemed denied and a disapproval of such request by County. Operator and any other Person dealing with County in connection with this Agreement or any matter governed by this Agreement may rely and shall be fully protected in relying upon the authority of the County Representative or any such designee to act for and bind County in any such matter.

2.5. Operator Representative. The Chief Executive Officer of Team, or the Chief Executive Officer’s representative authorized in writing, is Operator’s authorized representative and shall act as liaison and contact person between County and Operator under the terms of this Agreement (“Operator Representative”). Operator shall have the right to designate a substitute Operator Representative by providing written notice thereof to County. Except as otherwise provided in this Agreement, the Operator Representative, or authorized designee, shall respond to requests for review, consents, or waivers from County within fourteen (14) days after submittal and failing a written notice of approval within such time period, the request shall be deemed denied and the consent not granted. Operator agrees to employ a commercially reasonable standard in considering any such requests. County and any other Person dealing with Operator in connection with this Agreement or any matter governed by this Agreement may rely and shall be fully protected in relying upon the authority of the Operator Representative or any such designee to act for and bind Operator in any such matter.

2.6. Board Right to Appoint Arena Management Firm.

2.6.1. Notice to Operator. If the Board determines in good faith that Operator is not operating the Facility in a manner generally consistent in all material respects with past practice in connection with its operation of the Facility (other than

maintenance) and with the Comparable Arena Standard, and the Board elects to exercise its right under this Section 2.6 to appoint an Arena Management Firm that would assume certain of the Arena management and operation responsibilities performed by Operator hereunder as described in Section 2.6.8 below, then the Board shall cause the County Representative to provide written notice of such determination to Operator and Team (“Notice of Non-Performance”). With respect to Operator’s maintenance obligations, such obligations will be measured by the Comparable Arena Standard.

- 2.6.2. Contents of Notice; Dispute by Operator. The Notice of Non-Performance shall list specific facts, circumstances, events, and conditions that support the Board’s determination that Operator is not operating the Facility in a manner generally consistent in all material respects with the Comparable Arena Standard and shall be accompanied by evidentiary support for a determination of non-performance.
- 2.6.3. Operator’s Dispute Procedures. For a period of sixty (60) days following its receipt of a Notice of Non-Performance from County, Operator may submit to the County Representative its agreement or disagreement, or seek clarification of the positions alleged by County that it is not operating the Facility in a manner generally consistent in all material respects with past practice (other than maintenance which is measured by the Comparable Arena Standard) and with the Comparable Arena Standard. During this sixty (60) day period, the County Representative and Operator shall meet in person and use all of their commercially reasonable efforts to reach a fair and mutually acceptable resolution of the Board’s determination to seek to designate the Arena Management Firm.
- 2.6.4. Operator’s Right to Cure; Cure Period. If Operator agrees with County’s Notice of Non-Performance, or the Neutral in the ADR (as defined in Article 17), finds that the Board’s determination of non-performance is reasonable, then Operator shall have no less than sixty (60) days, but not more than ninety (90) days, following such agreement by Operator and County, or such finding by the Neutral in the ADR, in which to cure and remedy each specific fact, circumstance, event, or condition that is the agreed or ADR-determined basis for the Notice of Non-Performance. If Operator cures such specific allegations of non-performance within the ninety (90) day timeframe, then the Section 2.6 process shall be concluded with respect to the applicable Notice of Non-Performance to Operator, this Agreement shall continue in effect and Operator shall remain as operator and manager of the Facility. If Operator does not timely cure such specific allegations of non-performance within the ninety (90) day timeframe, then the Board may appoint an Arena Management Firm to undertake the operation and management of the Facility effective no earlier than thirty (30) days thereafter. Any dispute whether Operator has cured its non-performance within the ninety (90) day timeframe may be taken to dispute resolution pursuant to Article 17.

- 2.6.5. Arena Management Firm. The Arena Management Firm appointed by the Board to assume the operation and management of the Arena shall be a Person with substantial experience (at least ten (10) years) in the operation or management of arenas in the United States similar to the Arena in conformance with the Comparable Arena Standard. Such Arena Management Firm shall possess the financial resources and business reputation reasonably determined by the Board to be appropriate, and such Arena Management Firm shall be reasonably acceptable to Team and Team shall have reasonably consented to and approved the economic and other terms of the agreement with such Arena Management Firm to manage and operate the Facility in accordance with the management duties set forth in Section 2.6.8. Prior to appointing the Arena Management Firm, County, Team, and Operator shall use their good faith, commercially reasonable efforts to promptly effectuate any necessary or desired amendments to the License Agreement and to this Agreement, the intent of which will be to ensure that Team enjoys substantially the same rights, benefits, and uses of the Facility, and maintains substantially the same economic benefits, as exists on the date hereof with Operator.
- 2.6.6. Effect of Replacing Operator. If the Board designates an Arena Management Firm pursuant to this Section 2.6, Operator shall continue to perform and be responsible for all other of its duties and responsibilities hereunder other than those duties and obligations set forth in Section 2.6.8 that are assumed by the Arena Management Firm. In connection therewith, County shall cause the Arena Management Firm to assume the contracts and performances that Operator has entered in the ordinary course of operating and managing the Facility.
- 2.6.7. Default. If the Board elects to exercise its rights under this Section 2.6, County shall be deemed to have elected its remedies and, upon the resolution of the dispute process set forth in this Section 2.6, County may not exercise its right to declare a Default under Article 16 in respect of any of the specific facts or circumstances that it alleged in its Notice of Non-Performance, unless Operator has a material recurring default of the issues set forth in the Notice of Non-Performance that is not capable of being remedied by County's exercise of its rights under this Section 2.6. In such case, County reserves the right to pursue its remedies under Article 16, including termination of this Agreement, in accordance with the terms thereof.
- 2.6.8. Duties of Arena Management Firm. Upon the designation of the Arena Management Firm pursuant to this Section 2.6, the Arena Management Firm shall undertake, perform, and be responsible for only the following duties and responsibilities set forth below. Operator shall continue to have responsibility for all other duties and responsibilities under this Agreement.
- 2.6.8.1. Management in accordance with Section 4.1, but subject, in all events, to the prior advice and consent of Team, which consent shall not be

unreasonably withheld; in addition, the Arena Management Firm shall have (i) no responsibility regarding Operator's duties under Article 8 and may not use any amounts in the Renewal and Replacement Account, may not incur any Capital Expenses or perform any Additions and Capital Repairs; (ii) no responsibility for submission of SS&E reports and audits pursuant to Article 7 other than to provide all necessary assistance in connection with such reports and audits as reasonably requested by Operator; and (iii) with respect to procuring and negotiating contracts regarding Concessions, such duties shall not limit Team's rights with respect to Concessions contained in the License Agreement and shall be subject to the prior advice and consent of Team, which consent shall not be unreasonably withheld; and

2.6.8.2. Negotiate, execute, and perform use agreements for concerts and other Events (other than Hockey Events) pursuant to Section 4.2, with the prior advice and consent of Team, which consent shall not be unreasonably withheld; and

2.6.8.3. Negotiate, execute, and deliver promotion contracts for concerts and other Events (other than Hockey Events) pursuant to Section 4.3, with the prior advice and consent of Team, which consent shall not be unreasonably withheld; and

2.6.8.4. Plan, prepare, implement, coordinate, and supervise all public relations and other promotional programs for the Facility pursuant to Section 4.4, with the prior advice and consent of Team, which consent shall not be unreasonably withheld; and

2.6.8.5. Arrange for and book Events (other than Hockey Events) in the Facility pursuant to Section 4.8, with the prior advice and consent of Team, which consent shall not be unreasonably withheld; and

2.6.8.6. Control and coordinate ticketing for Events at the Facility (other than Team Events), pursuant to Section 4.9, with the prior advice and consent of Team, which consent shall not be unreasonably withheld; and

2.6.8.7. Plan, coordinate, and administer the operation of the Facility pursuant to Section 4.11, with the prior advice and consent of Team, which consent shall not be unreasonably withheld; and

2.6.8.8. Responsibility to meet County and CBE goals pursuant to Section 4.14, with the prior advice and consent of Team, which consent shall not be unreasonably withheld.

2.7. Base Management Fee. Each Contract Year during the Term, the Arena Management Firm (if appointed pursuant to Section 2.6) shall be paid the Base Management Fee for its services under this Agreement. The Base Management Fee shall be a Facility Operating Expense payable from Facility Operating Revenue, in accordance with the terms of this Agreement.

### **ARTICLE 3. TERM AND TERMINATION**

3.1. Commencement and Term. The term of this Agreement shall be deemed to commence on July 1, 2024 (“Effective Date”) and shall expire on June 30, 2033 (the “Initial Term”). Notwithstanding anything to the contrary, it is intended that the expiration of this Agreement shall be simultaneous with that of the License Agreement and therefore, unless sooner terminated herein, this Agreement shall automatically terminate upon the expiration or earlier termination of the License Agreement. The Initial Term (expiring June 30, 2033), the First Extension Term (expiring June 30, 2038, if exercised), and the Second Extension Term (expiring June 30, 2043, if exercised), as those terms are defined in this Article 3, are collectively referred to as the “Term.”

3.2. Options to Extend.

3.2.1. First Extension. Following the end of the Initial Term, this Agreement shall automatically renew for one (1) additional five (5) year term, expiring on June 30, 2038 (the “First Extension Term”) on the same rates, terms, and conditions stated in this Agreement, unless County, acting through the County Representative, provides written notice to Operator it will not exercise the renewal option. Such written notice of non-renewal must be provided to Operator no later than July 1, 2030, unless a Change of Control is consummated on or prior to July 1, 2028, in which event, such written notice of non-renewal must be provided to Operator no later than the later of (i) July 1, 2028, or (ii) sixty (60) days after the date of consummation of such Change of Control. For avoidance of doubt, if a Change of Control is consummated after July 1, 2028, County’s right not to renew for the First Extension Term described in this Section 3.2.1 shall no longer be applicable and this Agreement shall automatically continue into the First Extension Term, subject to County’s termination rights set forth in Section 3.4 below.

3.2.2. Second Extension. Following the end of the First Extension Term (if renewed), this Agreement shall automatically renew for a second additional five (5) year term, expiring on June 30, 2043 (the “Second Extension Term”), on the same rates, terms, and conditions stated in this Agreement (except as otherwise specifically set forth in this Agreement), unless County, acting through the County Representative, provides written notice to Operator that it will not exercise the renewal option. Such written notice of non-renewal must be provided to Operator no later than July 1, 2035, unless a Change of Control is consummated on or prior to July 1, 2033, in which event, such written notice of non-renewal must be provided to Operator no later than the later of (i) July 1, 2033, or (ii) sixty (60) days

after the date of consummation of such Change of Control. For avoidance of doubt, if a Change of Control is consummated after July 1, 2033, County's right not to renew for the Second Extension Term described in this Section 3.2.2 shall no longer be applicable and this Agreement will automatically continue into the Second Extension Term, subject to County's termination rights set forth in Section 3.4 below.

3.3. In no event shall County be required to exercise the First Extension Term option or Second Extension Term option. Additionally, even if this Agreement extends into the First Extension Term or Second Extension Term, County retains the right to terminate this Agreement upon the consummation of a Change of Control during the Term pursuant to Section 3.4.

3.4. Termination Due to Change of Control. In the event a Change of Control is consummated between Contract Years 2028-2030, or 2033-2035, County may elect to terminate this Agreement before the full expiration of the Term (including any extensions thereto) by providing written notice to Operator no later than the later of (i) the last day of the Contract Year during which such Change of Control is consummated, or (ii) within sixty (60) days after the date of consummation of such Change of Control, whichever is later. A termination under this section shall take effect as of the following applicable termination date:

- 3.4.1. If the Change of Control occurs during Contract Year 2028-2029 (July 1, 2028 – June 30, 2029), the termination date of this Agreement shall be June 30, 2036.
- 3.4.2. If the Change of Control occurs during Contract Year 2029-2030 (July 1, 2029 – June 30, 2030), the termination date of this Agreement shall be June 30, 2037.
- 3.4.3. If the Change of Control occurs during Contract Year 2033-2034 (July 1, 2033 – June 30, 2034), the termination date of this Agreement shall be June 30, 2041.
- 3.4.4. If the Change of Control occurs during Contract Year 2034-2035 (July 1, 2034 – June 30, 2035), the termination date of this Agreement shall be June 30, 2042.

#### **ARTICLE 4. OPERATOR'S RIGHTS AND OBLIGATIONS**

Except as provided in Section 2.6 and Section 4.2, Operator's rights and obligations shall consist of the following:

4.1. Management. Operator shall be the exclusive manager, licensor, and operator of the Facility and shall have the exclusive right to contract for its license or use during the Term in a manner that will promote and further the purposes for which the Facility and the Arena have been constructed. Operator shall do all things and take all actions necessary for the operation of the Facility in accordance with this Agreement. In performing its duties and responsibilities hereunder, Operator shall exercise such attention and care as is reasonably consistent with the

Comparable Arena Standard. Without limiting the generality of the foregoing, Operator is authorized to and shall:

- 4.1.1. Collect all Facility Operating Revenue and County Event Revenue, and in connection therewith, use all reasonable efforts to obtain all fees, rents, and other amounts due to Operator from Licensees, Concessionaires, and other users of the Facility; and shall cause notices to be served upon such Licensees and other users to quit and surrender space occupied or used by them where desirable or necessary in the opinion of Operator; shall ask for, demand, collect, and give receipts for all amounts which at any time may be due from any Licensees and other users of the Facility; and
- 4.1.2. Prepare and submit to County for its review, comment, and mutual consent, in accordance with Article 8, a Capital Schedule and Budget projecting the estimated Additions and Capital Repairs expenditures and an Annual Operating Expense Plan and Budget projecting the estimated Facility Operating Expenses for the Facility during the next Contract Year; and maintain and furnish all other financial records and information required herein; and
- 4.1.3. Commence, defend, and settle in good faith such legal actions or proceedings concerning the operation of the Facility (other than defense of County in legal actions or proceedings in which County is a defendant, which defense shall be assumed by the Broward County Attorney) as are necessary or required in the opinion of Operator and shall retain counsel in connection therewith; and
- 4.1.4. Employ, pay, and supervise all personnel that Operator determines to be necessary for the operation of the Facility, including such personnel as shall be necessary to maintain and ensure public order and safety in and around the Facility (such personnel, during the course of such employment, shall be employees of Operator and shall not be employees of County); determine all matters with regard to such personnel, including, without limitation, compensation, bonuses, fringe benefits, hiring, and replacement, and may at its option establish reasonable employee benefit plans and training and motivational programs similar to those at other NHL arenas that meet or exceed the Comparable Arena Standard; and shall prepare, on its own behalf and file when due, all forms, reports, and returns required by law relating to the employment of such personnel; and
- 4.1.5. Purchase and maintain all materials, tools, machinery, equipment, and supplies necessary for the operation of the Facility; and
- 4.1.6. Maintain the Facility in accordance with the Comparable Arena Standard, subject to normal wear and tear, and maintain and operate the Facility in compliance with

all NHL requirements in effect from time to time and, to the extent available, utilizing the Renewal and Replacement Account; and

- 4.1.7. Coordinate and administer a preventative maintenance program for the Facility, its machinery and equipment; and
- 4.1.8. Arrange for all utility and other services for the Facility, and pay, or cause to be paid, when due all charges for water, sewer, gas, light, heat, telephone, electricity, and other utilities and services rendered to or used on or about the Facility; and
- 4.1.9. Maintain or cause to be maintained all necessary licenses, permits, and authorizations for the operation of the Facility; and
- 4.1.10. Furnish to County such reports and other information concerning the Facility and operation thereof as may be reasonably requested from time to time by County; and
- 4.1.11. Procure and negotiate contracts with Concessionaire(s) for the operation of Concessions at the Facility (unless Operator shall self-operate such Concessions); in this regard Operator shall advise County of the status of such negotiations and permit County to review and comment upon any such contract and Operator, in its discretion and after consultation with County, shall conclude such contracts and upon execution of any Concession agreement, Operator shall deliver a copy to County; and
- 4.1.12. Control the issuance of and issue all credentials for Events at the Facility.

4.2. Use Agreements. Operator shall have the exclusive right to negotiate, execute, and perform use agreements, Licenses, and other agreements: (i) with Persons who desire to schedule events, performances, telecasts, broadcasts, or other transmissions in, from, or to the Facility, or any part thereof, or who desire otherwise to license the use of, or to occupy, the Facility or any part thereof; or (ii) that otherwise pertain to the use, operation, and occupancy of the Facility or any part thereof. Notwithstanding the above, in the event an NBA team wishes to become a licensee, occupant, or user of the Facility, then County shall be a party to all such negotiations and shall be the Party granting such license or lease to such NBA team. However, Operator and County acknowledge that the lease or license for such team need not be on the same economic terms as Team has under the License Agreement and that Team shall continue to enjoy all of its benefits thereunder as “primary occupant or user”, including but not limited to its Hockey Event scheduling priority, its exclusive right to possess the Team Areas, and its rights concerning General Seating, Concessions, marketing, Advertising under the License Agreement, any Facility Advertising Agreement, and parking.



#### 4.3. Promotion Contracts.

4.3.1. Operator shall have the exclusive control over the negotiation, execution, and delivery of contracts and Licenses with promoters, users, and other Persons of the Facility. In so doing, Operator shall negotiate for rental rates consistent with industry standards and with the goal of maximizing use of the Facility and the generation of revenues therefrom, subject to Operator's right to contract with County for County Events and for certain civic and cultural activities. County recognizes, however, that collection of rental rates is in part dependent upon the success of a promotion, and that subsequent usage of the Facility is in part dependent upon flexibility in collection of negotiated rental rates when a prior promotion with the same promoter has failed to meet expectations. Accordingly, Operator shall have the right to forgo collection of all or part of pre-negotiated rental rates when, in Operator's good faith judgment, (a) the promotion has operated at a significant loss to the promoter, or (b) the promoter has historically utilized the Facility in a financially successful manner, or (c) the promoter is likely to be a user of the Facility for subsequent promotions, or (d) in Operator's judgment such concessions are in the best interests of the Facility. If the promoter is controlled by, under common control with or controls Operator, Operator may grant such concessions only with the approval of County.

4.3.2. Operator shall have the right to negotiate and enter into agreements with users of the Facility whereby Operator and such user co-promote an Event at the Facility. Each of these co-promotion contracts shall specifically set forth the arrangement between Operator and the co-promoter in respect to sharing of revenues and expenses attributable to user's use of the Facility in connection with the Event

4.4. Marketing and Public Relations. In cooperation with Team, Operator shall plan, prepare, implement, coordinate, and supervise all public relations and other promotional programs for the Facility and negotiate, execute (in its own name and not in the name of County), and perform all contracts for Facility promotions. Operator shall attempt to coordinate event marketing and planning with the management of the Greater Fort Lauderdale Convention and Visitors Bureau, Broward County Convention Center, and the Broward County Performing Arts Center in order to minimize, to the extent possible, conflicting dates and events. In no event shall Operator be required to cancel or reschedule an Event unless it determines that such cancellation or rescheduling is in the best interests of the Facility in furtherance of Facility Operating Revenue.

4.5. Advertising. Operator shall have the exclusive right to post, exhibit, or display any Advertising at the Facility. Operator shall have responsibility for and shall be the exclusive agent for the sale and marketing of all Fixed and Permanent Advertising in the Facility and all Temporary Advertising for Events sponsored by Operator (other than Sponsor Signs displayed or exhibited by Team, which shall be reserved to Team). The Facility Advertising Agreement has been entered

into by Operator with Team, which agreement, in addition to the License Agreement, sets forth the mutual duties and obligations to sell or license advertising at the Facility. In addition, Operator shall enter into marketing and advertising agreements with third parties, setting forth the consideration for, the manner and the method of such advertising and marketing arrangements. Operator shall have the right to negotiate, execute, and perform any and all contracts, use agreements, Licenses, and other agreements: (i) for the use of Advertising space within the Facility or any part thereof and all advertising rights of whatever kind or nature related thereto (except for Sponsor Signs and other rights granted to Team under the License Agreement); or (ii) for the sale, promotion, marketing, and use of all names, trademarks, tradenames, logos, and similar intangible property relating to the Facility or any part thereof. All revenues derived from Advertising rights or licenses, the sale, promotion, and use of all names, trademarks, tradenames, logos, and similar intellectual property rights related to Advertising in the Facility or on the Project Site (other than revenue from Sponsor Signs and other Advertising reserved for Team under the License Agreement and any Facility Advertising Agreement) (“Advertising Revenue”) shall be deemed Facility Operating Revenue and shall be turned over to or collected by Operator for deposit into the Operating Fund.

4.6. Naming Rights. Operator shall have the exclusive right to sell, license, or otherwise grant the naming rights to some or all of the Facility including Facility concourses, the rink, or any part of the Facility, subject to NHL regulations, on such commercially viable terms and conditions as Operator shall determine (the “Naming Rights”). County reserves the right to disapprove and thus prohibit any name for the Facility (but not for the concourses or any part of the Facility) that the Board reasonably deems in bad taste or offensive to County’s image, or in the reasonable opinion of the Board is a source of embarrassment to or within the South Florida community. Notwithstanding the foregoing, the name of any Fortune 1000 company (with the exception of any tobacco or alcoholic beverage company) shall be deemed a County approved name for purposes of this Section 4.6 and, in addition, any bank, airline, sporting goods or apparel, or soft drink company, shall be deemed a County approved name. If Operator wishes to sell or license the Naming Rights to a tobacco or alcoholic beverage company, then Operator may propose such company to County for its approval. The consideration to be received in connection with the sale, license, or grant of Naming Rights may include barter or trade consideration, up to a maximum of twenty percent (20%) of the aggregate value of Naming Rights consideration. However, under no circumstance shall such use of barter reduce the revenue recognition by Operator to the Project except to the extent attributable to Team Revenue earned in connection with such barter transaction. Other than certain barter consideration reserved for Team under the License Agreement, all other revenue and barter consideration, whether by sale, lease, license, or otherwise, derived from the grant of Naming Rights to the Facility or any part thereof, shall be Facility Operating Revenue. All expenses incurred in the marketing or sale of Naming Rights for the Facility, or any part thereof, shall be Facility Operating Expenses.

4.7. Concessions. Subject to the terms of the License Agreement, Operator or its designee shall have sole control and responsibility and shall have the sole right to operate and/or contract for the operation of Concessions (both fixed and portable) and catering operations at the Facility for the sale of Consumable and Non-Consumable Concessions.

4.8. Booking. Operator shall have the duty and sole right to arrange for and otherwise book Events in the Facility (subject to the priority for Hockey Events described in the License Agreement). Operator shall develop and maintain a scheduling system for Events, including County Events, at the Facility.

4.9. Ticketing. Subject to the rights of Team to control ticketing for Hockey Events under the License Agreement, Operator shall control and coordinate all ticketing for Events at the Facility and the Arena.

4.10. Related Party Contracts.

4.10.1. Contracts with Subsidiaries. Operator shall have the right to enter into contracts or transact business with its subsidiaries without consent of County.

4.10.2. Contracts with Related Party(ies) other than Subsidiaries. Operator, Team, and SS&E have the right to enter into contracts or transact business with Related Parties, provided that, if the value of any such contract or transaction exceeds One Hundred Thousand Dollars (\$100,000) in any Contract Year, such contract or transaction shall be entered into only following written notice to County and subject to the prior consent of County, such consent not to be unreasonably withheld. The notice to County shall set forth the name of the Related Party, the nature of the services provided, the contract value of such services and a copy of written contract or agreement that sets forth such contract or transaction. SS&E claims that all such Related Party Contracts provided hereunder are Trade Secret Information. All transactions or contracts with any Related Party(ies) shall be on commercially reasonable terms and negotiated on an arm's length basis.

4.10.3. In the Related Party Contracts between Team and the following parties: (i) War Memorial Benefit Corporation and (ii) Incredible Ice, LLC, relating to (a) the rental of office space, locker, and training rooms, (b) ice time, (c) repairs, maintenance and tenant improvements, (d) advertising sales allocations, and (e) payroll, SS&E and Team covenant and agree that any amounts paid to either party shall be on substantially the same economic terms as historically maintained. SS&E and Team covenant and warrant that if such costs or allocations to War Memorial Benefit Corporation and Incredible Ice, LLC, increase by more than 10% in excess of historic costs at any time during the Term, SS&E and Team shall provide written notice to and seek the consent of County to such changes pursuant to Section 4.10.2.

4.11. Administration. Operator shall have the right to plan, coordinate, and administer the operation of the Facility and the Arena, including the coordination of the efforts and all parties involved in Facility operations, establishing, and maintaining procedures for payment of Facility Operating Expenses, receipt of Facility Operating Revenue, preparation of budgets and related

materials, development and implementation of accounting policies for the Facility, coordination of the work of any party performing services at the Facility, monitoring actual and projected costs of operations, furnishing services, personnel, materials, tools, machinery, equipment, and other items necessary to operate the Facility.

4.12. Changes in Parking Area Configuration. Provided that such changes do not violate conditions of permits or a Development of Regional Impact Order affecting the Project Site or the Facility (or require the approvals of certain other parties under any such permits or Development of Regional Impact Order), Operator may change the design, number or configuration of parking spaces, including spaces allotted to Premium Seating patrons, VIPs, employees and players, with the consent and participation of Team, in order to enhance the efficient operation of vehicle parking at the Facility.

4.13. Security and Traffic Control. The Parties recognize the obligations of City pursuant to the Sunrise Letter of Agreement. Both County and Operator shall take all necessary action to realize the police, security, and on-Site and off-Site traffic control benefits that City has agreed to provide pursuant to the Sunrise Letter of Agreement. Operator shall also provide such traffic control and security as is reasonably necessary to direct traffic to and from Events at the Facility. City, County, and Operator shall cooperate in good faith to develop a traffic management plan to facilitate the ingress and egress of traffic to and from events at the Facility; provided, however, that the parties are under no obligation under the preceding clause to incur any costs in excess of costs otherwise required by this Agreement. Pursuant to the Sunrise Letter of Agreement, City has agreed to provide at specified times, among other things, (i) police for traffic management, security, and escort services; (ii) a three (3) person paramedic unit, a hazardous materials response unit, emergency transport from the Facility under certain circumstances, and CPR/First Aid training; and (iii) services for maintenance of public streets within the Project Site, solid waste services, utilities, and the right to use a billboard.

4.14. County Business Enterprise Participation. No Party to this Agreement, or any of their respective Subcontractors, may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. SS&E shall comply with all applicable requirements of the County Business Enterprise Program (“CBE”) as established by the Broward County Business Opportunity Act of 2012, Section 1-81 of the Code (the “Act”), in the administration of this Agreement to the extent required under this Section 4.14. SS&E shall include the foregoing or similar language in its contracts with any Subcontractors. SS&E acknowledges that the Board, acting through the Office of Economic and Small Business Development (“OESBD”), may make minor administrative modifications to the CBE which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to SS&E and shall include a reasonable deadline for SS&E to notify County if SS&E concludes that the modification exceeds the authority of this section of this Agreement. Failure of SS&E to timely notify County of its conclusion that the modification is not reasonable or exceeds such authority shall be deemed a rejection of the modification by SS&E.

4.14.1. SS&E will make good faith efforts to attain the following CBE participation goal by utilizing the CBE firms for the following percentage of Services (as defined below) under this Agreement:

CBE participation goal	25%
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Each CBE firm utilized to meet the CBE participation goal must be certified by the OESBD. SS&E shall inform County immediately when a CBE firm is not able to perform or if SS&E believes the CBE firm should be replaced for any other reason, so that the OESBD may review and verify the good faith efforts of SS&E to substitute the CBE firm with another CBE firm. Whenever a CBE firm is terminated for any reason, including cause, SS&E shall provide written notice to the OESBD and shall make good faith efforts to substitute another CBE firm in order to maintain the level of CBE participation required herein, unless otherwise provided herein or agreed in writing by the Parties. SS&E will consult with County to determine which services are appropriate in measuring the CBE participation goal. Failure by Operator to make good faith efforts to achieve the CBE participation goal shall constitute a breach pursuant to Section 16.1.3 of this Agreement.

4.14.1 Within ninety (90) days after the Parties’ execution of this Agreement, the Parties shall meet and mutually determine the services and supplies at the Facility that are appropriate for CBE participation (“Services”). County shall provide to SS&E a list of certified CBE firms, which firms are capable of performing the Services, their addresses and contact information following execution of this Agreement. Within ninety (90) days following such actions, SS&E shall make good faith efforts to enter into a formal contract with CBE firms to provide Services under this Agreement. Upon request, SS&E shall provide copies of the contracts to the County Representative and OESBD.

4.14.2 SS&E shall provide written quarterly reports to the County Representative attesting to compliance with the CBE participation goals stated in this Section 4.14. In addition, SS&E shall allow County to engage in on-site reviews to monitor SS&E’s progress in achieving and maintaining its contractual and CBE Program obligations. Such review and monitoring shall be by the County Representative in conjunction with the OESBD. County and SS&E shall consult on a regular basis to ensure that SS&E is using its good faith efforts to achieve the CBE participation goal and to mutually agree upon strategies to help achieve such goals.

4.15. Personal Seat Licenses. Upon consent of Team, Operator shall have the right (either exclusively or in conjunction with Team) to license some or all of the General Seating through the sale of Personal Seat Licenses (“PSLs”). Revenue from the sale or license of PSLs shall be treated as Facility Operating Revenue.

## ARTICLE 5. FINANCIAL OBLIGATIONS

5.1. Facility Operating Revenue. Operator shall use its good faith efforts to promptly and diligently collect Facility Operating Revenue and, upon collection, shall deposit all Facility Operating Revenue into the Operating Fund. In addition to the Operating Fund, Operator must establish and maintain the "County Allocated Operating Expenses Fund." Operator shall deposit therein the Annual Contributions provided by County for County Allocated Operating Expenses pursuant to Section 15.1.9, of this Agreement. The County Allocated Operating Expenses Fund must be separate and distinct from the Operating Fund. The monies in the Operating Fund and the County Allocated Operating Expenses Fund shall be deposited in a bank located in Broward County approved by County and Operator. Funds in such accounts shall bear interest in amounts authorized by law and all interest earned thereon shall accrue to the benefit of such accounts. The Parties covenant and agree that they shall perform their respective duties and shall exercise their respective rights hereunder in strict compliance with Chapter 31½-16 of the Code and Section 125.0104, Florida Statutes, as amended from time to time.

5.2. Distribution of Funds from Operating Fund. Throughout the Term, Operator shall distribute funds from the Operating Fund (subject to availability as further described in Section 5.4) in the following order of priority, and at the following times:

- 5.2.1. First, to the payment of Facility Operating Expenses (except for the Management Fees) payable by Operator in the ordinary course of business, as and when they become due, including, without limitation, payments pursuant to the Sawgrass Arena Ramps Agreement.
- 5.2.2. Second, in payment of the Supplemental County Preferred Revenue Payment in any Contract Year pursuant to Section 20.4.
- 5.2.3. Thereafter, Operator may distribute funds from the Operating Fund to Team at any time provided that such distribution shall not prevent Operator from timely making the distributions discussed in this Section 5.2. However, no distribution to Team shall be made of any of the proceeds of the Annual Contributions or the County Allocated Operating Expenses Fund.

5.3. County Funding for County Allocated Operating Expenses and Additions and Capital Repairs. The Parties acknowledge that, pursuant to Chapter 31½-16 of the Code and Section 125.0104, Florida Statutes, as amended from time to time, the uses of Annual Contributions are limited to the payment of County Allocated Operating Expenses and for Additions and Capital Repairs. Operator and Team acknowledge that County may be required to issue debt, which may include but is not limited to the issuance of municipal bonds or commercial paper, in order to use revenues levied pursuant to Chapter 31 ½ -16 of the Code to fund certain Additions and Capital Repairs. The Parties will reasonably cooperate with County to facilitate the issuance of such debt, solely at County's cost except for any additional costs resulting from any Advance County Capital Contribution, if applicable, as provided in Section 15.1.10, including, providing verification of

payments of County Allocated Operating Expenses and Additions and Capital Repairs and, if required, amending this Agreement to the extent mutually agreed by County and Operator.

5.4. Availability of Funds in Operating Fund; Working Capital Loans. Operator shall have no obligation to distribute or pay any funds described in Section 5.2 in excess of the funds in the Operating Fund or the County Allocated Operating Expenses Fund at the time payment is required in Section 5.2 above; except that Operator shall make reasonable effort to pay Facility Operating Expenses as they become due in the ordinary course of business. In the event that the Operating Fund does not contain sufficient funds to pay any such Facility Operating Expenses, Operator may, but shall have no obligation to, pay such Facility Operating Expenses from proceeds of loans to fund Facility Operating Expenses (“Working Capital Loans”). Operator may make such financing arrangements to ensure the availability of Working Capital Loans as it deems necessary or reasonable to fund Facility Operating Expenses; however any such Working Capital Loans shall be on commercially reasonable terms, shall provide for level maturity not in excess of three (3) years, and shall not require the pledge of Facility Operating Revenue as security therefor (except that Operator may pledge Facility Operating Revenues to the extent that such revenues are to be distributed for the payment of Working Capital Loans (as part of Facility Operating Expenses) pursuant to Section 5.2). Notwithstanding anything to the contrary, Operator shall have no obligation to make any financing arrangements for, or otherwise provide for, Working Capital Loans. All expenses incurred by Operator in obtaining Working Capital Loans, including loan fees, costs and interest expenses and all expenditures made to repay such loans, shall be deemed Facility Operating Expenses.

5.5. Renewal and Replacement Account.

5.5.1. Establishment of Account; Payments. Operator shall establish a Renewal and Replacement Account. During the Term, Operator shall deposit the County Annual Capital Contribution (as defined in Article 15) received by Operator from County for Capital Expenses into the Renewal and Replacement Account. Operator shall also deposit all Seat Use Charges and any portion of the Supplemental County Preferred Revenue Payment, as directed by the County Representative in County’s sole discretion, in the Renewal and Replacement Account.

5.5.2. Fund Investment. The deposits in the Renewal and Replacement Account pursuant to Section 5.5.1 shall be deposited in a bank located in Broward County approved by County and Operator. Funds in the Renewal and Replacement Account shall bear interest in amounts authorized by law and all interest earned thereon shall accrue to the benefit of the Renewal and Replacement Account.

5.5.3. Use of Renewal and Replacement Account. The Renewal and Replacement Account shall be used for Capital Expenses incurred in connection with Additions and Capital Repairs in accordance with Articles 8 and 15, and for the purposes described in Article 12 and Article 13.

5.6. Tourism Promotion. Operator shall provide tourism promotion through co-branded marketing assistance valued in an amount at least equal to One Million Dollars (\$1,000,000) annually to or on behalf of County by the end of each Contract Year (“Tourism Promotion”). The co-branded marketing assistance must be agreed to by County each Contract Year. The Parties agree that for four years during the Term, Operator and Team will fulfill the Tourism Promotion obligation pursuant to this section by providing to County both the home and away helmet advertising asset, subject to the NHL’s approval. If the NHL does not approve the helmet advertising provided herein, Team will provide other co-branded marketing assistance, approved by County, valued in an amount at least equal to One Million Dollars (\$1,000,000) annually, in lieu of the helmet advertising. If in any year during the Term, County agrees to forgo helmet advertising in exchange for a different co-branded marketing package, subject to NHL’s approval, County will retain the right to helmet advertising for a total of four (4) seasons (regular and post season) over the course of the Term.

5.7. Distribution of Funds Upon End of Term. Except as otherwise specifically set forth herein, upon expiration or termination of this Agreement all funds remaining in the below accounts shall be distributed as follows:

5.7.1. Renewal and Replacement Account Funds. Any funds remaining in the Renewal and Replacement Account shall be distributed to County.

5.7.2. County Allocated Operating Expenses Fund. Any funds remaining in the County Allocated Operating Expenses Fund shall be distributed to County.

5.8. No later than thirty (30) days after the execution of this Agreement (by the last of the Parties hereto), Operator must pay to County Fifty-one Million Five Hundred Thousand Dollars (\$51,500,000) (“Extension Payment”). Upon such payment by Operator, County shall provide evidence satisfactory to Operator of the termination of the Guaranty of Performance Agreement dated June 4, 1996, and the Standby Letter of Credit issued by JPMorgan Chase Bank, N.A. on December 17, 2015 (as amended). If (x) County exercises its right of non-renewal for the First Extension Term or (y) Operator terminates this Agreement during the Initial Term pursuant to Section 16.6.2, County shall, within thirty (30) days after (i) the delivery of County’s written notice not to renew for the First Extension Term (and as a condition precedent to such non-renewal), or (ii) the delivery of Operator’s written notice of termination pursuant to Section 16.6.2, as applicable, repay to Operator Thirty-four Million Four Hundred Thousand Dollars (\$34,400,000). If County exercises its right of non-renewal for the Second Extension Term, County shall, within thirty (30) days after delivery of County’s written notice not to renew for the Second Extension Term (and as a condition precedent to such non-renewal), repay Operator Seventeen Million Two Hundred Thousand Dollars (\$17,200,000). In the event of (a) a Change of Control, whether during the Initial Term, the First Extension Term, or the Second Extension Term, (b) a valid termination of this Agreement pursuant to Section 12.2, 12.3, 13.1, 13.2, or 13.3 during the First Extension Term or Second Extension Term, or (c) a valid termination of this Agreement by County pursuant to Section 16.6.1 or Section 15.4.12, County will not be required to repay any portion of the



Extension Payment and neither Operator nor any successor entity shall be entitled to seek such payment or other equitable adjustment from County. The Parties acknowledge that the funds from the Extension Payment will be used to pay off the outstanding principal and interest on the Bonds and Completion Bonds and County shall use such proceeds to repay the Bonds and Completion Bonds within sixty (60) days after receipt of the Extension Payment.

## **ARTICLE 6. OWNERSHIP AND USE**

6.1. County Ownership. The Facility and the Project Site were acquired by County with funds made available by County, and, together with other portions of the Facility and support facilities (including Parking Areas), are owned by County. County shall maintain the Project Site and the Facility free and clear of any Impositions during the Term.

6.2. County Use. County reserves the exclusive, non-assignable right to use the Facility for up to fifteen (15) County Events in each Contract Year (which shall be prorated in any partial Contract Year), subject to priority scheduling of all other Events. Operator shall not charge County a rental, license, use, or other fee for use of the Facility for a County Event. Any dates not used by County for County Events within the Contract Year shall terminate and shall not accrue for use during successive Contract Years. All revenue derived in connection with County Events from parking, Consumable and Non-Consumable Concessions and permitted Temporary Advertising (sold by Operator) shall be included in Facility Operating Revenue. Ticket and any other revenue including revenue from Temporary Advertising (sold by County for the County Event) derived from County Events ("County Event Revenue") shall not be included in Facility Operating Revenue and may be collected by Operator and distributed to County upon County's payment to Operator of Event Related Expenses incurred in connection with a County Event. Operator shall be reimbursed from County funds (or Operator shall have the right to set-off against any revenues in its possession generated in connection with a County Event) for the Event Related Expenses incurred in connection with a County Event on the date of the County Event or as specified in any applicable use agreement between Operator and the County Event sponsor but in no event later than ten (10) days following the County Event. It is understood that in its sales of permitted Temporary Advertising for County Events, County shall give any exclusive advertiser at the Facility the right of first refusal to purchase any such Temporary Advertising. County shall maintain such insurance for County Events as provided in Section 11.8.

6.3. County Access. County, through appropriate designees, which may change from time to time, reserves the right to enter the Facility during regular business hours solely to conduct fire, safety and health inspections or to exercise County's normal police powers provided (a) County shall not interfere with the operations of the Facility, (b) County shall not disturb the license or concession rights of others except in compliance with the terms of any such concession or license, and (c) County's inspection rights shall not be deemed to limit in any way Operator's rights to contest County's findings with respect to such inspections or the exercise of such police powers. Additionally, County may enter the Facility in the case of an Emergency to the extent necessary to make Additions and Capital Repairs in accordance with Section 8.6.

6.4. State and Local Emergency. Notwithstanding anything in this Agreement to the contrary, in the event of a declared state or local emergency as provided by Florida law, County shall be entitled to utilize the Facility, at no charge, as a staging or mobilizing area to provide essential governmental services to the community during the period of the state or local emergency. Such use by County shall be subject to County providing notice to Operator as may be reasonable under the circumstances. County shall be responsible for paying all costs in connection with any such use of the Parking Areas of the Facility and shall restore such Facility to its prior condition upon conclusion of the declared state of emergency. County shall use its good faith efforts to endeavor not to interfere with the operations of the Facility during any period of use pursuant to this section. The Parties shall mutually cooperate so that any County use during a declared state of emergency, to the extent possible, does not interfere with any Events. In addition, County shall hold Operator and Team harmless, to the extent permitted by law, for any damage, claim, liability, loss, cost, and expense arising from County, its contractor(s), and/or governmental entities authorized by County's use of the Facility. Operator may reasonably condition its consent for contractors or other non-governmental third parties to enter upon or use the Facility or the Project Site upon such party's delivery of insurance certificates evidencing satisfactory insurance and receipt of appropriate releases and hold harmless agreements.

## **ARTICLE 7. RECORDS AND AUDITS**

7.1. Records. For a period of five (5) years after the expiration date of this Agreement, or until resolution of any audit findings, whichever is longer, SS&E shall keep and maintain complete and accurate Records relating to the performance under this Agreement. Article 7 shall survive any dispute or litigation between the Parties, and SS&E, Operator, and Team expressly acknowledge and agree to be bound by this Article 7 throughout the course of any dispute or litigation with County. County and authorized representatives shall be entitled to inspect the Records during the Term of this Agreement and for five years after the date of expiration of this Agreement (at Operator's office within Broward County, upon not less than forty-eight (48) hours' advance written notice, and at reasonable times). SS&E, Operator, and Team shall make all such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by County.

7.2. Accounting Procedures. It is the intention of the Parties to eliminate distortions, so that the exercise of discretion in the timing of receipts and expenditures from year to year is minimized. Accordingly, the accounting system of SS&E, Operator, and Team shall always be maintained in accordance with GAAP, on an accrual basis, consistently applied.

7.3. Financial Reports. SS&E will provide the following financial reports to County:

7.3.1. Annual Audited Consolidated SS&E Financial Statements.

7.3.1.1. As soon as practical and in any event within one hundred fifty (150) days after the end of each Contract Year, Audited Consolidated SS&E Financial Statements for such Contract Year prepared in accordance with GAAP and

accompanied by an auditor's report containing an opinion of an Independent Certified Public Accountant in accordance with auditing standards generally accepted in the United States of America ("GAAS"). Such financial statements shall include, at a minimum, a balance sheet as of the end of such Contract Year, statement of profit or loss for such Contract Year, statement of cash flows for such Contract Year, statement of equity for such Contract Year, and notes to the financial statements.

7.3.1.2. All financial and other information and all Records regarding SS&E, Team, and Operator made available to County under Section 7.3.1 are represented to be "Trade Secret Information" by SS&E, Team and Operator and shall be subject to the confidentiality provisions of Section 7.5 herein upon designation as Trade Secret Information by SS&E consistent with Section 7.5 herein.

7.3.2. Annual Audited Operator Financial Statements. As soon as practical and in any event within one hundred fifty (150) days after the end of each Contract Year, Operator Financial Statements for such Contract Year, prepared in accordance with GAAP and accompanied by an auditor's report containing an opinion of an Independent Certified Public Accountant, in accordance with GAAS. Such financial statements shall include, at a minimum, a balance sheet as of the end of such Contract Year, statement of profit or loss for such Contract Year, statement of cash flows for such Contract Year, statement of equity for such Contract Year, and notes to the financial statements. Notes shall also disclose any amounts due to or due from County.

7.3.3. Annual Examination Report of County Participation in Consolidated Revenue or Consolidated EBITDA. As soon as practical and in any event within one hundred fifty (150) days after the end of each Contract Year, Report of County Participation in Consolidated Revenue and Consolidated EBITDA for such Contract Year, prepared in accordance with Section 20.4 and accompanied by an accountant's report containing an opinion of an Independent Certified Public Accountant in accordance with attestation standards established by the American Institute of Certified Public Accountants ("AICPA"). The report shall show the calculations for Consolidated Revenue and Consolidated EBITDA for such Contract Year.

7.3.4. Annual Examination Report of Renewal and Replacement Account.

7.3.4.1. As soon as practical and in any event within one hundred fifty (150) days after the end of each Contract Year, Report of Renewal and Replacement Account for such Contract Year, prepared in accordance with Section 5.5 and accompanied by an accountant's report containing an opinion of an Independent Certified Public Accountant in accordance with attestation standards established by the AICPA.

- 7.3.4.2. The report shall identify the beginning balance, amounts deposited by date, amounts expended or transferred by capital project by date, and ending balance.
- 7.3.5. Annual Examination Report of County Funding Compliance with Chapter 31½-16 of the Code and Section 125.0104, Florida Statutes. As soon as practical and in any event within one hundred fifty (150) days after the end of each Contract Year, Report of County Funding Compliance with Section 31½-16 of the Code and Section 125.0104, Florida Statutes (as amended from time to time), accompanied by an accountant's report containing an opinion of an Independent Certified Public Accountant in accordance with attestation standards established by the AICPA.
- 7.3.6. Examination Report of County Share of Profits Upon a Change of Control of Team and Operator During Term. As soon as practical and in any event within ninety (90) days after a Change of Control of Team and Operator as described in Section 20.1, Report of County Share of Profits Upon a Change of Control of Team and Operator During Term, prepared in accordance with Section 20.1 and accompanied by an accountant's report containing an opinion of an Independent Certified Public Accountant in accordance with attestation standards established by the AICPA.
- 7.3.7. Examination Report of County Share of Expansion Proceeds. As soon as practical and in any event within ninety (90) days following Team's receipt of the Team Expansion Proceeds or the end of the Measurement Period, if later, Report of County Share of Expansion Proceeds, prepared in accordance with Section 20.2 and accompanied by an accountant's report containing an opinion of an Independent Certified Public Accountant in accordance with attestation standards established by the AICPA.
- 7.3.8. Quarterly Unaudited SS&E Financial Statements. As soon as practicable, and in any event within sixty (60) days after the end of each of the first three (3) quarters of each Contract Year, a balance sheet of SS&E as of the end of such quarter, and statements of income and cash flows of SS&E for the period commencing at the end of the previous Contract Year and ending with the end of such quarter.
- 7.3.9. Quarterly Unaudited Report of Operational Activity and Performance Measures. As soon as practicable and in any event within sixty (60) days after the end of each quarter of each Contract Year, an unaudited report of significant activities and performance measures that includes the following for each Event during such period; description of each Event, the date of the Event, paid attendance and revenue derived from such Event, expenses incurred, the number of employees employed at the facility by SS&E, Team and Operator or their respective contractors and agents, the gross sales taxes remitted to the State of Florida

Department of Revenue, and information reasonably available to Operator relative to the economic impact of the Facility for the period commencing at the end of the previous Contract Year and ending with the end of such quarter.

7.4. Independent Certified Public Accounting Firm. SS&E's independent certified public accounting firm (selected from recognized public accounting firms) shall be determined by SS&E and be reasonably acceptable to County. SS&E may terminate its independent certified public accountant and appoint a replacement independent certified public accountant if reasonably acceptable to County.

7.5. Additional County Audits. At the option of County, in addition to the annual audit and supplemental to any other audit rights referenced in this Article 7, County may conduct an audit or examination of the books, records, accounts, and financial statements, or any other part of the Records (inclusive of any successor entities' Records), at any time upon reasonable (but not less than forty-eight (48) hours) advance written notice to SS&E. All such Records shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and shall be retained in accordance with SS&E's record retention policies and Applicable Law, and upon request to do so, SS&E shall make same available in written form to County. SS&E shall make all such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by County.

7.5.1. Upon reasonable advance written notice and during normal business hours, SS&E shall provide County with reasonable access to the Facility, and SS&E shall use commercially reasonable efforts to cooperate with County's request to interview all current or former employees and stakeholders of SS&E, Operator, and Team to discuss matters pertinent to the performance of this Agreement.

7.5.2. SS&E shall use reasonable efforts to ensure that the requirements of this Article 7 are included in all agreements with all parties that it contracts with relating to the Facility.

7.5.3. Except as otherwise stated in this Agreement, any such examination or audit to be performed pursuant to this subsection 7.5 will be made solely at the cost of County; however, County shall not be responsible for SS&E, Team, and Operator administrative or related costs in responding to the audit.

7.5.4. County acknowledges that certain records or information relating to the use, management or operation of the Facility examined or obtained hereunder, by County, could be considered "Trade Secret Information" pursuant to Section 815.045, Florida Statutes, and that any such Trade Secret Information is proprietary, and expressly made confidential and exempt from the public records law. County acknowledges and agrees that disclosure of any such Trade Secret Information to another person could negatively impact the business interests of Operator and Team in the marketplace. Accordingly, SS&E must separately submit

and conspicuously label as “RESTRICTED MATERIAL – DO NOT PRODUCE” any material (a) that SS&E contends constitutes or contains its trade secrets under Chapter 688 or 815.045, Florida Statutes, or (b) for which SS&E asserts a right to withhold from public disclosure as confidential or otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (collectively, “Restricted Material”). In addition, SS&E must, simultaneous with the submission of any Restricted Material, provide a sworn declaration or affidavit in a form acceptable to County from a person with personal knowledge attesting that the Restricted Material constitutes trade secrets or is otherwise exempt or confidential under Florida public records laws, including citing the applicable Florida statute and specifying the factual basis for each such claim. Upon request by County, SS&E must promptly identify the specific applicable statutory section that protects any particular document. County covenants and agrees that at all times during the Term and any Extension Term and for five (5) years following the expiration of the Term and any Extension Term, to the extent permitted by law, County shall (i) hold the Trade Secret Information in confidence and refrain from disclosing the Trade Secret Information or transmitting any Trade Secret Information to any other Person; (ii) use the Trade Secret Information solely in connection with this Agreement and for no other purpose; and (iii) take all precautions necessary to ensure that Trade Secret Information shall not be, or be permitted to be, shown, copied or disclosed to third parties (other than consultants retained by, or on behalf of, County), without the prior consent of SS&E. Operator and Team empower SS&E to consent on their behalf. If a third party submits a request to County for records designated by SS&E as Restricted Material, County shall refrain from disclosing such material unless otherwise ordered by a court of competent jurisdiction, authorized in writing by SS&E, or the claimed exemption is waived by SS&E. Any failure by SS&E to strictly comply with the requirements of this section shall constitute SS&E’s waiver of County’s obligation to treat the records as Restricted Material. SS&E, Operator, and Team must indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to nondisclosure of Restricted Material in response to a third-party request. SS&E, Team, and Operator acknowledge and agree that such Restricted Materials may be utilized in litigation between any of the Parties and County.

7.6. Underreporting of Facility Operating Revenue. In the course of the preparation of the annual audited financial statements for SS&E, in the event that SS&E, or its independent certified public accountant, determines that an underreporting of Facility Operating Revenue occurred during any prior Contract Year, then in such event SS&E shall diligently pursue reconciliation of such discrepancy. In such event, SS&E shall, promptly upon becoming aware of such discrepancy, notify County of such discrepancy and make any distributions to County within thirty (30) days that would have been required had the underreporting of Facility Operating Revenue not

occurred. This obligation is not a limitation of SS&E's, Team's, and Operator's obligation to make a distribution to County, and such distribution by SS&E shall be in full as if the underreporting had not occurred. At County's sole discretion, County may deduct any distribution it would have been entitled to had the underreporting of Facility Operating Revenue not occurred from Annual Contributions payable to Operator.

7.7. Noncompliance. Failure of SS&E to submit the financial information required in this Article 7 within the timeframes for such financial information set forth in this Article 7 shall result in a daily liquidated damage amount of Five Hundred Dollars (\$500), and suspension of future Annual Contributions, until submission of the required information. All liquidated damages imposed under this Section 7.7 shall be automatically deducted from future Annual Contributions payable to Operator. SS&E may make a request to the Board for a reasonable extension of time for any Article 7 submission.

7.8. Public Records. Notwithstanding any other provision in this Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119, Florida Statutes, shall not constitute a breach of this Agreement. If Operator is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Operator shall:

- 7.8.1. Keep and maintain public records required by County to perform the services under this Agreement;
- 7.8.2. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;
- 7.8.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and after completion or termination of this Agreement if the records are not transferred to County; and
- 7.8.4. Upon expiration or termination of this Agreement, transfer to County, at no cost, all public records in possession of Operator or keep and maintain public records required by County to perform the services under this Agreement. If Operator transfers the records to County, Operator shall destroy any duplicate public records that are exempt or confidential and exempt. If Operator keeps and maintains the public records, Operator shall meet all requirements of Applicable Law for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.
- 7.8.5. If Operator receives a request for public records regarding this Agreement or the services provided under this Agreement, Operator must immediately notify the

County Representative in writing and provide all requested records to County to enable County to timely respond to the public records request. County will respond to all such public records requests.

**IF OPERATOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO OPERATOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-357-7130, FINANCE@BROWARD.ORG, 115 SOUTH ANDREWS AVENUE, RM 513, FORT LAUDERDALE, FLORIDA 33301.**

#### **ARTICLE 8. ADDITIONS AND CAPITAL REPAIRS; EMERGENCY**

8.1. Operator. Operator shall make Additions and Capital Repairs to the Facility in accordance with the Capital Schedule and Budget developed by Team, Operator, and County pursuant to Section 8.3. Additions and Capital Repairs shall be those (a) necessary or appropriate to comply with governmental requirements and the Comparable Arena Standard; (b) requisite for the safe operation of the Facility or its maintenance or repair; (c) required by any agreement approved by County; or (d) in Operator’s opinion, that will improve the Facility, increase Facility Operating Revenue or reduce Facility Operating Expenses. Except in the case of an Emergency Expenditure as described below, Operator may not make or permit Additions and Capital Repairs to the Facility that have not been mutually agreed upon and set forth on the Capital Schedule and Budget for such Contract Year or, if the Additions and Capital Repairs would unreasonably interfere with (i) Home Games or the Team’s areas, without the prior written approval of Team or (ii) County Events, without the prior written approval of County. Upon installation, the Additions and Capital Repairs shall become affixed to and part of the Facility and the property of County, to the extent they constitute permanent fixtures.

8.1.1. County Review and Approval of Additions and Capital Repairs. The County Representative shall review, comment upon, discuss, and approve 75% and 100% construction plans and specifications (“Construction Documents”) for any Additions and Capital Repairs with an aggregate cost in excess of Five Hundred Thousand Dollars (\$500,000), in accordance with the Review and Approval process outlined in Section 8.1.2 below. Upon completion of such Additions and Capital Repairs, Operator shall provide the County Representative with a complete set of “as-built” plans and specifications (“As-Built Plans”). All submittals of Construction Documents and As-Built Plans shall comply with the Electronic Media Submittal Requirements specified in Schedule 8.1.1, and two hard copy sets of such Construction Documents and As-Built Plans with printed sheets no larger than 24” x 36” shall also be submitted. Operator shall make all Additions and Capital Repairs to the extent set forth in an approved Capital Schedule and Budget, and Emergency Expenditures as set forth herein. To the extent that the Capital Expenses associated with an Addition and Capital Repair on the Capital Schedule and Budget exceed the amount budgeted for such Addition and Capital Repair,



then Operator may apply unreserved funds in the Renewal and Replacement Account or, to the extent necessary, defer another Addition and Capital Repair that has a lower priority of importance for such Contract Year and use the funds reserved to satisfy the excess Capital Expense.

8.1.2. County Review and Approval of Construction Documents. No Additions and Capital Repairs in excess of Five Hundred Thousand Dollars (\$500,000) may be performed at the Facility, except pursuant to the Construction Documents approved by the County Representative (“Approved Plans”). The Construction Documents submitted for the County Representative’s review and approval must be certified by an architect or engineer licensed to practice in Florida and must, at a minimum, consist of the following: (i) working drawings; (ii) technical specifications; (iii) construction schedule; (iv) list of equipment and fixtures; (v) evidence of compliance with Section 8.1.2.1; and (vi) such other information as may be required by the County Representative. Upon each submittal of Construction Documents, the County Representative shall have a minimum of thirty (30) days, but not more than sixty (60) days, to review the Construction Documents and provide written comments to Operator. No material changes may be made to any Approved Plans without County Representative’s prior written approval, which approval shall not be unreasonably withheld or delayed. Any change that requires the issuance of a building permit or modifies an existing building permit is a material change.

8.1.2.1. Project to Comply with Applicable Laws. The Additions and Capital Repairs must comply with all Applicable Laws, including, but not limited to, the requirements of Section 255.05, Florida Statutes, regarding payment and performance bonds, and all contracts entered into by Operator related to such Additions and Capital Repairs must include all provisions required by Applicable Law. County Representative’s approval of any plans and specifications is not a representation or warranty as to such compliance, and the responsibility for compliance at all times remains with Operator.

8.1.3. Maintenance. Subject to Section 8.4, Operator shall also be responsible for the routine and general maintenance, cleaning and care of the Facility. Operator shall maintain the Facility in accordance with the provisions of Article 4, the costs of which maintenance shall be a Facility Operating Expense. In performing maintenance, Operator shall comply with the maintenance required under the Comparable Arena Standard.

8.2. Additional Financing. In the event that Operator determines that certain capital or other infrastructure improvements at the Facility are necessary for the prudent and efficient operation of the Facility, then Operator shall propose, and the Board may consider facilitating the financing and construction of such improvements. If the Board elects to proceed, the County shall use diligent, good faith efforts to secure such financing at the lowest cost of capital, whether taxable

or tax-exempt, and may identify legally available non-ad valorem revenue sources which could be contributed to assist or enable the underwriting or credit enhancement of the financing.

8.3. Capital Improvement, Repair, and Replacement Plan. County, Team, and Operator shall develop, modify, and mutually agree on a one (1) year and five (5) year Capital Plan and Budget as outlined below.

8.3.1. Capital Schedule and Budget. On or before February 15th of each Contract Year during the Term, Operator shall prepare and present to County its list of Additions and Capital Repairs that it desires to complete during the next Contract Year and for the next five (5) Contract Years (each, a “Capital Schedule and Budget”). In the forty-five (45) day period following County’s receipt of Operator’s draft Capital Schedule and Budget, County and Operator shall negotiate in good faith to agree upon (i) a list of Additions and Capital Repairs, in order of priority, to be completed before the end of the ensuing Contract Year and over the next five (5) Contract Years, (ii) a schedule, which shall not materially interfere with the operation of the Facility for Events, setting forth the estimated timetable for commencement and, if applicable, completion of the Additions and Capital Repairs during the ensuing Contract Year, and (iii) the source of funds for payment of such Additions and Capital Repairs.

8.3.2. Disputed Capital Schedule and Budget. Following the end of the forty- five (45) day period set forth in Section 8.3.1, Operator shall submit to the County Representative a final draft of the Capital Schedule and Budget that reflects the Parties’ good faith negotiations up to that date (including identification of any unresolved items) and within fourteen (14) days after receipt thereof, the County Representative shall submit to Operator County’s approval of or changes to the draft of the Capital Schedule and Budget (including items identified as unresolved). If Operator fails to accept the submitted changes within fourteen (14) days after receipt of such changes, or there remain unresolved items, either Party may submit disputed or unresolved matters for Dispute Resolution pursuant to Article 17; provided that if either Party submits the disputed or unresolved matter for Arbitration, all agreed upon Additions and Capital Repairs contained in the Capital Schedule and Budget shall be commenced and completed. The Neutral shall be responsible for determining the priority of any disputed or unresolved items and designate the Contract Year in which such items shall be performed.

8.4. Periodic Inspections and Capital Needs Assessment.

8.4.1. In Contract Years 2028-2029 and 2033-2034, Operator and County shall jointly select an independent qualified engineer experienced in hockey arena operations (the “Consulting Engineer”) to inspect and assess the Arena and Facility to determine whether the Arena and Facility are in good working condition, in compliance with Applicable Laws and the Comparable Arena Standard, and

whether there are any items of deferred maintenance that, pursuant to maintenance under the Comparable Arena Standard, needs to be performed with respect to any part of the Arena and Facility. The Consulting Engineer shall report on the condition of the structure and each capital component of the Arena and Facility, which report shall include suggestions for any Additions and Capital Repairs that are necessary. All proposed Additions and Capital Repairs shall be commercially reasonable in light of the then-expected remaining useful life of the Arena and Facility.

- 8.4.2. The Consulting Engineer will prepare a written report which shall be delivered to the Parties, which summarizes the condition of the Arena and Facility, identifies any necessary Additions and Capital Repairs or identifies items of deferred maintenance, identify additional investigations and inspections that may be required and contain recommendations for the ongoing repair and maintenance of the Arena and Facility, in each case, that does not meet or exceed the maintenance required under the Comparable Arena Standard. To the extent that the Consulting Engineer determines that the Arena and Facility or any Component thereof are not in good condition and working order and that there are items of maintenance deferred beyond a reasonable period of time, based upon similar maintenance performed at Comparable Arenas, Operator shall take all customary measures reasonably necessary to address such condition or deferred maintenance so identified by the Consulting Engineer, and if such work is deferred to the next Contract Year, Operator will provide sufficient funds to pay the cost of such work. Operator shall also promptly perform the repairs, replacements, and maintenance recommended in the Consulting Engineer's report that do not meet or exceed the repairs, replacements, and maintenance required under the Comparable Arena Standard, and cause the recommended additional inspections to be performed.
- 8.4.3. Operator shall pay the Consulting Engineer's fees. Any disputes between the Parties with respect to the recommendations of the Consulting Engineer shall be subject to resolution in accordance with the procedures set forth in Article 17.
- 8.4.4. Provided that County has exercised its Second Renewal Term option, if the results of the Consulting Engineer's building inspection and assessment conducted in Contract Year 2033-2034 concludes that the Arena and Facility require more than Fifty Million Dollars (\$50,000,000) in Additions and Capital Repairs over the five (5) year Second Extension Term, and County agrees in its sole discretion with the findings, County may increase the Annual Contributions in accordance with the terms of Section 15.1.9.

8.5. Operator Right to Finance Additions. Operator shall have the right to issue private debt for its construction of Additions and Capital Repairs or other improvements at the Facility and/or improvements and enhancements related to traffic and transportation ("Operator Improvement

Debt"). Operator may use any revenues attributable to Seat Use Charges as the sole source for repayment of Operator Improvement Debt. All receipts of such Seat Use Charge shall be deposited in the Renewal and Replacement Account.

8.6. By County. County shall have no right to make Additions and Capital Repairs or other repairs to the Facility unless an Emergency exists and, in County's reasonable discretion, Operator has not taken action necessary to preserve the Facility. To the extent time is available, County shall contact Operator prior to County's making any expenditure for Additions and Capital Repairs or other repairs to the Facility pursuant to this section to discuss Operator's actions taken or to be taken with respect to the Emergency and to attempt to avoid duplication of efforts. Any expenditure made by County pursuant to this section shall be reimbursed by Operator to County as an Emergency Expenditure or treated as an advance of the next County Annual Capital Contribution. Depending on the nature of the expenditure and following the procedures in Sections 8.8 and 8.3, as applicable, such expenditures shall be a Facility Operating Expense payable from the Operating Fund and County Allocated Operating Expenses Fund, or an expenditure payable from the Renewal and Replacement Account.

8.7. Title to Alterations. County shall own and have legal title to all alterations, improvements, changes and additions made to or with respect to the Facility in accordance with this Article 8.

8.8. Annual Operating Expense Plan and Budget and Review. County, Team, and Operator shall develop, modify, and mutually agree on an annual operating expense plan and budget (the "Annual Operating Expense Plan and Budget") as outlined below.

8.8.1. Annual Operating Expense Plan and Budget. On or before February 15th of each Contract Year during the Term, Operator shall prepare and present to County its Annual Operating Expense Plan and Budget as required by Section 4.1.2, listing the Facility Operating Expenses Operator desires to incur during the next Contract Year (including, but not limited to, expenses allocated to maintenance, repairs, utilities, and insurance). In the forty-five (45) day period following County's receipt of the list of the proposed Annual Operating Expense Plan and Budget, County and Operator shall negotiate in good faith to identify and agree upon the Facility Operating Expenses, including (i) the portion of the Facility Operating Expenses that shall be deemed County Allocated Operating Expenses, for the ensuing Contract Year, and (ii) how the portion of the Annual Contributions for County Allocated Operating Expenses shall be allocated for payment of such County Allocated Operating Expenses.

8.8.2. Disputed Annual Operating Expense Plan and Budget. If County objects to the Annual Operating Expense Plan and Budget pursuant to Section 8.8.1, following the end of the forty-five (45) day period set forth in Section 8.8.1, Operator shall submit to the County Representative a draft of the Annual Operating Expense Plan and Budget that reflects the Parties' good faith negotiations up to that date (including identification of any unresolved items) and within fourteen (14) days

after receipt thereof, the County Representative shall submit to Operator County's approval of or changes to the draft of the Annual Operating Expense Plan and Budget (including items identified as unresolved). If Operator fails to accept the submitted changes within fourteen (14) days after receipt of such changes, or there remain unresolved items, either Party may submit disputed or unresolved matters for Dispute Resolution pursuant to Article 17; provided that if either Party submits the disputed or unresolved matter for Arbitration, all agreed upon County Allocated Operating Expenses contained in the Annual Operating Expense Plan and Budget shall be commenced and completed. The Neutral shall be responsible for determining the priority of any disputed or unresolved items.

- 8.8.3. Noncompliance. Failure of Operator to comply with the Annual Operating Expense Plan and Budget as established in this Section 8.8 shall result in the suspension of future County Annual Contributions for County Allocated Operating Expenses pursuant to Section 15.1.9.1 until submission of documentation demonstrating compliance with the Annual Operating Expense Plan and Budget. If County Allocated Operating Expense not undertaken by Operator include the insurance required pursuant to Article 11 or other expense required to ensure public health or safety at the Facility or protect County's interest in the Facility, County may pay the costs of obtaining such insurance or other service which costs shall be automatically deducted from future County Annual Contributions for County Allocated Operating Expenses payable to Operator. Operator may make a request to the County Representative for a reasonable extension of time for compliance with the Annual Operating Expense Plan and Budget, which extension may be granted in County's sole discretion.

## **ARTICLE 9. IMPOSITIONS**

9.1. General. Subject to the availability of funds as described in Section 5.2, Operator shall pay or cause to be paid any and all Impositions that accrue during the Term of this Agreement, as and when they become due and payable, and before any fine, penalty, interest or cost may be added thereto or become due or be imposed by operation of law for the nonpayment thereof. All Impositions paid by Operator shall be Facility Operating Expenses.

9.2. Permitted Contests. Operator may contest the legal validity or amount of any Imposition for which Operator is wholly or partially responsible hereunder and may institute such proceedings as it considers necessary therefor without undue delay and shall prosecute such proceedings to a final determination with reasonable dispatch. If Operator contests any Imposition, Operator shall notify County and may withhold or defer payment or make payment of the Imposition under protest so long as such withholdings or deferrals do not subject the Facility to a non-curable forfeiture or sale without right of redemption. County shall cooperate reasonably in any permitted contest and shall execute any documents or pleadings reasonably required for such purpose. Any proceedings to contest the validity or amount of an Imposition or

to recover any Imposition paid by Operator shall be prosecuted by Operator. All costs and expenses described in this Section shall be Facility Operating Expenses.

9.3. Ad Valorem Tax Imposition. It is acknowledged by the parties that County and Team have based their projections and assumptions as to sharing of EBITDA and Consolidated Revenue, described herein, on the basis that there will be no levy of County, City, school district, water management district, or any other form of ad valorem taxes on the Facility or its operations, including the License Agreement, by reason of exemption from ad valorem taxes set forth in Sections 196.199(2), Florida Statutes, and 196.102(6), Florida Statutes. Accordingly, if County, City, school district, water management district, or any other form of ad valorem taxes are subsequently assessed against the Facility or its operations, including the License Agreement, and after contest of such taxes through such efforts as Team or Operator shall deem sufficient to determine that such taxes are declared validly assessed against the Facility or its operations, then this Agreement and the License Agreement shall be amended in the following manner:

9.3.1. Upon any assessment of ad valorem taxes against the Facility, County and Operator shall promptly meet and use their respective good faith efforts to reasonably agree upon a fair and equitable allocation of such ad valorem taxes with respect to that Contract Year and all succeeding Contract Years during the Term.

9.3.2. The Parties agree to execute the required amendments to this Agreement, when and if required, to effectuate the contingent events set forth in this section.

9.4. Exclusive Taxes and Special Assessments. If, in the future, County imposes any form of tax and/or special assessment, which is exclusively imposed or levied on the Facility or the License Agreement, and that will be assessed on Hockey Tickets, or tickets to other Events, Concessions, parking, Rent, or other revenue streams of the Facility, or its tenants or licensees, including Team or Operator, then County and Operator shall promptly meet and use their respective good faith efforts to reasonably agree upon a fair and equitable allocation of such exclusive taxes and special assessments with respect to that Contract Year and in all succeeding Contract Years. For purposes of this Agreement, an “exclusively imposed or levied tax” shall mean any tax and/or special assessment that generates more than twenty percent (20%) of its composite collections from the Facility or the operations at the Facility. The Parties agree to execute the required amendments to this Agreement, when and if required, to effectuate the contingent events set forth in this section.

## **ARTICLE 10. INDEMNIFICATION**

10.1. Indemnification of County. Operator shall defend, indemnify, and hold harmless County and its elected officials, agents, officers, and employees (collectively, “County Indemnitees”) from and against any and all demands, losses, judgments, damages, suits, claims, actions, liabilities, and expenses (including, without limitation, all attorneys’ fees and expenses), in law or in equity, of every kind and nature whatsoever, for bodily injury, death, or damage to property,

which any County Indemnitees may suffer or sustain, or which may be asserted or instituted against any of the County Indemnitees resulting from, arising out of, or in connection with (except to the extent caused by County's gross negligence or willful misconduct with respect to any injury to or death of any individual person, or with respect to damage to or destruction of property), (i) injury to or death of any individual person or damage to or destruction of property caused by Operator's use or occupancy of Facility (or any portion thereof), including without limitation, the conduct or management of its business in any portion of the Facility and its management and operation of the Facility, (ii) the breach by Operator of any warranty, representation, or covenant made in this Agreement, or (iii) any violation of any copyright, patent, service mark, trade name, or trademark by Operator.

10.2. Indemnification of Operator. County shall defend, indemnify, and hold harmless Operator, Team, and their respective agents, directors, partners, shareholders or members of their respective general partners, and their respective officers and employees (collectively "Operator Indemnitees") from and against any and all demands, losses, judgments, damages, suits, claims, actions, liabilities, and expenses, (including without limitation, all attorneys' fees and expenses) in law or in equity, of every kind and nature whatsoever, for bodily injury, death, or damage to property, which any Operator Indemnitees may suffer or sustain, or which may be asserted or instituted against any of the Operator Indemnitees, resulting from, arising out of, or in connection with (except to the extent caused by Operator's gross negligence or willful misconduct with respect to any injury to or death of any individual person, or with respect to damage to or destruction of property), (i) injury to or death of any individual person or damage to or destruction of property arising from County's ownership, construction, use, operation, maintenance, or occupancy of the Facility (or any portion thereof) including, without limitation, the conduct of any County Events in the Facility, or any part thereof or of any County business; (ii) County's use or occupancy of the Facility (or any portion thereof) in violation of this Agreement; (iii) the breach by County of any its warranties, representations, or covenants made in this Agreement; (iv) all environmental liabilities arising out of, in connection with, or relating to any environmental condition of the Facility, even if discovered prior to commencement of the Term, unless such environmental condition was caused by Operator Indemnitees; (v) the performance of any labor or services or the furnishing of any materials or other property in respect to the Facility; (vi) any violation of any copyright, patent, service mark, trade name, or trademark by County; and (vii) any acts or omissions of any County Indemnitees. Operator acknowledges that County's obligations to indemnify shall be limited to the extent of County's insurance and as provided by Florida law.

10.3. Insurance. County acknowledges that it shall look first to the proceeds of any insurance policies maintained by Operator pursuant to Article 11 for recovery in respect of the obligations of Operator under this Article 10 and, except as provided in Section 12.2, if such proceeds are insufficient, then to Operator.

10.4. Claims. If any claim, action or proceeding is made or brought against County as to which Operator is to indemnify County as required by this Article 10, then upon demand by County, Operator shall resist or defend such claim, action or proceeding in County's name, if necessary,

by the attorneys for Operator's insurance carrier (if such claim, action or proceeding is covered by insurance). Notwithstanding the foregoing, after notice to Operator, County may engage its own attorneys to defend it or to assist in its defense, and County shall pay the reasonable fees and disbursements of such attorneys. Any and all costs and expenses incurred by Operator to discharge its obligations under this Article 10 shall be included as Facility Operating Expenses; provided, however, that any expenses resulting from an Event of Default by Operator shall not be included as Facility Operating Expenses and shall be paid by Operator from its own funds; and provided, further, that any expenses resulting from an Event of Default by County shall not be included as Facility Operating Expenses and shall be paid or reimbursed by County from its own funds.

## **ARTICLE 11. INSURANCE**

During the Term of this Agreement, Operator (and County to the extent provided in Section 11.8) shall cause to be maintained the following insurance, the cost of which shall be included in Facility Operating Expenses to the extent paid by Operator, Team, or SS&E:

11.1. Property. Insurance against loss or damage to the Facility resulting from fire, earthquake, windstorm, hail, lightning, vandalism, malicious mischief, flood and such other perils ordinarily included in special coverage insurance policies. Except as provided in this section related to windstorm and flood limits, such insurance shall be maintained in an amount not less than the full replacement cost of the Facility, the equipment and machinery therein and including any costs which may be required to comply with applicable governmental requirements. Full replacement cost shall be determined at reasonable intervals at the request of County by appraisal by Operator's insurer or other appraiser mutually acceptable to Operator and County. Operator may request that County add the Facility to the property insurance maintained by County for the broader County portfolio if doing so is more cost efficient for Operator, provided that any premium increase attributed solely to the addition of the Facility shall be borne by Operator. County may grant or deny the request to add the Facility at its sole discretion. If requested by Operator, County shall reasonably cooperate with Operator to permit Operator's review and assessment of County's property insurance in connection with the purposes specified in this Section 11.1.

11.1.1. Operator shall be authorized to purchase conventional property insurance with Named Windstorm and Flood Insurance limits that are less than the full replacement value of the Facility ("Named Windstorm and Flood Limits"); provided that the Named Windstorm and Flood Limits of the purchased policies shall be the greater of (a) One Hundred Million Dollars (\$100,000,000) for Named Windstorm and Fifty Million Dollars (\$50,000,000) for Flood Limits or (b) the projected one (1) in two hundred fifty (250) year loss amount, as determined annually by an analytics firm agreeable to both County and Operator. The Named Windstorm Insurance coverage shall contain a deductible no greater than ten percent (10%) of the replacement value of the Facility. The Flood insurance coverage shall contain a deductible not greater than Ten Million Dollars



(\$10,000,000). The deductible amounts for Named Windstorm and Flood shall be included as part of the required limits of insurance. Loss amounts within the deductible shall be the responsibility of Operator. For example, if the policy contains a 10% deductible and the replacement value of the Facility is Four Hundred Million Dollars (\$400,000,000) and a Named Windstorm results in an insured loss of One Hundred Million Dollars (\$100,000,000) million or greater, Operator would be responsible for the deductible which would be Forty Million Dollars (\$40,000,000), and the insurance company would be responsible for Sixty Million Dollars (\$60,000,000). Loss amounts within the deductible shall be the responsibility of the Operator (“Operator Responsibility”). If Operator fails to pay any amount within the Operator’s Responsibility that is uncontested and more than thirty (30) days past due (“Uncontested Past Due Operator’s Responsibility”), County shall have the right to deduct the amount of Uncontested Past Due Operator’s Responsibility from the County Annual Contributions for County Allocated Operating Expenses pursuant to Section 15.1.9.1. Nothing in this Section 11.1.1 shall modify all other insurance requirements set forth in this Agreement including, but not limited to, other risk and peril coverages.

11.1.2. County shall be responsible for any loss amounts in excess of the limits of insurance required under this agreement.

11.2. Business Interruption. Use and occupancy or business interruption or lost income insurance against the perils of fire, earthquake, windstorm, hail, lightning, vandalism, malicious mischief, flood, and such other perils ordinarily included in insurance policies, in an amount equal to not less than estimated Facility Operating Revenue less non-continuing expenses (assuming for the purposes of such estimate that no business interruption occurred), for the period of time estimated to repair or rebuild the Facility after substantial damage to the Facility.

11.3. Priority of Payments. In the event that insurance for the Facility also affords coverage for other structures, contents, and/or business interruption, the priority of payments shall be such that the costs of repairs to the Facility shall take precedence over any other covered items, and no insurance proceeds may be utilized for other covered items until the amounts necessary for the full repairs of the Facility have been deducted from the insurance proceeds.

11.4. Liability. Commercial general liability insurance with a broad form general liability endorsement which shall provide coverage against claims for personal injury, death and property damage resulting directly or indirectly from any act or activities (in connection with the Facility) of County, Operator, any of their respective invitees, officers, partners, shareholders or members of partners, officers, employees, agents, independent contractors or any other person acting for County or Operator or under their respective control or direction (including liabilities for injuries or damages alleged to have resulted from Operator’s sale and/or dispensing of alcoholic beverages). Such insurance shall be maintained in full force and effect during the Term of this Agreement in an amount of at least Twenty-Five Million Dollars (\$25,000,000) (provided that Operator shall be entitled to maintain a lesser amount if such lesser amount is maintained in

comparable facilities at which NHL teams play and County is notified of such lesser amount and fails within twenty (20) Business Days after receipt of such notice to object and submit to ADR the adequacy of such lesser amount) combined single limit, naming County, Team, SS&E, and their respective officers, Operator, and their respective invitees, licensees, employees, agents, independent contractors or any other person acting for County, Team, SS&E, or Operator, or under their respective control or direction, as additional insureds. This Section 11.43 shall not limit in any way the extent to which Operator may be held responsible for the payment of damages to persons or property resulting from Operator's activities, the activities of its invitees, employees, licensees, agents, or independent contractors, or the activities of any other person or persons for whom Operator otherwise is legally responsible.

11.5. Workers' Compensation. Workers' compensation insurance complying with the statutory requirements of the State of Florida to insure all persons or entities employed by Operator in connection with the Facility. Operator shall also purchase and maintain Employer's liability coverage for no less than \$1,000,000 each accident, \$1,000,000 disease each employee and \$1,000,000 disease policy aggregate.

11.6. Builder's Risk or Installation Floater. During construction of Additions and Capital Repairs, in addition to (but not in duplication of) the other insurance coverages required under this Article 11, standard builder's risk or installation floater insurance written on a completed value basis and including comprehensive liability insurance, in an amount not less than the projected total cost of construction of the Additions and Capital Repairs as reasonably estimated by Operator not more than sixty (60) days prior to commencement of construction and as thereafter revised from time to time by Operator during the course of such construction.

11.7. Other. Such other insurance coverages and in such amounts as from time to time may be reasonably desired by Operator to insure against such other insurable hazards as are customarily insured against in the case of similar multipurpose sports and entertainment facilities.

11.8. Provisions.

11.8.1. All required insurance shall be primary coverage and shall be for the benefit of Operator and County. Operator shall ensure that "Broward County" is listed and endorsed as an additional insured on all policies required under this Article 11, except Workers' Compensation policies under Section 11.5.

11.8.2. All required insurance shall be reviewed periodically by Operator, and in any event at least every three (3) years, for the purpose of determining whether to increase or decrease the minimum limits and deductibles of such insurance to amounts which may be reasonable and customary for facilities of like size and operation to the Facility.

- 11.8.3. All required insurance shall be obtained from a financially sound insurance company, rated not less than B+ XII in Bests Rating Guide, authorized to do business in the State of Florida.
- 11.8.4. All required insurance shall provide that the waiver of recovery (subrogation) provided in Section 11.9 shall not invalidate or have any adverse effect on the liability of the insurer.
- 11.8.5. All required insurance shall provide that such policies or certificates shall not be canceled or materially changed without the consent of County which shall be given written notice of an intent to cancel or materially change said insurance at least thirty (30) days' prior thereto.
- 11.8.6. Upon the request of County, Operator will provide County with a copy of property policies covering the Facility together with certificates of insurance from the companies issuing other policies required by this Agreement, indicating that such required insurance coverage provided by such policies is in place. At least ten (10) days prior to the expiration of any such property policy, upon County's request, a copy of the renewal policy shall be provided to County and renewal certificates of insurance will be provided on such other insurance coverages.
- 11.8.7. The Parties agree that County may review and modify the insurance requirements contained in this Article 11 to be effective upon commencement of the First Extension Term (if exercised) and a second time to be effective upon commencement of the Second Extension Term (if exercised), to ensure the coverage amounts and types of insurance remain sufficient to meet the needs of the Arena and the Facility. If County and Operator mutually agree that adjustments are necessary, Operator shall make such adjustments and present proof of same to County as promptly as practicable after such mutual agreement of the necessary adjustments.

If County and Operator cannot mutually agree to adjustments, Operator shall be required to procure conventional property insurance pursuant to Section 11.1.1 with Named Windstorm and Flood Limits equal to the greater of (a) 25% of full replacement cost of the Facility, pursuant to Section 11.1, or (b) a one (1) in two-hundred and fifty (250) year event.

- 11.8.8. Effective on April 15, 2025, and thereafter, all required property insurance coverage shall include "law and ordinance" coverage with a minimum sub-limit of twenty-five percent (25%) of total coverage.

11.9. Insurance for County Events. County acknowledges and agrees that prior to scheduling a County Event, County shall obtain or Operator shall purchase as a County Event Related Expense comprehensive general liability insurance which shall provide coverages against claims for

personal injury, bodily injury, death and property damages arising from the conduct of the County Event at the Facility or the negligence or misconduct of County, its employees, agents, independent contractors, co-promoters or any other person acting on behalf of County. The policy shall have minimum limits of liability of \$1,000,000 combined single limit each occurrence, \$2,000,000 aggregate. The insurance required under this Section 11.9 shall in all events comply with the requirements of this Article 11. Notwithstanding the foregoing, County, upon written notification to Operator and upon compliance with such other reasonable requirements of Operator (including the requirement for County to provide security for its obligations) at least fifteen (15) days prior to any County Event, may elect to self-insure for such County Event. In such event, County shall be obligated to pay any and all amounts and provide any other services (including the duty to defend Operator and Team) to Operator which an insurer would be required to pay or provide under the insurance coverages otherwise required under this section and County shall pay and/or provide such services within the time periods required under standard insurance coverages. Any failure by County to pay and/or perform as provided herein shall be deemed a default by County and shall entitle Operator to exercise its rights with respect to the security provided by County pursuant to this section or to exercise any other rights under this Agreement.

11.10. Waiver of Recovery. Neither Operator nor County shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to property or injury to persons, or any resulting loss of income, or losses under workers' compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees, if and to the extent any such loss or damage is covered by insurance benefiting the party suffering such loss or damage.

11.11. Failure to Maintain Insurance. If Operator fails or refuses to procure or maintain the insurance required by this article to be obtained by Operator, after notice to Operator, County shall have the right, at its election, to procure and maintain such insurance, in which event, the actual premium paid by County, plus interest at the Premium Rate computed from the date such premium is paid by County, shall be due and payable by Operator as a Facility Operating Expense to County on the first day of the month following the date on which such premium was paid. County shall give prompt notice of the payment of any premium stating the amount paid.

11.12. Proceeds Disposition. All insurance proceeds with respect to loss or damage to the Facility shall be payable, under the provisions of the policy of insurance, into the Renewal and Replacement Account. All insurance proceeds from any other insurance policies maintained hereunder shall be payable into the Operating Fund.

## **ARTICLE 12. DAMAGE OR DESTRUCTION**

12.1. Adequately Insured Damage. Subject to the provisions of Sections 12.2 and 12.3, if the Facility is damaged or otherwise destroyed and such damage or destruction was caused by an event covered under an insurance policy maintained by Operator or County as required hereunder, all insurance proceeds paid under such insurance policies ("Insurance Proceeds")

shall be deposited into the Renewal and Replacement Account and, if such proceeds are sufficient to restore the Facility in the reasonable estimation of Operator, shall be used by Operator to repair such damage or destruction as soon as reasonably possible, and this Agreement shall continue in full force and effect. Such restoration shall be in compliance with applicable governmental requirements. All such restoration shall be performed under the joint supervision of County and Operator.

12.2. Insurance Deficiency and Termination. Subject to the provisions of Section 12.4, if (a) the Facility is damaged or otherwise destroyed by a casualty not covered under an insurance policy, or (b) if so covered, in the opinion of a qualified third-party loss appraiser mutually agreeable to the Parties ("Loss Appraiser"), the Insurance Proceeds and the funds in the Renewal and Replacement Account are, in the aggregate, insufficient to pay the costs of restoration (in either event, an "Insurance Deficiency"), County shall, within thirty (30) days after notice from Operator of an Insurance Deficiency and, if applicable, the Loss Appraiser's written opinion regarding same, give written notice to Operator of County's election as to whether County will seek reimbursement of the Insurance Deficiency from the Federal Emergency Management Agency ("FEMA"). If County elects to seek reimbursement from FEMA, County shall diligently submit an application for FEMA funding for the Insurance Deficiency, and Operator shall cooperate with County by providing all necessary information and documentation to support the application. Upon receipt of FEMA's approval or denial of County's application, County shall, within thirty (30) days, notify Operator of County's election, at County's sole discretion, as to whether County will (a) fund the Insurance Deficiency (inclusive of the funds, if any, approved by FEMA), or (b) terminate this Agreement. If County elects to fund the Insurance Deficiency, County shall deposit the amount of the Insurance Deficiency into the Renewal and Replacement Account within thirty (30) days after the date of County's notice. Upon such deposit by County, Operator, in a commercially reasonable and diligent manner, shall repair, or cause to be repaired, the damage or destruction as provided in Section 12.1. If County elects to fund the Insurance Deficiency, County shall be entitled to any and all funds received from FEMA for County's application. The costs of restoration and repair shall be paid first from the Insurance Proceeds; after exhaustion of the Insurance Proceeds, then from available funds in the Renewal and Replacement Account; and after exhaustion of available funds in the Renewal and Replacement Account, then by County. Throughout the repair process, Operator shall provide monthly reports, in writing, of the repair progress and expenses within fifteen (15) days after the end of the calendar month that is the subject of the report. If County elects to terminate, this Agreement shall be terminated thirty (30) days after the date of County's notice, and the Insurance Proceeds, if any, shall be deposited into the Renewal and Replacement Account for distribution as provided in Section 12.4. Prior to the termination of this Agreement pursuant to this section, the Parties shall discuss potential options for Operator and Team to continue operations.

12.3. End of Term. If the Facility is destroyed during the last three (3) Contract Years of the Initial Term, the First Extension Term (if any), or the Second Extension Term (if any), then notwithstanding any contrary provision of this Article 12, by notice to Operator within thirty (30) days after County's receipt of notice from Operator of an Insurance Deficiency and, if applicable, the Loss Appraiser's opinion, as referenced in Section 12.2, County may terminate this

Agreement by providing prompt notice to Operator, whereupon the Insurance Proceeds, if any, shall be deposited into the Renewal and Replacement Account and shall be distributed pursuant to Section 12.4.

12.4. Distribution. In the event this Agreement is terminated pursuant to Section 12.2 or Section 12.3, and notwithstanding any provisions of Article 5 to the contrary, any funds in the Renewal and Replacement Account after the deposit of any Insurance Proceeds therein pursuant to this Article 12 shall be distributed to County. Any funds in other Accounts shall be distributed in accordance with Article 5.

12.5. Abatement. In the event of any damage or destruction rendering a substantial portion of the Facility unusable, the period during which a substantial portion of the Facility remains unusable shall be an Abatement Period.

### **ARTICLE 13. DAMAGE OR DESTRUCTION**

13.1. Substantial Taking. If the Facility is taken by right of eminent domain, with or without litigation, or transferred in lieu of or under threat of such action (any such action to be referred to herein as a "Taking"), and the Taking is a Substantial Taking (as defined below), Operator shall have the right, at its option, exercisable at any time within the ninety (90) days after the official written notice of the Taking and its scope is issued by the condemnor and received by Operator and County (the "Taking Date"), to terminate this Agreement, in which event, the Parties shall be released from all future liability hereunder (such release to be effective upon the termination of this Agreement pursuant to this section, provided however, that no party shall be released from any liability hereunder that has accrued on or before such termination.) The payment or other award from the condemnor attributable to the value of any improvements on the Project Site ("Award") shall be deposited into the Renewal and Replacement Account. As used in this section, "Substantial Taking" means a Taking of the Facility that in the reasonable estimation of Operator, will deprive the Facility of the substantial economic benefits to be derived from the operation thereof.

13.2. Partial Taking.

13.2.1. If the Facility is the subject of a Taking which is not a Substantial Taking or if a Substantial Taking occurs, but this Agreement is not terminated as provided in Section 13.1, then as soon as reasonably possible, Operator shall restore the remainder of the Facility using the proceeds available from the Award, and this Agreement shall continue in effect. Such restoration shall be in accordance with plans approved by County and in compliance with then applicable governmental requirements. All such restoration shall be performed under the joint supervision of County and Operator.

13.2.2. If (a) the Facility is to be restored as provided in Section 13.2.1, (b) the Award is insufficient to pay the costs of such restoration in the reasonable estimation of

Operator, and (c) funds in the Renewal and Replacement Account are sufficient to pay the amount by which such costs of restoration exceed the Award ("Condemnation Deficiency"), Operator shall restore the Facility using available proceeds as provided in Section 13.2.1. If the Renewal and Replacement Account is insufficient to pay the Condemnation Deficiency, within ninety (90) days after the Taking Date Operator shall provide County written notice of Operator's election either (a) to utilize the Award and such funds as are available in the Renewal and Replacement Account plus Operator's own funds (and not Facility Operating Revenue) to pay the costs of such restoration, or (b) to terminate this Agreement. In the event Operator is entitled to and does elect to terminate this Agreement, the County Representative shall have the right (within ten (10) days after receipt of such notice of Operator's election to terminate) to issue notice to Operator of County's intention to pay the Condemnation Deficiency, in which event, County shall deposit the amount of the Condemnation Deficiency within ten (10) days of such notice, and thereafter Operator's election to terminate shall be deemed rescinded and void, and Operator shall effect the restoration as provided in Section 13.2.1. If County does not give such notice of its intention to pay such Condemnation Deficiency within ten (10) days after receipt of Operator's election to terminate or does not deposit the Condemnation Deficiency into the Renewal and Replacement Account at the time described above, this Agreement shall be terminated at the expiration of such ten day period, or after the time required for the deposit of the Condemnation Deficiency, as applicable, and the Award shall be deposited into the Renewal and Replacement Account for distribution pursuant to Section 13.4.

13.3. End of Term. If a Substantial Taking occurs during the last two Contract Years of the Initial Term hereof, or the First Extension Term or Second Extension Term (if exercised), then notwithstanding any provision of this Article 13 to the contrary, by notice to County within thirty (30) days after the date of the Taking, Operator may terminate this Agreement whereupon the Award shall be deposited into the Renewal and Replacement Account and shall be distributed pursuant to Section 13.4.

13.4. Distribution. In the event this Agreement is terminated pursuant to Sections 13.1, 13.2, or 13.3, and notwithstanding any provision of Article 5 to the contrary, any funds in the Renewal and Replacement Account after the deposit of the Award pursuant to this Article 13 shall be distributed to County. Any funds in other Accounts shall be distributed in accordance with Article 5.

13.5. Abatement. In the event of a Taking rendering a substantial portion of the Facility unusable, the period during which a substantial portion of the Facility remains unusable shall be an Abatement Period.

13.6. No Condemnation by County. Notwithstanding the foregoing or any provision of this Agreement, County covenants, warrants, represents and agrees that it shall not at any time

during the Term, or any Extension Term, initiate, engage in, undertake, attempt or pursue either singly or in combination with any other governmental entity(ies) a condemnation proceeding by right of eminent domain of any portion of the Facility.

#### **ARTICLE 14.**

14.1. Right to Assignment. Operator shall have the right to assign this Agreement (i) in connection with the sale of Team in compliance with NHL requirements (Team or Operator shall provide County with a copy of the transfer application at the time it is submitted to the NHL) to any Person who thereafter shall control or be under common control with Team (or the Person which owns the Franchise), (ii) to a Public Entity Assignee, or (iii) to a Person with a fair market value net worth of at least Ten Million Dollars (\$10,000,000) (including the net worth of such Person's affiliates) which has experience in the ownership or management of at least one multipurpose arena of at least 10,000 seats for at least five (5) years, whether such experience is that of the Person directly or of its principals, agents or employees. Any transferee or purchaser of the Team's Franchise or the Public Entity Assignee shall take subject to and must assume all of the obligations of Operator under this Agreement. Operator or Team shall require the transferee or the Public Entity Assignee to execute an Assignment and Assumption Agreement in such form and content as is reasonably acceptable to County and Operator. Any such transfer shall conform to the terms and restrictions of the License Agreement and this Agreement. Except for the foregoing, Operator shall not assign or transfer its rights or interests in this Agreement without the prior written consent of County.

14.2. Prohibition Against Assignment of Agreement or Transfer of the Facility by County. County shall not transfer or attempt to transfer this Agreement or any rights herein, and any such transfer or attempted transfer shall be void.

#### **ARTICLE 15. REPRESENTATIONS, WARRANTIES, AND COVENANTS**

15.1. County Representations, Warranties, and Covenants. County represents, warrants, and covenants to Operator the following:

15.1.1. Authority. County has full power and authority to enter into this Agreement, and the execution, delivery, and consummation of this Agreement by County have been duly authorized.

15.1.2. No Conflicts. The execution, delivery, and performance of this Agreement, does not conflict with any other agreements, instruments, judgments, or decrees to which County is a party or is otherwise subject.

15.1.3. No Violation of Laws. Neither the execution, delivery, nor performance of this Agreement by County violates or will violate the Broward County Charter, the Code, or any ordinance or resolution of County. County has received no notice as of the date of this Agreement asserting any noncompliance in any material respect



by County with applicable statutes, rules, and regulations of the United States of America, the State of Florida, County, or of any other state or municipality or agency having jurisdiction over and with respect to the transactions contemplated in and by this Agreement; and County is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency, or other governmental authority which is in any respect material to the transactions contemplated hereby.

15.1.4. Litigation. No suit is pending before or by any court or governmental body seeking to restrain or prohibit, or seeking damages or other relief in connection with, the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, or which might materially and adversely affect the use and operation of the Facility as contemplated herein.

15.1.5. Project Site Possession and Title. The rights of Operator pursuant to this Agreement, and Operator's peaceful use and quiet enjoyment of the Facility as provided in this Agreement, shall not be unreasonably diminished, impaired, or disturbed in any way by any lien, encumbrance, easement, right-of-way, covenant, condition, restriction, defect, invalidity, or any other matter adversely affecting County's rights of possession in, or title to, the Project Site, or by any other insufficiency, limitation, restriction, or defect in the rights of County to possess and reasonably use the Project Site or its ownership or title thereto (collectively "Title Exceptions"). County shall pay and be responsible for all liabilities, losses, damages, costs, expenses, and charges including, without limitation, reasonable attorneys' fees and costs, that may be incurred or suffered by Operator as a result of any Title Exceptions, none of which shall be treated as Facility Operating Expenses.

15.1.6. Utility Rates. County will use its best efforts to negotiate long-term discounted utility charges from public and private utilities which will provide water, sewage, gas, electric and waste handling and recycling services to the Facility. County and Operator acknowledge that City is separately obligated to perform certain of these services pursuant to the Sunrise Letter of Agreement.

15.1.7. Non-Competition. During the Term of this Agreement, except as provided herein, County agrees that it shall not directly or indirectly, own, manage, operate, control, finance, sponsor, develop, provide County-owned land for, or in any other way participate in or cooperate with any indoor or outdoor sports entertainment or multi use arena with an attendance capacity of 5,000 to 30,000 and located within Broward County ("Competing Facility") to which the general public is invited with or without charge for concerts, sports, entertainment and other events of the kind typically booked at arenas comparable to the Arena in the ordinary course of operations thereof ("Comparable Events"). This covenant shall not apply to the following:

- 15.1.7.1. The Broward Convention Center, or the expansion thereof;
- 15.1.7.2. The Broward Center for the Performing Arts, or the expansion thereof;
- 15.1.7.3. A facility for major or minor league baseball;
- 15.1.7.4. Events in County’s regional parks and all uses and practices of County presently in effect with respect to public events in public places of County; and
- 15.1.7.5. Any other facility that does not book Comparable Events.

15.1.8. No Arena Use by County Which is Competitive with Use by Operator. County shall use the Arena only for County Events and celebrations (a) which do not feature performers or performances which are normally booked in arenas comparable to the Arena and (b) for which ticket prices are less (when compared nationally with reference to industry guides) than those typically charged for Comparable Events (“Non-Commercial Events”). County will not use the Communication System in the Arena for announcement of any event other than Non-Commercial Events and public service announcements.

15.1.9. Annual Contributions.

15.1.9.1. County Annual Contributions for County Allocated Operating Expenses. During the Term of this Agreement, County shall make the following contributions to Operator in two (2) equal payments in each Contract Year on each of November 1<sup>st</sup> and March 1<sup>st</sup> for County Allocated Operating Expenses:

<b><u>Term</u></b>	<b><u>Amount of County Annual Contributions for County Allocated Operating Expenses Per Contract Year</u></b>
Initial Term	\$15,000,000
First Extension Term	\$12,500,000
Second Extension Term	\$10,000,000

Notwithstanding the foregoing, provided that County, Team, and Operator have agreed to the Annual Operating Expense Plan and Budget as provided in Article 8 and County and Operator have agreed upon (i) the portion of the Facility Operating Expenses that shall be deemed County Allocated Operating Expenses for the first Contract Year during the Initial Term, and (ii) how the portion of the Annual Contributions for County Allocated Operating Expenses shall be allocated for payment of such County Allocated Operating Expenses, County shall make the entire Fifteen Million Dollar (\$15,000,000) payment of the County Annual Contribution for County Allocated Operating Expenses for the first Contract Year

during the Initial Term on the later of (i) March 1, 2025 or (ii) no later than thirty (30) days after the date on which the parties have agreed to the Annual Operating Expense Plan and Budget and the County Allocated Operating Expenses as provided in Article 8.

15.1.9.2. Unspent County Annual Contributions for County Allocated Operating Expenses. At the end of each Contract Year, Operator shall calculate any unspent funds from County’s Annual Contribution to County Allocated Operating Expenses. This calculation shall be included in the Annual Audited Operator Financial Statements submitted by under Section 7.3.2. Any unspent funds from County’s Annual Contribution to County Allocated Operating Expenses up to twenty percent (20%) in any Contract Year shall be rolled over into subsequent Contract Years to be available to the Operator for County Allocated Operating Expenses for such subsequent Contract Years. Unless the County Representative has approved in writing the retention of additional funds, the Remaining unspent funds in excess of the twenty percent (20%) of County’s Annual Contribution to County Allocated Operating Expenses allowed to be rolled-over shall be returned to the County within thirty (30) days after providing the Annual Audited Operator Financial Statements, or within one hundred eighty (180) days after the end of the Contract Year (whichever is earlier).

15.1.10. Annual Contributions for Capital Expenses. During the Term of this Agreement, County shall make the following maximum contributions to Operator for Additions and Capital Repairs that constitute construction, reconstruction, or renovation of the Facility (“County Annual Capital Contribution”).

<u>Term</u>	<u>Amount of County Annual Capital Contribution for Additions and Capital Repairs Per Contract Year</u>
Initial Term	\$10,000,000 (with an aggregate total not to exceed Ninety Million (\$90,000,000) over the Initial Term)
First Extension Term	\$12,500,000
Second Extension Term	\$10,000,000

15.1.10.1. Funding of County Annual Capital Contribution. The County Annual Capital Contribution for approved Additions and Capital Repairs included in the One (1) Year Capital Plan and Five (5) Year Capital Plan that constitute construction, reconstruction, or renovation of the Facility may be provided to Operator either as an advance or on a reimbursement basis. To receive advance funding, Operator must submit a written request to the County Representative, accompanied by documentation reasonably satisfactory to the County demonstrating that the requested funds have been committed or encumbered for approved Additions and Capital Repairs in the approved One (1) Year Capital Plan, including but not limited to, executed contracts, invoices, purchase orders, bills of sale, or other similar documents as County may request. Any advance funding provided shall be considered a “draw” from the County Annual Capital

Contribution for the respective Contract Year and shall be deposited into the Renewal and Replacement Account. To be reimbursed, Operator must submit a written request for distribution of County Annual Contribution Funds specifying the amounts requested along with a certificate as provided in Section 15.1.10.3 and invoices, purchase orders, bills of sale, or other documents evidencing costs incurred to complete Additions and Capital Repairs that constitute construction, reconstruction, or renovation of the Facility as detailed in the approved One (1) Year Capital Plan and Five (5) Year Capital Plan and such other information as County may request.

15.1.10.2. Within thirty (30) days after receipt by County of a proper request for funding and all documentation from Operator required in this Article 15, County shall pay Operator in accordance with the “Broward County Prompt Payment Ordinance,” Section 1-51.6 of the Code. To be deemed proper, all invoices must: (a) comply with all applicable requirements, whether set forth in this Agreement or the Code, and (b) be submitted pursuant to the instructions set forth in the Notices section or such other instruction agreed to by the County Representative in writing. Payment may be withheld by County, to the extent specifically provided for in this Agreement, for failure of Operator to comply with a term, condition, or requirement of this Agreement. During the first Contract Year of the Initial Term, County shall not be required to make payments of the County Annual Capital Contribution until on or after May 1, 2025.

15.1.10.3. Operator’s Certificate. No later than thirty (30) days after completion of Additions and Capital Repairs funded by the County Annual Contribution, Operator must submit a certificate signed by the Operator’s Representative (“Operator Certificate”) certifying (a) that the requested funds were used for the approved purposes in compliance with this Agreement and (b) Operator’s Lien-free completion of the Additions and Capital Repairs. Along with the Operator Certificate, Operator shall submit such invoices, purchase orders, bills of sale, or other documents evidencing costs incurred to complete such Additions and Capital Repairs and such other information as County may request.

15.1.10.4. Unspent County Annual Capital Contribution. If in any Contract Year, County provides to Operator less than the total County Annual Capital Contribution (in the amounts set forth in the foregoing table in Section 15.1.10 in the respective Contract Year), any such unexpended balance of the County Annual Capital Contribution shall roll over into subsequent Contract Years to be available to the Operator for Additions and Capital Repairs in such subsequent Contract Years.

15.1.10.5. Advanced Approved Projects. Notwithstanding the amounts set forth in the foregoing table in Section 15.1.10, if, for any given Contract Year, Operator includes any Additions and Capital Repairs that constitute construction,

reconstruction, or renovation of the Facility in the One (1) Year Capital Plan or Five (5) Year Capital Plan that require funding from County in excess of the maximum amount of the scheduled County Annual Capital Contribution in the table in Section 15.1.10 for that Contract Year, and County approves such Additions and Capital Repairs in excess of such amounts, and County approves such Additions and Capital Repairs pursuant to Section 8.3 (“Advance Approved Projects”), County shall provide such additional amounts in excess of the County Annual Capital Contribution for such Contract Year (“Advance County Capital Contribution”) to fund such Advance Approved Projects. Any Advance County Capital Contribution shall constitute a “draw” on future County Annual Capital Contributions, and the amounts of the County Annual Capital Contribution due in subsequent years shall be reduced by the amount of any Advance County Capital Contribution paid to Operator by County. Operator shall bear all additional costs incurred by County associated with County providing the Advance County Capital Contribution, including any interest, costs, fees, attributable to any additional indebtedness the County incurs for the period commencing upon County’s funding of such Advance County Capital Contribution and ending on the first day of the Contract Year during which County would otherwise have been obligated to provide a County Annual Capital Contribution in an amount equal to or exceeding the Advance County Capital Contribution.

15.1.10.6. Modification of County Annual Contribution. If the Consulting Engineer’s building inspection and assessment performed pursuant to Section 8.4 indicates that more than Fifty Million Dollars (\$50,000,000) in Additions and Capital Repairs are required during the Second Extension Term, and County agrees with the results of the assessment, County may, at its sole option and discretion, increase the maximum Annual Contribution by up to an additional Five Million Dollars (\$5,000,000) per Contract Year during the Second Extension Term, fifty percent (50%) of which shall be for County Allocated Operating Expenses and the remaining fifty percent (50%) of which shall be for Additions and Capital Repairs that constitutes construction, reconstruction, or renovation of the Facility. Any such additional Annual Contributions shall be made by County in the same manner as other Annual Contributions under this Agreement. The determination as to whether to approve such increase will be made by County on a year-by-year basis in conjunction with the development of the Capital Plan and Budget pursuant to Section 8.3. If County does not approve the additional Annual Contributions in any Contract Year, the County Annual Capital Contribution in such Contract Year pursuant to Section 15.1.10 shall be reduced by Two Million Five Hundred Thousand Dollars (\$2,500,000) for such Contract Year and the amount of County’s Annual Contributions available for County Allocated Operating Expenses for such Contract Year pursuant to Section 15.1.9.1 shall be increased correspondingly by Two Million Five Hundred Thousand Dollars (\$2,500,000).

15.1.11. County Contribution Toward Attracting Major Events to Facility. A minimum of One Million Five Hundred Thousand Dollars (\$1,500,000) of the Annual Contribution made by County over the Term shall be dedicated to help attract Major Events to the Facility (the “Major Event Contribution”). If Operator desires to allocate some or all of the Annual Contribution to attract Major Event(s), then Operator shall provide County with written notice of the opportunity to attract a Major Event to the Facility, the uses to be put to such Major Event Contribution and when such funds are needed. The Major Event Contribution shall be credited to the County’s Annual Contribution in the Contract Year when paid to Operator.

15.2. Enforcement. County agrees that the rights conveyed by Sections 15.1.7 and 15.1.8 are of a kind for which there is no adequate remedy at law and for which money damages will not be adequate compensation. Therefore, County agrees that, if County breaches the covenants of Sections 15.1.7 and 15.1.8, Operator shall have the right to obtain an injunction or decree of specific performance from any court of competent jurisdiction to restrain or compel County to perform the covenants contained in Sections 15.1.7 and 15.1.8. The covenants of County in Sections 15.1.7 and 15.1.8 shall each be construed as an agreement independent of any other provision in this Agreement. Team shall be entitled to rely upon and enforce this section as an intended third-party beneficiary and Team may enforce each obligation of County and Operator hereunder. Any and all reasonable costs, including attorneys’ fees, paid or incurred by Operator or Team to enforce the provisions of Sections 15.1.7 and 15.1.8 shall be payable by Operator as Facility Operating Expenses but shall be reimbursed to Operator by County from County’s own funds. Any and all amounts received by Operator or Team pursuant to the enforcement of such provisions less any amounts paid or incurred by Operator or Team to enforce such provisions and not reimbursed pursuant to the preceding sentence shall be payable to Operator or Team as applicable and shall not be deposited into the Operating Fund nor be Facility Operating Revenue.

15.3. Optional Remedy of Operator. In the event that County should be determined by a court of competent jurisdiction to have violated the covenants of Sections 15.1.7 and 15.1.8, if Operator seeks and fails to obtain injunctive relief, then Operator shall, at its option and for as long as County is operating a Competing Facility, be entitled to receive payment from County in an amount equal to the gross receipts of County from such Competing Facility, provided that the aggregate of all such payments from County to Operator shall not exceed such gross receipts. The Parties agree that if County were to breach Sections 15.1.7 and 15.1.8, the aggregate damages arising from such breach would be substantially incapable of estimation due to the lost value attributable to the adverse consequences such a breach would have on Operator and that the amount set forth in this section constitutes the best, reasonable and objective estimate of the damages that would be incurred in the event County were to breach Sections 15.1.7 and 15.1.8.

15.4. Representations, Warranties, and Covenants. Operator, Team, and SS&E each individually represents, warrants, and covenants to County as follows, except where specifically limited to Operator:

- 15.4.1. Organization. Each of Operator, Team, and SS&E is duly organized and validly existing under the laws of their respective jurisdictions and has all requisite power and authority to enter into this Agreement.
- 15.4.2. Authorization; No Violation. The execution, delivery, and performance of this Agreement by each of Operator, Team, and SS&E have been duly authorized by all necessary action and will not violate the NHL Constitution or Bylaws or any written rule, regulation, or policy of the NHL, or result in the breach of or constitute a default under any loan or credit agreement, or any other agreement or instrument to which that Party is a party or by which that Party or its assets may be bound or affected. All consents and approvals of any Person (including partners of Operator) required in connection with this Agreement have been obtained by each respective party.
- 15.4.3. Litigation. No suit is pending against or affects Operator, Team, or SS&E that could have a material adverse effect upon their respective performance under this Agreement or their respective financial condition or business. There are no outstanding judgments against any of Operator, Team, or SS&E.
- 15.4.4. No Payments. None of Operator, Team, or SS&E has paid or given, nor will pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as the services of architects, engineers, and attorneys.
- 15.4.5. No Conflicts. No agreements contained in this Agreement by each of Operator, Team or SS&E are prohibited by nor conflict with any other agreements, instruments, judgments or decrees to which each such Party is individually party or is otherwise subject.
- 15.4.6. No Violation of Laws. As of the date of this Agreement, each of Operator, Team, and SS&E has received no notice asserting any noncompliance in any material respect by Operator with applicable statutes, rules and regulations of the United States of America, the State of Florida, or of any other state or municipality or agency having jurisdiction over and with respect to the transactions contemplated in and by this Agreement; and neither Operator, Team, or SS&E is in default with respect to any judgment, order, injunction or decree of any court, administrative agency, or other governmental authority which is in any respect material to the transactions contemplated hereby.
- 15.4.7. Environmental and Historical Conditions. During the Term of this Agreement, including any Extension Term, Operator shall (a) maintain, keep current and comply in full with any and all permits, consents and approvals required by the Environmental Laws and (b) comply with all Environmental Laws and shall not

conduct or allow any use of or activity on or under the Project Site that will violate or threaten to violate any Environmental Law; provided, however, that Operator shall have no responsibility whatsoever to comply with Environmental Laws with respect to any condition existing prior to or at the commencement of the Term and that Operator's obligations pursuant to this section shall not release County from obligations otherwise required by this Agreement. Operator shall promptly notify County if Operator has actual knowledge of any material noncompliance or potential material noncompliance with any Environmental Law or receives any written or oral notification from any governmental authority or any third party regarding any material noncompliance or threatened or potential material noncompliance with or any request for information pursuant to any Environmental Law.

15.4.8. Maintenance of NHL Franchise. Operator and County acknowledge that a material consideration for this Agreement is Operator's ability to ensure that an NHL franchise shall be a primary tenant of the Arena during the Term. Accordingly, Operator covenants that the Facility shall be maintained and managed in accordance with Comparable Arena Standards to facilitate that tenant's operations and in a manner that is consistent with Governing League Policies.

15.4.9. Public Entity Crime Act. Each of Operator, Team, and SS&E individually represents and warrants that such Party is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and such Party represents that its entry into this Agreement will not violate that statute. Each of Operator, Team, and SS&E further individually represent that there has been no determination that such Party has committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that such Party has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether the Party has been placed on the convicted vendor list.

15.4.10. Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern. Each of Operator, Team, and SS&E individually represents that it has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes, and that it is not a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes. Each of Operator, Team, and SS&E individually represents and certifies that it is not, and for the duration of the Term will not be, ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. Operator represents that it is, and for the duration of the Term will remain, in compliance with Section 286.101, Florida Statutes.

15.4.11. Prohibited Telecommunications. Each of Operator, Team, and SS&E individually represents and certifies that such Party, and their respective Subcontractors, do not use, and for the Term will not provide or use, any equipment, system, or



service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 C.F.R. §§ 52.204-24 through 52.204-26.

15.4.12. Verification of Employment Eligibility. Each of Operator, Team, and SS&E individually represents that such Party and each of their respective Subcontractors, have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If Operator, Team, or SS&E violates this section and such violation constitutes an Event of Default pursuant to Section 16.1, County may terminate this Agreement for cause in accordance with Section 16.6.1, and County shall have the rights after such termination set forth in Section 16.6.4.

15.5. Mutual Covenants.

15.5.1. Additional Documents and Approval. Whenever and as often as each shall be reasonably requested by one Party, each other Party shall execute or cause to be executed any further documents, take any further actions and grant any further approvals as may be necessary or expedient in order to consummate the transactions provided for in, and to carry out the purpose and intent of each of the Related Agreements.

15.5.2. Good Faith. In exercising their rights and fulfilling their obligations under each of the Related Agreements, the Parties shall act in good faith. Each party acknowledges that the Related Agreements contemplate cooperation between the Parties. Each Party further acknowledges that the terms and conditions of the Related Agreements together have been negotiated on the basis of certain projections and assumptions, including the assumption that the Parties will act to advance, and not unreasonably interfere with, the public purposes to be served by the Facility.

15.5.3. No Termination. No Party shall terminate this Agreement on the ground of ultra vires act or for any illegality or on the basis of any challenge to the enforceability of this Agreement. Subject to the foregoing, no such challenge may be asserted by any Party except by the institution of a declaratory action in which Operator, County, Team, and SS&E are named as parties.

15.5.4. Cooperation. The Parties mutually agree to contest any challenge to the validity, authorization and enforceability of this Agreement ("Challenge"), whether asserted by a taxpayer or any Person. The Parties shall strive in good faith to agree

jointly upon counsel to defend any such Challenge. The costs of contesting the Challenge shall be treated as a Facility Operating Expense and shall be payable from Facility Operating Revenue. However, if the nature of any Challenge is to the effect that County has acted improperly or unlawfully in executing this Agreement, then County shall pay all of the costs incurred by the parties in contesting this Challenge and any legal fees, costs and other expenses in connection with such Challenge shall be treated as a Facility Operating Expense, and if the nature of any Challenge is to the effect that Operator, Team, and/or SS&E has acted improperly or unlawfully in executing this Agreement, then the costs of the Challenge shall be treated as a Facility Operating Expense and shall be payable from Facility Operating Revenue. Furthermore, the Parties shall take all ministerial actions and proceedings necessary or appropriate to remedy any apparent invalidity, lack or defect in authorization, or illegality, or to cure any other defect, which has been asserted or threatened.

15.5.5. Notice of Matters. Should any Party receive knowledge about any matter which may constitute a breach of any of its warranties or covenants set forth herein which arises after the date hereof, it shall promptly notify every other Party of the same in writing. Specifically, without limitation, each Party shall promptly inform the others of any Proceeding referred to in Sections 16.4 and any Challenge Proceeding referred to in Section 16.4.

15.5.6. Compliance with Applicable Laws. During the Term of this Agreement, each Party shall, in connection with its own use of (and, in the case of County, its ownership of) and the exercise of its rights with respect to the Facility, comply with all Applicable Laws, ordinances, rules, and regulations relating thereto. However, Operator shall have no obligation to comply with any such laws to the extent that a violation of such laws existed on or prior to the commencement of the Term; and such obligations shall be the responsibility of County. County shall obtain and maintain all necessary permits and licenses that are required of an owner of the Facility or that are required of County Events at the Facility. Operator with the cooperation of County shall obtain and maintain all necessary permits and licenses that are required in connection with the operation of the Facility.

15.6. Survival of Covenants and Warranties. All covenants, representations, and warranties contained in this Agreement shall survive the execution and delivery of this Agreement. No action taken pursuant to or related to this Agreement, including, without limitation, any investigation by or on behalf of a Party shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, condition, or agreement herein.

## **ARTICLE 16. REPRESENTATIONS, WARRANTIES, AND COVENANTS**

16.1. Event of Default. Each of the following events constitute an Event of Default:

16.1.1. If any representation or warranty made by County or by Operator herein shall at any time prove to have been incorrect in any material respect as of the time made, and if the Party making such representation or warranty fails to cause such representation or warranty to become correct within thirty (30) days after written notice that such representation or warranty was incorrect; provided, however, that if it is not reasonably possible to cause such representation or warranty to become correct within such thirty (30) day period, such cure period shall be for an unlimited period of time if within thirty (30) days after such written notice the curing party commences diligently and thereafter continues to cause such representation or warranty to become correct.

16.1.2. If Operator breaches its obligations under the provisions of Article 5 or County or Operator shall breach its obligations under Article 11 and such breach is not cured within thirty (30) days after written notice by County to Operator or Operator to County, as applicable.

16.1.3. If County or Operator shall materially breach any of the other covenants or provisions in this Agreement other than as referred to in Section 16.1.1 or 16.1.2 and such failure is not cured within thirty (30) days after written notice; provided, however, that if it is not reasonably possible to cure such failure within such thirty (30) day period, such cure period shall be for an unlimited period of time if within thirty (30) days after such written notice the curing party commences diligently and thereafter continues to cure.

16.2. Institution of Litigation Permitted by Article 17. To the extent permitted by Article 17, in addition to any other rights or remedies, either party may institute litigation to recover damages for any Event of Default or to obtain any other remedy (including specific performance and any other kind of equitable remedy) consistent with the purposes of this Agreement. Litigation pursuant to this section shall only be instituted in the Circuit Court of Broward County, Florida or in the Federal District Court in the Southern District of Florida. County and Operator consent to the sole and exclusive jurisdiction and venue of such courts. Subject to Article 17, neither the existence of any claim or cause of action of a party, whether predicated on this Agreement or otherwise, nor the pendency of ADR (as defined in this Agreement) proceedings involving another party, shall (a) constitute a defense to specific enforcement of the obligations of such other party under this Agreement or (b) bar the availability of injunctive relief or any other equitable remedy under this Agreement.

16.3. Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Event of Default or any other Event of Default by the other Party.

16.4. Costs, Expenses, and Fees. In the event of any litigation, arbitration, or other dispute resolution proceeding (“Challenge Proceeding”) that arises from, relates to or arises in connection with County’s or Operator’s duties and obligations under this Agreement and is instituted by a Person not a party to this Agreement, Operator or County shall be entitled to advances from and to be reimbursed from Facility Operating Revenue for all costs and expenses incurred by any of them in such Challenge Proceeding, including reasonable attorneys’ fees and costs, and such costs and expenses shall be treated as Facility Operating Expenses, and any award granted to Operator or County in such Challenge Proceeding, including an award of any such costs and expenses, shall be treated as Facility Operating Revenue. In the event of any litigation, arbitration or other dispute resolution proceeding in connection with this Agreement, involving a claim against a party to this Agreement by the other party to this Agreement (“Proceeding”), (a) no party shall be entitled to advances from or to be reimbursed from Facility Operating Revenue for any costs or expenses incurred by it in such Proceeding, including reasonable attorneys’ fees or costs, (b) no such costs and expenses shall be treated as Facility Operating Expenses, (c) the prevailing party in such Proceeding shall be entitled to be reimbursed by the other party (and not from Facility Operating Revenue) for all costs and expenses incurred in such Proceeding, including reasonable attorneys’ fees and costs as may be fixed by the Circuit Court of Florida for Broward County, Florida, the Federal District Court for the Southern District of Florida, or the arbitrator, and (d) any award granted to a party in such Proceeding shall be treated as the sole property of such Party.

16.5. Acceptance of Legal Process.

16.5.1. Service on County. In the event that any legal or equitable action is commenced by Operator against County, service of process on County must be made by personal service upon the Office of the Mayor of the Board, or in such other manner as may be provided by law.

16.5.2. Service on Operator. In the event any legal or equitable action is commenced by County against Operator, service of process on Operator shall be made by personal service upon the statutory agent of the limited partnership, in the State of Florida, or in such other manner as may be provided by law.

16.6. Termination. Notwithstanding any other provision herein to the contrary, this Agreement may not be terminated by Operator or County except as specifically permitted in Sections 2.6, 3.4, 12.2, 12.3, 13.1, 13.2, 15.4.12, or 16.6.

16.6.1. Termination of Operator by County. In Section 2.6, the Parties established procedures for the replacement of Operator under certain circumstances. However, upon an Event of Default by Operator, then, provided that County is not in default of this Agreement and has caused no event to occur or condition to exist which with the passage of time or the giving of notice, or both, would constitute a default under this Agreement, County at its option may terminate Operator upon fifteen (15) days written notice to Operator. Immediately upon

such termination, County and Team shall select a replacement operator who shall be subject to the terms and conditions of this Agreement. If County and Team(s) fail to agree on a replacement operator, Operator shall continue to carry out its obligations under this Agreement (if directed to do so by County) until such time as County and Team agree on a replacement Operator.

16.6.2. Termination of Agreement by Operator. Provided that Operator is not in default of this Agreement and has caused no event to occur or condition to exist which with the passage of time or the giving of notice, or both, would constitute a default under this Agreement, Operator at its option may terminate its obligations under this Agreement after fifteen (15) days prior written notice to County if County has caused an Event of Default to occur. If Operator terminates its obligations under this Agreement for an Event of Default by County, Operator shall continue to carry out its obligations hereunder, if directed to do so by County, for a reasonable period of time to permit the selection of a replacement operator. Operator shall be entitled to a commercially reasonable fee for its services after termination.

16.6.3. Automatic Termination of Agreement. This Agreement automatically terminates upon any lawful termination by Team, Operator, or County of the License Agreement.

16.6.4. Rights After Termination of Agreement. In the event of the termination of this Agreement, County and Operator, Team and SS&E shall have no further rights against or liabilities to each other under this Agreement, except for liabilities or rights which accrued prior to termination (including, without limitation, County's payment obligation under Section 5.8). In the event of a termination by reason of an Event of Default, each party shall have available to it all of its rights and remedies under this Agreement and in law and equity.

## **ARTICLE 17. DISPUTE RESOLUTION**

In the event of any default, breach or other dispute between the Parties in connection with this Agreement (collectively, a "Dispute"), the Parties shall comply with the following procedures (all of which shall collectively be referred to as "ADR"). Within seven (7) Business Days after written request (the "Request") by either Party, the Parties promptly shall hold an initial meeting to attempt in good faith to negotiate a settlement of the Dispute. No Request concerning a Dispute may be made at any time after two (2) years following the occurrence of the event giving rise to the Dispute. If within ten (10) days after the Request, the Parties have not negotiated a settlement of the Dispute, the Parties jointly shall appoint a mutually acceptable neutral person who is not affiliated with either of the Parties (the "Neutral"). If the Parties are unable to agree upon the appointment of the Neutral within fourteen (14) days after the Request, either Party may request the American Arbitration Association or its successor ("AAA") to serve as the Neutral or to select the Neutral or may require the Parties to submit to any procedures of AAA to select the Neutral, including without limitation the selection of AAA as the Neutral. In order to resolve

the Dispute, the Parties shall develop a non-binding alternative dispute resolution procedure such as mediation or facilitation (the "Mediation") with the assistance of the Neutral. The Neutral shall make the decision as to how, when and where the Mediation will be conducted if the Parties have been unable to agree on such matters by the earlier of seven (7) Business Days after the appointment of the Neutral or twenty-one (21) days after the Request. The Parties shall participate in good faith in the Mediation to its conclusion. If the Parties resolve their Dispute through their own negotiations or in the Mediation, the resolution shall be reduced to the form of a written settlement agreement which shall be binding upon the Parties and shall preclude any litigation with respect to such Dispute. If the Parties have not resolved the Dispute through the Mediation within sixty (60) days after the Request, then at any time thereafter, and prior to resolution of the Dispute by the Mediation, upon written demand by either Party, the Mediation shall cease, and the Dispute shall be submitted to arbitration (the "Arbitration") for resolution by an arbitrator or a panel of arbitrators whose number shall be determined and who shall be selected in accordance with the rules of the AAA which Arbitration shall be conducted in accordance with the rules of the AAA. If Arbitration results in a determination by the arbitrator(s) that an Event of Default has occurred, the provisions of Article 16 shall govern the damages and other remedies which may be implemented or ordered by the arbitrator(s). Neither the requirement to utilize nor the pendency of any ADR procedures shall in any way invalidate any notices or extend any cure periods applicable to an Event of Default as provided in Article 16. Except as expressly provided elsewhere in this Agreement, these ADR procedures require the Parties to use these ADR procedures exclusively rather than litigation as a means of resolving their disputes under this Agreement or to determine the consequences of an Event of Default and the implementation of the remedies therefor as provided in Article 16. Notwithstanding any other provision of this Article 17 to the contrary, in the event a Party may wish to seek interim relief, whether affirmative or prohibitive, in the form of a temporary restraining order or preliminary injunction or other interim equitable relief concerning a Dispute including without limitation, declaratory relief, specific performance, provisional remedies, special action relief, stay proceedings in connection with special action relief or any similar relief of an interim nature, either before beginning or at any point in the ADR procedures concerning such Dispute, such Party may initiate the appropriate litigation to obtain such relief ("Equitable Litigation"). Nothing herein shall be construed to suspend or terminate the obligation of the Parties promptly to proceed with the ADR procedures concerning the Dispute that is the subject of such Equitable Litigation while such Equitable Litigation and any appeal therefrom is pending. Regardless of whether such interim relief is granted or denied, or such Equitable Litigation is pending, or any appeal is taken from the grant or denial of such relief, at all times the Parties shall diligently proceed to complete the ADR procedures. Any interim or appellate relief granted in such Equitable Litigation shall remain in effect until, and only until, the ADR procedures concerning the Dispute that is the subject of such Equitable Litigation result in a settlement agreement or the issuance of an Arbitration award. Such written settlement agreement or award shall be the binding, final determination on the merits of the Dispute (including but not limited to any equitable relief and monetary damages but excluding any award of attorneys' fees or costs rendered in the Equitable Litigation), shall supersede and nullify any decision in the Equitable Litigation on the merits of the dispute that is the subject of such Equitable Litigation, and shall preclude any subsequent litigation on such merits, notwithstanding any determination to the

contrary in connection with any Equitable Litigation granting or denying interim relief or any appeal therefrom. The Parties agree that any disputes which arise out of such a written settlement agreement or award during the term of this Agreement shall be resolved exclusively by the procedures set forth in this Article 17, provided that any Party may institute legal proceedings in a court of competent jurisdiction to enforce judgment upon an Arbitration award in accordance with applicable law. The fees and costs of the Neutral and AAA in the Mediation shall be borne equally by the Parties; provided, however, that the prevailing Party in Arbitration shall be entitled to recover from the other Party's own assets and not from Facility Operating Revenue, in addition to any other remedy, reimbursement for any costs of such proceeding, reasonable attorneys' fees, reasonable costs of investigation and any other expenses incurred in connection with such Arbitration or the Mediation of the Dispute that is the subject of such Arbitration. Any recovered costs and expenses in such Arbitration shall not be included as Facility Operating Expenses or paid from Facility Operating Revenue.

## **ARTICLE 18. GENERAL PROVISIONS**

18.1. Notice and Payment. Unless otherwise stated herein, for notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Payments from County under this Agreement shall be made to the noticed addresses for Operator, SS&E or Team, as applicable, unless otherwise specifically instructed by Operator. Addresses may be changed by the applicable Party giving notice of such change in accordance with this section.

### FOR COUNTY:

Broward County  
Attn: Broward County Administrator  
115 South Andrews Avenue, Room 409  
Fort Lauderdale, Florida 33301  
Email address: [mcepero@broward.org](mailto:mcepero@broward.org)

With a copy to:  
Broward County Finance and Administrative Services Department  
Attn: Chief Financial Officer  
115 South Andrews Avenue, Room 513  
Fort Lauderdale, Florida 33301  
Email address: [finance@broward.org](mailto:finance@broward.org)

With a copy to:  
Broward County Attorney's Office  
Attn: County Attorney  
115 South Andrews Avenue, Room 423  
Fort Lauderdale, Florida 33301  
Email addresses: [ameyers@broward.org](mailto:ameyers@broward.org) & [aashton@broward.org](mailto:aashton@broward.org)

FOR OPERATOR:  
Arena Operating Company, Ltd.  
Attn: President  
One Panther Parkway  
Sunrise, Florida 33323  
Email address: [caldwellm@floridapanthers.com](mailto:caldwellm@floridapanthers.com)

FOR TEAM:  
Florida Panthers Hockey Club, Ltd.  
Attn: President  
One Panther Parkway  
Sunrise, Florida 33323  
Email address: [caldwellm@floridapanthers.com](mailto:caldwellm@floridapanthers.com)

FOR SS&E:  
Sunrise Sports & Entertainment, LLC  
Attn: President  
One Panther Parkway  
Sunrise, Florida 33323  
Email address: [caldwellm@floridapanthers.com](mailto:caldwellm@floridapanthers.com)

With a copy in each instance to:

Florida Panthers Hockey Club, Ltd.  
Attn: General Counsel  
One Panther Parkway  
Sunrise, Florida 33323  
Email address: [legal@floridapanthers.com](mailto:legal@floridapanthers.com)

18.2. Time of the Essence. Time is of the essence with respect to the performance of each of the covenants and obligations in this Agreement.

18.3. Relationship of the Parties. No partnership, joint venture, landlord-tenant or other business relationship is established between County, Team, SS&E and Operator under this Agreement or any other agreement referred to in this Agreement other than the relationship of County as the owner of the Facility, Operator as an independent contractor of County, Team as licensee of the Facility and SS&E as the holder of all of the equity interests of Team and Operator.



Except as expressly provided in this Agreement, neither Operator, SS&E, or Team, nor their respective employees, agents, independent contractors and licensees shall be considered employees or agents of County or to have been authorized to incur any expense on behalf of County or to act for or to bind County. County, its elected officials, officers, employees, agents, and independent contractors shall not be considered employees or agents of Operator, SS&E, or Team or to have been authorized to incur any expense on behalf of Operator, SS&E, or Team or to act for or to bind Operator, SS&E, or Team. Neither County, on the one hand, nor Operator, SS&E or Team, on the other, shall be liable for any acts, omissions, or negligence on the part of the other Party, its employees, agents, independent contractors, and licensees resulting in either personal injury or property damages. The relationship created hereby is solely that of owner-independent contractor with respect to Operator, Team, and SS&E and County, and solely that of licensee created under the License Agreement with respect to Team.

18.4. Severability. If any provision of this Agreement shall be adjudged invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law, provided that no such severance shall serve to deprive any of the Parties of the enjoyment of its substantial benefits under this Agreement.

18.5. Force Majeure. Failure in performance by either Party hereunder shall not be deemed an Event of Default and the non-occurrence of any condition hereunder shall not give rise to any right otherwise provided herein when such failure or non-occurrence is due to war; insurrection; strikes; lock-outs; riots; floods; windstorms; fires; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargos; lack of transportation; governmental restrictions; unusually severe weather; acts or the failure to act, of any public or governmental agency or entity (except acts or failures to act by County); or any other causes beyond the control and without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be limited to the period of delay due to such cause, which period shall be deemed to commence from the time of the commencement of the cause, provided that, if notice by the Party claiming such extension is sent to the other Party more than thirty (30) days after the commencement of the cause, the period shall be deemed to commence thirty (30) days prior to the giving of such notice. The period of the delay due to any such cause shall be an Abatement Period. Times of performance under this Agreement may also be extended as mutually agreed upon in writing by County and Operator. However, failure to agree to a proposed extension of time for performance shall not be deemed grounds for delay or failure to timely cure an Event of Default hereunder.

18.6. Interpretations. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole,

including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated. Any reference to approval by any Party hereto shall require approval in writing, unless otherwise expressly stated.

18.7. Binding Effect. This Agreement, and the terms, provisions, promises, covenants, and conditions hereof, shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors, and assigns.

18.8. Captions. Captions and paragraph headings used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall not be deemed relevant in construing this Agreement.

18.9. Entire Agreement. This Agreement may be executed in multiple originals or in counterparts, whether signed physically or electronically; each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same agreement. This Agreement and the referenced Exhibits and Schedules, each of which is incorporated herein, together with the other agreements that constitute the Related Agreements, to the extent applicable, constitutes the entire understanding and agreement of the Parties with respect to the subject matter of this Agreement. This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

18.10. Amendment. Except as otherwise provided herein, all waivers of the provisions of this Agreement must be in writing and signed by the County Representative, the Operator Representative, and an executive officer of Team and SS&E. This Agreement may not be changed, modified, or rescinded except in writing by the County Representative, the Operator Representative, and an executive officer of Team and SS&E. Any attempt at oral modification of this Agreement shall be void and of no effect.

18.11. Waiver. From time to time during the Term, the Operator Representative, an executive officer of Team, and an executive officer of SS&E, on the one hand, and County Representative, on the other, may in its discretion, have the right, power, and authority to waive any non-material, non-economic, performance, duty, right, or benefit due Operator, SS&E, and/or Team, or County under this Agreement.

18.12. Applicable Law. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement.

18.13. Nondiscrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account of sex, marital status, race, color, creed, religion, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Project Site or the Facility. Neither Operator, nor any person claiming under or through it, shall establish or permit any such practice or practices of discrimination or segregation with reference

to the selection, location, number, use, or occupancy of licensees, sublicensees, or vendors using or operating at the Project Site or Facility, or any portion thereof.

18.14. Reasonableness. Whenever in this Agreement the consent or approval of County or Operator is required, unless expressly stated to the contrary, the granting of such consent or approval shall be governed by a standard of reasonableness. If either Party contends that the standard has not been met, the matter shall be resolved as provided in Article 17. In the event that such resolution results in the determination that the action was unreasonable, such determination shall not constitute a default of this Agreement, operate to terminate it or give rise to any right to damages as a result thereof, but the sole remedy shall be limited to specific performance and the recovery of reasonable attorneys' fees and costs (including the fee of the arbitrators) in such resolution procedure.

18.15. Third Party Beneficiaries. This Agreement does not, and is not intended to, confer any rights or remedies upon any Person other than the Parties. Notwithstanding the immediately preceding sentence, this Agreement confers rights and remedies upon Team and SS&E.

18.16. Drug-Free Workplace. If required under Section 21.23(f), Broward County Administrative Code, or Section 287.087, Florida Statutes, Operator certifies that it has and will maintain a drug-free workplace program throughout the Term.

18.17. Polystyrene Food Service Articles. Operator shall not sell or provide for use on County property expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.173, Broward County Administrative Code.

18.18. Anti-Human Trafficking. By execution of this Agreement by the undersigned authorized representatives of Operator, Team, and SS&E each attest under penalty of perjury that each Party does not use coercion for labor or services, as such terms are defined in Section 787.06, Florida Statutes; under penalties of perjury, the undersigned authorized representatives of Operator, Team, and SS&E each declares that they have read the foregoing statement and that the facts stated in it are true.

## **ARTICLE 19. LIABILITY LIMITATION**

19.1. County and Operator Personnel. Notwithstanding and prevailing over any contrary provision or implication in this Agreement, no member, elected official, official, employee, agent, or consultant of County, or limited partner, member, shareholder, partner, officer, employee, or agent of Operator or Team or SS&E shall be liable to any of the Parties hereto, or any successors in interest thereof, in the event of any default or breach by County, Operator, Team, or SS&E for any amount which may become due to any Party or any successors in interest thereof, or on any other obligation under the terms of this Agreement, except any such obligations which result from their criminal acts with respect hereto (i.e., acts which would constitute crimes were they prosecuted therefor and convicted thereof).

19.2. No Special, Indirect, Incidental, Consequential, Exemplary, Treble, or Punitive Damages. IN NO EVENT SHALL (I) ANY PARTY OR (II) ANY OF THEIR EMPLOYEES, AGENTS, SHAREHOLDERS, DIRECTORS, PARTNERS, OFFICERS, MEMBERS, MANAGERS, EMPLOYEES, AGENTS, ELECTED OR APPOINTED OFFICIALS, OR AFFILIATES, HAVE ANY LIABILITY OF ANY KIND TO THE OTHER PARTY FOR LOST PROFITS OR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, TREBLE, OR PUNITIVE DAMAGES, IN CONTRACT, TORT, OR OTHERWISE, UNDER OR AS A RESULT OF THIS AGREEMENT, EVEN IF SUCH PARTY SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE BY THE OTHER PARTY OR BY A THIRD PARTY. THE PRECEDING LIMITATION SHALL NOT BE A BASIS FOR ANY CLAIM OR ARGUMENT THAT AN ARBITRABLE DISPUTE SHOULD NOT BE ARBITRATED. NOTWITHSTANDING THE FOREGOING, THE LIMITATION OF LIABILITY PROVIDED IN CLAUSE (I) ABOVE SHALL NOT APPLY TO ANY INDEMNIFICATION FOR THIRD PARTY CLAIMS PURSUANT TO ARTICLE 10.

## **ARTICLE 20. ADDITIONAL TEAM AND/OR OPERATOR UNDERTAKINGS**

20.1. County Share of Profits Upon a Change of Control of Team and Operator During Term. If during the Initial Term a Change of Control of Team and Operator or SS&E shall occur and be concluded, in a single transaction or in a series of related transactions, the purposes of which are to effect a Change of Control, then County shall have the right to receive ten percent (10%) of the Net Profits realized by the Current Owners in such Change of Control transaction or realized collectively in such series of related transactions that have resulted in the Change of Control ("County Share"). For example, if the Current Owners conclude four related sale transactions to the same buyer or to affiliated buyers and the fourth transaction results in a Change of Control, then the County Share will equal ten percent (10%) of the Net Profits from all four sales and will be payable to County as provided in this Section 20.1. If a Change of Control occurs in the First Extension Term, the County Share shall be seven and a half percent (7.5%); and, if the Change of Control occurs in the Second Extension Term, the County Share shall be five (5%) percent. Within ten (10) Business Days following the closing of the Change of Control transaction and receipt of the purchase consideration derived in such transaction, Team and Operator shall or shall cause the Current Owners to deliver to County its certificate signed by the Current Owners of with the determination of Net Profits, together with sufficient documentary support for such determination. County shall have ten (10) Business Days to review and comment upon such Net Profit determination. Within two (2) Business Days following the agreement of County and Current Owners to the amount of Net Profits earned in the Change of Control transaction, Team shall cause to be delivered the County Share to County. Following an initial Change of Control of Team and Operator or SS&E, this Section 20.1 shall terminate and shall not be applicable to any further Change of Control transactions.

20.2. NHL Expansion Process. In the event that during the Term, the NHL undertakes and concludes a process pursuant to which the NHL awards one or more new NHL franchise(s) (an "NHL Expansion") to one or more Persons, then County is entitled to participate in any expansion fees payable to Team in connection with such NHL Expansion. The amount of expansion fees distributed to Team by the NHL in connection with an NHL Expansion in accordance with

Governing League Policies shall be referred to as the “Team Expansion Proceeds”. During the Term, Team shall pay County, out of the aggregate Team Expansion Proceeds actually received by Team from and after July 1, 2015, an amount equal to ten percent (10%) of the difference, if positive, of such aggregate amount of Team Expansion Proceeds actually received by Team from and after July 1, 2015, in excess of cumulative losses of Team and Operator on a consolidated basis for the period July 1, 2015, through June 30, 2021 (the “Measurement Period”), determined in accordance with GAAP (“County Share of Expansion Proceeds”).

20.2.1. Payment of County Share of Expansion Proceeds. Within five (5) Business Days after receipt of Team Expansion Proceeds by Team, Team shall deliver to County by wire transfer to an account designated by County, the entire amount of the County Share of Expansion Proceeds. The County Share of Expansion Proceeds will not accrue any interest from the date received by Team. If County is not entitled to any County Share of Expansion Proceeds, then Team shall retain the entire Team Expansion Proceeds.

20.2.2. Continuing Obligation. Notwithstanding a payment to County of the County Share of Expansion Proceeds, this Section 20.2 shall continue in effect and be applicable to any other NHL Expansion during the Term.

20.3. Development of Project Site. Beginning on the Effective Date and ending on July 1, 2029 (“Development Proposal Period”), Operator shall be entitled to submit for County’s consideration a plan for the development of the Project Site. Upon submission of any such plan, the Board shall, in its sole discretion, determine if the proposal is acceptable to County. If the Board determines the proposal is acceptable, County and Operator shall negotiate and enter into a new separate lease agreement governing any development at the Project Site. The lease agreement must provide that if Operator does not commence development and complete foundational construction prior to June 30, 2033, then Operator shall have no further rights to develop the Project Site. If Operator fails to submit a plan before the end of the Development Proposal Period, County shall have no further obligation to consider any plan for development of the Project Site submitted by Operator. During the Development Proposal Period, County agrees to not proceed with any submissions received of plans for the development of the Project Site from any Person other than Operator or to undertake to develop any portion of the Project Site.

20.4. County Participation in Consolidated Revenue or Consolidated EBITDA. County shall participate in the greater of (a) the Consolidated Revenue of SS&E (which includes the consolidated revenue of Team and Operator) determined according to Section 20.4.1 and 20.4.2 or (b) the Consolidated EBITDA (as such term is defined herein) of SS&E throughout the remaining Term determined according to Section 20.4.2. For the Contract Year 2024 through 2028, Consolidated Revenue of SS&E shall be calculated utilizing the Consolidated Revenue Threshold amounts in Section 20.4.1 below (the “Consolidated Revenue Threshold”). After Contract Year 2028, and prior to the commencement of the First Extension Term and Second Extension Term, the Parties shall agree to revised Consolidated Revenue Thresholds. If the Parties are unable to reach an agreement on the revised Consolidated Revenue Thresholds, either Party may submit

the issue for resolution pursuant to Article 17. Payments made to County pursuant to this Article 20 are hereinafter referred to as the “Supplemental County Preferred Revenue Payment”.

20.4.1. Consolidated Revenue Participation. Ten percent (10%) of the excess of the Consolidated Revenue (as defined below) of SS&E, to the extent such Consolidated Revenue exceeds the applicable Consolidated Revenue Threshold. For the Contract Years 2024 through 2028, the Consolidated Revenue Threshold amounts are shown on the following table:

<b>Consolidated Revenue Threshold</b>	<b>Contract Year Ending</b>
\$189,000,000	June 30, 2024
\$195,000,000	June 30, 2025
\$201,000,000	June 30, 2026
\$207,000,000	June 30, 2027
\$213,000,000	June 30, 2028

The determination of excess Consolidated Revenue over the threshold sums will be determined following each applicable Contract Year. A determination shall be made within one hundred fifty (150) days following the conclusion of each of the Contract Year. The term “Consolidated Revenue” shall mean the cumulative amount of revenue determined in accordance with GAAP as adjusted by the terms of this Agreement of SS&E in any Contract Year. In determining Consolidated Revenue, the gross revenue of Operator shall exclude the (i) Annual Contributions actually received by Operator and (ii) receipts of one-time, extraordinary revenue, such as Team Expansion Proceeds. For revenue received during NHL playoffs, any NHL mandated expenses (including the NHL’s revenue share split that the league collects) will be netted from playoffs revenue. With regard to payments which will be accounted for, in part, with deferred revenues (e.g., upfront naming rights payment or television bonus payments which have recognition of revenue when earned) in respect of transaction after the Effective Date, Consolidated Revenue shall include only the value of such payments in the audited financial statements over the term of such agreement; or

20.4.2. Consolidated EBITDA Participation. Ten percent (10%) of the consolidated EBITDA of SS&E for the relevant Contract Year. For purposes of the calculations intended in this Section 20.4.2, Consolidated Revenue shall be deemed to exclude the (i) Annual Contributions and (ii) receipts of one-time, extraordinary revenue, such as Team Expansion Proceeds. For revenue received during NHL playoffs, any NHL mandated expenses (including the NHL’s revenue share split that the league collects) will be netted from playoffs revenue. With regard to payments which will be accounted for, in part, with deferred revenues (e.g., upfront naming rights payment or television bonus payments which have recognition of revenue when earned) in respect of transaction after the Effective Date, Consolidated Revenue

shall include only the value of such payments in the audited financial statements over the term of such agreement.

20.4.3. Payment Elections; Timing of Payments. Any payment due County under this Section 20.4 shall be paid no later than seven (7) days after the agreement of the Parties as to the Supplemental County Preferred Revenue Payment for each Contract Year of the Term. SS&E, Team, and Operator shall be jointly and severally liable for the payment of the Supplemental County Preferred Revenue Payment, if any.

20.5. Signage and Other Benefits. Subject to County entering into standard agreements with Operator and/or Team with respect to the following, Operator and/or Team will provide to County, free of charge, one (1) executive suite, one (1) dasher board sign, and other in-Arena signage in mutually agreed locations for County's use in connection with the promotion of County economic development and tourism for all regular season Team home games at the Arena. Further, Team will maintain a link on its website [www.FloridaPanthers.com](http://www.FloridaPanthers.com) to the Convention and Visitor's Bureau of County.

20.6. Practice Facility. During the Term, Team acknowledges and agrees that Team's primary practice facility must remain in Broward County.

20.7. Corporate Offices. During the Term, Team acknowledges and agrees that Operator's and Team's corporate offices shall remain in Broward County.

20.8. Youth Hockey Support. Team covenants and agrees that it, its affiliates, and/or the NHL shall contribute no less than Three Hundred Thousand Dollars (\$300,000) each Contract Year during the Term toward the participation, encouragement, and support of youth hockey initiatives in Broward County. During the Initial Term, Team must contribute no less than Two Million Seven Hundred Thousand Dollars (\$2,700,000). Team acknowledges and agrees that any amounts contributed by the NHL towards youth hockey participation and initiatives with Broward County shall not reduce Team and Operator's support of youth hockey initiatives in Broward County to the same extent as it has historically provided. No less than annually, within thirty (30) days following the conclusion of each Contract Year, Team shall provide County with an accounting of its contributions of cash, ice time, equipment, uniforms, instructions, and other support provided in such Contract Year. Contributions of property and other non-cash support will be valued at the fair market value for such contributions. This annual accounting shall include the contributions of the NHL.

20.9. Philanthropic Support. Team covenants and agrees that it shall contribute no less than One Million Dollars (\$1,000,000) per Contract Year to charitable groups and community organizations that serve the residents of Broward County. Team must contribute a minimum total of Nine Million Dollars (\$9,000,000) during the Initial Term.

20.10. NHL Specialty Events. Operator and Team acknowledge and agree that it shall use its commercially reasonable efforts to seek the NHL to award at least one (1) specialty event (NHL All-Star Game, NHL Draft, Winter Classic, Global Series, etc.) to the Arena before the 2033 NHL Season. Operator agrees that it shall not request from County for any public funding support in respect of the conduct of any NHL Specialty Event.

20.11. Reimbursement of Expenses. Within thirty (30) days after County's written request (along with all invoices and other documents evidencing the incurrence of such third-party costs), Team and Operator shall reimburse County for its agreed upon, reasonable and directly related out-of-pocket third-party costs that it has incurred in connection with the negotiation, preparation, and execution of this Agreement. The costs for which County will seek reimbursement hereunder, are those outlined as service providers to County and no others, the aggregate expense of which shall not exceed Six Hundred Thousand Dollars (\$600,000).

20.12. Use of TDT Proceeds. SS&E, Team, and Operator hereby release and hold County harmless for any claim by any of them in respect of the manner in which County has used TDT proceeds, including the TDT levies imposed by County on July 1, 1996, pursuant to Section 31½-16 of the Code, prior to the execution of this Agreement.

## **ARTICLE 21. END OF TERM OBLIGATIONS**

21.1. Vacating of Premises; Re-Entry. Upon the expiration or earlier termination of this Agreement, Operator shall peaceably and quietly vacate and cease all further use of the Arena or the Facility, and leave such areas in its current condition (except for normal wear and tear or following any Casualty or Condemnation Action), free and clear of all liens created by or through it. In the event Operator does not so vacate its offices and other exclusive areas ("Operator Exclusive Areas"), and its right to use the Arena or the Facility, County, upon or at any time after any such expiration or termination, may (in addition to any other rights or remedies provided in this Agreement) without further notice, enter upon and re- enter upon Operator Exclusive Areas and take full possession thereof. If County takes any action under the preceding sentence, Operator shall be liable for all reasonable costs and expenses incurred by County in connection therewith, and County shall have the right to retain and/or sell such property to recover any such reasonable costs and expenses owed to County that Operator has failed to pay within thirty (30) days after notice of the amount due from County.

21.2. Return of Materials; Assignment of Contracts and Agreements. On or before the expiration or earlier termination of this Agreement, Operator shall return to County all manuals, drawings, plans, tools, access codes, and keys for the Arena or the Facility, including, but not limited to, the Operator Exclusive Areas then occupied by Operator. Upon the expiration or earlier termination of this Agreement, Operator shall assign to County, to the extent assignable, all of Operator's right, title, and interest in and to the agreement with the ticketing agents and any other service contracts reasonably necessary for the operation of the Arena or the Facility to which Operator is then a party, subject to any Operator claims pending thereunder as of such expiration or earlier termination.



21.3. Post-Termination Economic Rights. Upon the expiration or earlier termination of this Agreement, all rights and obligations of the Parties with respect to revenues and expenses arising before such expiration or termination shall survive.

21.4. Removal of Personalty.

21.4.1. Operator's Obligation to Remove. Operator shall have the right, but shall not be obligated, to remove any or all trade fixtures, appliances, furniture, equipment, furnishings, and other personal property owned by Operator, Team, or SS&E thereof, within thirty (30) days after the expiration or earlier termination of this Agreement; provided, however, that such right is strictly limited to any or all trade fixtures, appliances, furniture, equipment, furnishings, and such other property kept, stored, or located in the Operator Exclusive Areas. Operator shall promptly repair any damage to the Arena or the Facility, including the Operator Exclusive Areas, caused by such removal.

21.4.2. County's Right to Remove. At its option, County may either retain or dispose of any trade fixtures, appliances, furniture, equipment, furnishings, or other property owned by Operator, Team, or SS&E that remains in the Operator Exclusive Areas of the Arena or the Facility more than thirty (30) days after the expiration or earlier termination of this Agreement in any manner County determines to be necessary, desirable, or appropriate. County will not be obligated to account to Operator for any value realized through such retention or disposal.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: Broward County, through its Board of County Commissioners, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 2025; and Operator, Team, and SS&E, each signing by and through their duly authorized representatives.

COUNTY

ATTEST:

Broward County, by and through  
its Board of County Commissioners

By: \_\_\_\_\_  
Broward County Administrator, as  
ex officio Clerk of the Broward County  
Board of County Commissioners

By: \_\_\_\_\_  
Mayor  
\_\_\_\_ day of \_\_\_\_\_, 2025

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
115 South Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600

By \_\_\_\_\_  
Claudia Capdesuner (Date)  
Assistant County Attorney

By \_\_\_\_\_  
Annika E. Ashton (Date)  
Deputy County Attorney

CC  
Operating Agreement  
02/06/2025  
#1123276v32

**SECOND AMENDED AND RESTATED OPERATING AGREEMENT BETWEEN BROWARD COUNTY,  
ARENA OPERATING COMPANY, LTD., FLORIDA PANTHERS HOCKEY CLUB, LTD., AND SUNRISE  
SPORTS & ENTERTAINMENT, LLC, FOR THE BROWARD COUNTY CIVIC ARENA**

ARENA OPERATING COMPANY, LTD.

**ARENA OPERATING COMPANY, LTD.**

By: Matthew Caldwell  
Authorized Signer

Matthew Caldwell CEO  
Print Name and Title

29 day of January, 20 25

SECOND AMENDED AND RESTATED OPERATING AGREEMENT BETWEEN BROWARD COUNTY,  
ARENA OPERATING COMPANY, LTD., FLORIDA PANTHERS HOCKEY CLUB, LTD., AND SUNRISE  
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FLORIDA PANTHERS HOCKEY CLUB, LTD.

FLORIDA PANTHERS HOCKEY CLUB, LTD.

By: Matthew Caldwell  
Authorized Signer

Matthew Caldwell CEO  
Print Name and Title

29 day of January, 2025

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ARENA OPERATING COMPANY, LTD., FLORIDA PANTHERS HOCKEY CLUB, LTD., AND SUNRISE  
SPORTS & ENTERTAINMENT, LLC, FOR THE BROWARD COUNTY CIVIC ARENA**

SUNRISE SPORTS & ENTERTAINMENT, LLC

**SUNRISE SPORTS & ENTERTAINMENT, LLC**

By: *Matthew Caldwell*  
Authorized Signer

*Matthew Caldwell CEO*  
Print Name and Title

*29* day of *January*, 20 *25*

## **Index of Schedules and Exhibits**

Schedule 8.1.1, Electric Media Submittal Requirements

**Schedule 8.1.1**  
**Electric Media Submittal Requirements**  
**Preamble**

The County Representative will be utilizing electronic media as the principal way it develops, communicates, and archives information concerning Additions and Capital Repairs. To that end, Construction Documents and As-Built Plans for Additions and Repairs are required to be submitted on electronic media. The County encourages Building Information Model (BIM) based design and documentation to the maximum extent possible. For Additions and Capital Repairs utilizing BIM delivery, Operator will include native format and IFC BIM deliverables, with any supplementary two-dimensional (2D) deliverables to be derived from the model. Further, it is the intent of the County to require open-standard facility management data as a project deliverable at all milestones. Requirements for that media are presented below.

**Section 1. Definitions and Identifications**

The following definitions and identifications set forth below apply unless the context in which the word or phrase is used requires a different definition:

- 1.1 **BIM:** Building Information Model(ing). BIM is not a specific product or technology, instead it's a collection of software applications designed to facilitate coordination and project collaboration. BIM is also a process for developing design and construction documentation by virtually constructing a building, bridge or other form of infrastructure before anything is built.
- 1.2 **CAD or CADD:** Computer Aided Design and Drafting
- 1.3 **COBie:** Construction Operations Building Information Exchange specifications as administered through the buildingSMART alliance, National Institute of Building Sciences, Washington, DC. [https://www.nibs.org/?page=bsa\\_cobie](https://www.nibs.org/?page=bsa_cobie).
- 1.4 **Compatible Data:** Data that can be accessed directly by the target BIM or CADD system upon delivery to the County, without further translation or post-processing of the electronic digital data files. It is the responsibility of Consultant to ensure this level of compatibility.
- 1.5 **IFC:** Interoperability Foundation Classes, open sharable standards for building information as defined by the buildingSMART alliance, National Institute of building Sciences, Washington, DC. <http://www.buildingsmart.org/compliance/certified-software>.
- 1.6 **LOD:** Level Of Development Specification for Building Information Models. See Attachment 1a- BIM Standards of Care and the BIMForum LOO Specification for additional information <https://bimforum.org/resource/lod-level-of-development-lod-specification/>.

## Section 2. Electronic Media

### 2.1 General Requirements:

2.1.1 All work, including drawings, surveying work, maps, details, or other drawing information to be provided in electronic media by Consultant shall be accomplished and developed using Computer-Aided Design and Drafting (CADD), or Building Information Modeling (BIM), or a coordinated combination of both as determined by the County Representative and may also include other software and procedures conforming to the following criteria.

### 2.2 BIM and CADD Graphic Formats:

2.2.1 Provide all BIM and CADD data in any of the following software formats:

- a. Autodesk, Inc. Revit 2014 or higher.
- b. Autodesk, Inc. AutoCAD release 2014 or higher.
- c. Alternative compatible BIM software formats that conform to the requirements of Section 2.2 of this Attachment 1 if accepted in writing by the County Representative.
- d. Alternative compatible CADD software formats that conform to the requirements of Section 2.2 of this Attachment 1 if accepted in writing by the County Representative.

2.2.2 BIM data required for submittals shall be provided in native .rvt format as well as .ifc format in conformance with IFC (Industry Foundation Classes) IFC2X3 V.2.0 or higher, as established by the buildingSMART International Alliance for Interoperability. Use of BIM vendor's or systems that incorporate the International Alliance for Interoperability IFC standard above must be approved in writing in advance by the County Representative and comply with this Attachment.

2.2.3 Building Positioning to be accomplished for the intended project site by using "Auto – by Shared Coordinates" process or similar. Obtain State Plane Coordinates from Project survey information and utilize this same positioning process for all BIM files.

2.2.4 CADD data required for Contract submittals shall be provided in native .dwg format or be contained within the structure of the BIM data required in Section 2.2.2.

2.2.5 Copies of all BIM drawing sheets or other CADD submittals intended for hardcopy plotting or printing shall be provided by in portable document formation (pdf). Final document submittals must also include drawing web format (.dwf). Final document submittals must also include drawing web format (.dwf) electronic media of above.

- a. Operator must ensure that all digital files and data (e.g., constructs, elements, base files, prototype drawings, reference files and images, blocks, attribute links, pen settings, and all other files external to the drawing itself) are compatible with the County Representative's target BIM and/or CADD system (i.e., BIM and CADD software, platform, database software), and adhere to the



standards and requirements specified herein.

2.2.6 Target platform: A personal computer with Windows 7 operating system that meets or exceeds the minimum manufacturer's requirements to operate the version of software utilized for the project.

2.2.7 Any non-graphical database delivered with prepared drawings must be provided in relational database format compatible with Microsoft Access 2010 or higher, or other compatible SQL format database. All database tables must conform to the structure and field-naming guidance provided upon request by the County Representative.

a. Maintain all linkages of non-graphical data with graphic elements, relationships, between database tables, and report formats.

2.2.8 BIM Content:

a. Provide all Building Information Modeling (BIM) models in conformance to the General Service Administration's (GSA) "Building Information Modeling Guide 02-Spatial Program Validation," dated May 21, 2015, or later. Provide space identification, charts and information in conformance with this Guide.

b. See also Attachment-1a, BIM Standards of Care.

2.2.9 CADD Standards:

a. Standard plotted drawing size: 24 inch x 36 inch sheets.

b. Coordinate with the County Representative concerning the standard file naming protocol to be utilized.

c. Drawing Set Organization and Sheet Identification per the United States National CAD Standard – V5. Provide dots in lieu of dashes at all uses.

2.2.10 CADD Layering:

a. Conform to the guidelines defined by the American Institute of Architect's (AIA) standard document, "CAD Layer Guidelines," 2nd edition or later.

b. Layering: The County Representative may, from time to time, supplement the AIA CAD Layer Guidelines with the County Representative's specific requirements for Facilities Management and other related information. Obtain latest County Representative specific layering from County Representative prior to production of documents and incorporate into drawings.

2.2.11 Attribute Definitions:

a. Obtain latest guidance from the County Representative concerning attribute definition, database linking and other information embedding requirements prior to production of documents.

2.2.12 Deviations from Standards:

a. Submit a written request for approval of any deviations from the County Representative's established electronic media standards. Pre-coordinate the

development, use, and submittal of 3-D modeling, Building Information Models (BIM), photo-realistic renderings, animations, presentations, and other visualization/information tools utilized during the design and construction process to ensure compatibility of submittal with County's uses and information systems.

b. No deviations from the County Representative's established BIM/CADD standards will be permitted unless prior to written approval of such deviation has been received from the County Representative.

2.3 Non-BIM/CADD Graphic Format:

2.3.1 Provide digital photography files and other miscellaneous graphics in JPEG or PNG format.

2.4 Non-Graphic Format:

2.4.1 Provide word processing files in Microsoft Word 2013 or higher compatible file formats including all fonts, typefaces, bit-map and vector graphics and other information necessary for remote printing.

2.4.1.1 Provide spreadsheet files in Microsoft Excel 2013 or higher for windows compatible file formats including all fonts, typefaces, bit-map and vector graphics, and other information necessary for remote printing.

2.4.1.2 Provide database files in relational database format compatible with Microsoft Access 2010 or higher, or other compatible SQL format database including all tables, form and report formats, fonts, typefaces, bit-map and vector graphics, and other information necessary for remote printing. Ensure integrity of relational database structure.

2.5 Delivery Media and Format:

2.5.1 Submit copies of all BIM/CADD data and other electronic files developed under this Agreement on electronic digital media as required for project phase submittals.

2.5.2 Provide electronic digital data and files on labeled CD or DVD media. Flash drives are acceptable alternatives and shall contain identifying County project information in their disk name. Other media will not be accepted without County Representative's approval.

2.5.3 The electronic digital media shall be in the format which can be read and processed by the County Representative's target CADD or BIM system.

2.5.4 The external label for each electronic digital media shall contain, as a minimum, the following information:

- a. The Project Number, Project Title and date.
- b. The Facility Name.
- c. The format and version of operating system software.
- d. The name and version of utility software used for preparation (e.g.,

compression/decompression) and copying files to the media.

e. A list of the file names (a separate sheet will be accepted).

2.5.5 Before a BIM/CADD file is placed on the delivery electronic digital media, the following procedures shall be performed:

a. Ensure that drawing sheets, viewports, paperspace, line weights, fonts, and other drawing components are correctly configured for County Representative's viewing and plotting.

b. Make sure all reference files are attached without device or directory specifications.

c. Compress and reduce all design files using PKZIP, WINZIP, or other compatible file compression/decompression software approved by the County Representative. If the file compression/decompression software is different from that specified above, then an electronic digital media copy of the file compression/decompression software shall be purchased for the County Representative and provided to the County Representative with the delivery media.

d. Include all files, both graphic and non-graphic, required for the project (i.e., color tables, pen tables, font libraries, block libraries, user command files, plot files, and other elements of drawing definition). All blocks not provided as County Representative-furnished materials must be provided to the County Representative as a part of the electronic digital deliverables.

e. Make sure that all support files such as those listed above are in the same directory and that references to those files do not include device or directory specifications.

f. Include any standards sheets (i.e., abbreviation sheets, standard symbol sheets, or other listing) necessary for a complete project.

g. Document any fonts, tables, or other similar customized drawing element developed by Consultant or not provided among the County Representative-furnished materials. Operator shall obtain County Representative approval before using anything other than the County Representative's standard fonts, linetypes, tables, blocks, or other drawing elements available from the County Representative.

## 2.6 Submittals:

2.6.1 Submit as Project Record Documents specified above and as required for project phase submittals and project record documents.

2.6.2 Submit electronic media with a transmittal letter containing, as a minimum, the following information:

a. The information included on the external label of each media unit (e.g., CD, DVD, flash drive, etc.), along with the total number being delivered, and a list of the names and issue dates of all files on the media.

b. Confirm that all delivery media are free of known computer viruses and

malware. The release or version date of the virus-scanning software shall be the current version that has detected the latest known viruses at the time of delivery of the digital media.

c. The following "Plot File Development and Project Documentation Information" as an enclosure or attachment to the transmittal letter provided with each electronic digital media submittal:

- i. List of all new figures, symbols, tables, schedules, details, and other blocks created for the project, which were not provided to Consultant with the County Representative-furnished materials, and any associated properties.
- ii. List of all database files associated with each drawing, as well as a description and documentation of the database format and schema design.
- iii. Recommended modifications which will be necessary to make the data available for GIS use.

## 2.7 Ownership:

2.7.1 County will have unlimited rights under the Agreement of which this document is a part to all information and materials developed under these and other contractual requirements and furnished to the County Representative and documentation thereof, reports, and listings, and all other items pertaining to the work and services pursuant to this agreement including any copyright.

2.7.2 Unlimited rights under this Agreement are rights to use, duplicate, or disclose text, data, drawings, and information, in whole or in part in any manner and for any purpose whatsoever without compensation to or approval from Operator except where otherwise limited within the Agreement.

2.7.3 The County Representative will at all reasonable times have the right to inspect the work and will have access to and the right to make copies of the above-mentioned items.

2.7.4 All text, electronic digital files, data, and other products generated under this Agreement shall become the property of County except where otherwise limited within the Agreement.

## 2.8 County Representative-Furnished Materials to the Construction Contractor:

2.8.1 The County Representative and Operator may make various electronic information available to the contractor during the pre-construction and construction phases of the Project. To this end, Operator shall make the following information available to the contractor in electronic format:

- a. Work-files: Selected work product files, copies of BIM and/or CAD files, reports, spreadsheets, databases, specifications, drawings and other documentation of work in progress may be provided to the contractor on an as required basis. Operator shall cooperate and facilitate the exchange of these electronic media documents.

b. Where electronic media submittals of final site surveys are required: Provide electronic copies of any existing site survey data already on electronic media conforming to Section 2.2 of this Attachment.

c. Where Electronic Project Record Documents are required, Operator will provide the contractor one set of contract drawings in an electronic file format conforming to Section 2.2 of this Attachment, to be used for as-built drawings at the contractor's option. Make electronic file drawings available on media in conformance with Section 2.5 of this Attachment.

2.9 Other Digital Information:

2.9.1 A variety of digital information may be generated by participants in the design process including the County Representative, Operator, subconsultants, contractor, subcontractors, the commissioning authority, local jurisdictional authorities and other project team members.

2.9.2 Operator shall facilitate and participate in this digital exchange of information by conforming to the standards expressed above.

**End of Attachment 1: Electronic Media Submittal Requirements**

**General Professional Services Agreement**  
**ATTACHMENT 1a:**  
**BIM Standards of Care**

**General Provisions.**

The Model shall be developed to include the systems described below as they would be built, the processes of installing them, and to reflect final as-built construction conditions. The deliverable Model at all phases shall be developed to include as many of the systems described below as are necessary and appropriate to the design stage. The BIM Model shall be provided in an editable form and from its inception shall include automatic model positioning using a common reference point (Point of Origin), based on “Florida State Plane Coordinates” derived from the project survey.

The Model shall be developed using Building Information Modeling (“BIM”) supplemented with Computer Aided Design (“CAD”) content as necessary to produce a complete set of Construction Documents.

The following Level of Development (LOD) descriptions are summaries of Level of Development Specification for Building Information Models as developed by BIMForum. (<http://bimforum.org/lod>). LOD identifies the specific content requirements and associated authorized uses for each Model Element at six progressively detailed levels of completeness. Each subsequent LOD builds on the previous level and includes all the characteristics of previous levels.

The parties shall utilize the appropriate Levels of Development (LOD) described below in completing the Model, which establishes the required LOD for each Model Element at each phase of the Project. The following list is a simplified summary of the adopted Levels of Development:

- 100 – Conceptual symbols
- 200 – Approximate geometry, Generic systems
- 300 – Precise geometry with clearances
- 350 – Precise geometry interfaces, clash detection with subcontractor input
- 400 – Fabrication/Installation Detail (shop drawings)
- 500 – As-built field verification

**LEVEL OF DEVELOPMENT (LOD) – EXPANDED DESCRIPTIONS**

**LOD 100:** Schematic Phase (Basic Service)

Model Content Requirements: Overall building massing indicative of area, height, volume, location, and orientation may be modeled in three dimensions or represented by other data.

**Potential Uses**

- a. Analysis: The Model may be analyzed based on volume, all spaces, area, and orientation by application of generalized performance criteria assigned to the representative Model Elements.

- b. Cost Estimating: The Model may be used to develop a cost estimate based on current area, volume or similar conceptual estimating techniques (e.g., square feet of floor area, etc.)
- c. Schedule: The Model may be used for project phasing and overall duration.

**LOD 200:** Design Development Phase (Basic Service)

Model Content Requirements: Model Elements are modeled as generalized systems or assemblies with approximate quantities, size, shape, location, and orientation. Non-geometric information may also be attached to Model Elements. Partitions and simple furniture models shall be included at this phase.

**Potential Uses**

- a. Analysis: The Model may be analyzed for performance of selected systems by application of generalized performance criteria assigned to the representative Model Elements.
- b. Cost Estimating: The Model may be used to develop cost estimates based on the approximate data provided and conceptual estimating techniques (e.g., volume and quantity of elements or type of system selected).
- c. Schedule: The Model may be used to show ordered, time-scaled appearance of major elements and selected systems.

**LOD 300:** Construction Document Phase 75% or 100% (Basic Service)

Model Content Requirements: Model Elements are modeled as specific assemblies accurate in terms of quantity, size, shape, location, and orientation. Non-geometric information may also be attached to Model Elements.

Facility Management Information: Consultant will be required to input all new products installed under the scope of work for this project in conformance with an agreed upon list in Omniclass Table 23 format per Table 1 herein. County and Operator to meet to refine the scope of the COBie information following issuance of the Schematic Phase NTP.

**Potential Uses**

Suitable for the generation of traditional construction documents and shop drawings.

- a. Analysis: The Model may be analyzed for performance of selected systems by application of specific performance criteria assigned to the representative Model Elements.
- b. Cost Estimating: The Model may be used to develop cost estimates based on the specific data provided and industry estimating techniques.
- c. Schedule: The Model may be used to show ordered, time-scaled appearance of detailed elements and systems.
- d. Clash Detection: The Model may be used to identify architectural and engineering conflicts for primary systems and elements. Areas of study include HVAC ductwork and equipment, structural elements, above ground plumbing and drainage piping, fire sprinklers and risers.

**LOD 350:** Construction Phase (Contractor to provide this LOO using Consultants model unless County elects Consultant to provide as Optional Service)

Model Content Requirements: Model Elements are modeled as constructed assemblies actual

and accurate in terms of size, shape, location, quantity, and orientation. Clearances and access requirements to be included in model elements where applicable, (e.g. VAV access, HVAC access panels, equipment door swings, maintenance panel access, etc.). Non-geometric information may also be attached to modeled elements.

Facilities Management information: Operator to provide complete BIM model(s) to contractor for its use containing Construction Operations Building Information Exchange (COBIE) standards in conformance with Table 1 herein. Contractor to complete COBie information in accordance with LOD 500.

### **Potential Uses**

- a. Clash Detection: The Model may be used to coordinate the configuration, installation and positioning of all building elements.
- b. Facility Management: The Model may be utilized for maintaining, altering, and adding to the project. Update and confirm preliminary COBie data.
- c. Analysis: The Model may be analyzed for performance of selected systems by application of specific performance criteria assigned to the representative Model Elements.
- d. Cost Estimating: The Model may be used to develop cost estimates due to change in project scope based on the specific data provided and estimating techniques.
- e. Schedule. The Model may be used to show ordered, time-scaled appearance of detailed elements and systems.

### **Detailed BIM Delivery Breakdown for Level 300 and 350:**

1. **Architectural/Interior Design**. The Architectural systems Model may vary in level of detail for individual building elements, but at a minimum the model must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Additional minimum Model requirements include:
  - a. **Spaces**. The Model shall include spaces defining actual net square footage and net volume and holding data to develop the room finish schedule including room names and numbers. Include program information to verify design space against programmed space, using this information to validate area quantities.
  - b. **Walls and Curtain Walls**. Each wall shall be depicted to the exact height, length, width, materiality and ratings (thermal, acoustic, fire) to properly reflect wall types. The Model shall include all walls, both interior and exterior, and the necessary intelligence to produce accurate plans, sections and elevations depicting these design elements.
  - c. **Doors, Windows, and Louvers**. Doors, windows and louvers shall be depicted to represent their actual size, type and location. Doors and windows shall be modeled with the necessary intelligence to produce accurate window and door schedules.
  - d. **Roof**. The Model shall include the roof configuration, drainage system, penetrations, specialties, and the necessary intelligence to produce accurate



plans, building sections and wall sections where roof design elements are depicted.

- e. **Floors.** The floor slab(s) shall be developed in the Structural Model and then referenced by the Architectural Model.
  - f. **Ceilings.** All heights and other dimensions of ceilings, including soffits, ceiling materials, or other special conditions shall be depicted in the Model with the necessary intelligence to produce accurate plans, building sections and wall sections where ceiling design elements are depicted.
  - g. **Vertical Circulation.** All continuous vertical components (i.e., non-structural shafts, architectural stairs, handrails and guardrails) shall be accurately depicted and shall include the necessary intelligence to produce accurate plans, elevations and sections in which such design elements are referenced.
  - h. **Architectural Specialties.** All architectural specialties (i.e., toilet room accessories, toilet partitions, grab bars, lockers, and display cases) and millwork (i.e., cabinetry and counters) shall be accurately depicted with the necessary intelligence to produce accurate plans, elevations, sections and schedules in which such design elements are referenced.
  - i. **Signage.** The Model shall include all sign age and the necessary intelligence to produce accurate plans and schedules.
  - j. **Schedules.** Provide door, window, hardware sets using Builders Hardware Manufacturers Association (BHMA) designations, flooring, wall finish, and signage schedules from the Model, indicating the type, materials and finishes used in the design.
2. **Furniture.** The furniture Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing, and have necessary intelligence to produce accurate plans. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Representation of furniture elements is to be 3D. Examples of furniture include, but are not limited to, desks, furniture systems, seating, tables, and office storage.
- a. **Furniture Coordination.** Furniture that makes use of electrical, data or other features shall include the necessary intelligence to produce coordinated documents and data. Models shall be sufficient to enable their use to demonstrate complete furniture mounted electrical and data installation locations.
3. **Equipment.** The Model may vary in level of detail for individual elements. Equipment shall be depicted to meet layout and clearance requirements with the necessary intelligence to produce accurate plans and schedules, indicating the configuration, materials, finishes, mechanical, electrical requirements and all other related utilities. Examples of equipment include but are not limited to copiers, printers, refrigerators, ice machines, microwaves, and equipment specifically related to the operations and functions of the facility.
- a. **Schedules.** Provide furniture and equipment schedules from the model indicating the materials, finishes, mechanical, and electrical requirements.

4. **Structural.** The Structural systems Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Additional minimum Model requirements include:
  - a. **Floor Slabs.** Structural floor slabs shall be depicted with all necessary recesses, curbs, pads, closure pours, and major penetrations accurately depicted. Major penetrations shall include A/C duct chases and pipes larger than 6" dia. only.
  - b. **Structural Steel.** All steel columns, primary and secondary framing members, and steel bracing for the roof and floor systems (including decks), including all necessary intelligence to produce accurate structural steel framing plans, related building/wall sections, and schedules.
  - c. **Cast-in-Place Concrete.** All walls, columns, beams, including necessary intelligence to produce accurate plans and building/wall sections, depicting cast-in-place concrete elements.
  - d. **Precast/Tilt up/CMU.** All walls, columns, beams, including necessary intelligence to produce accurate plans and building/wall sections, depicting such elements.
  - e. **Expansion Joints.** Joints shall be accurately depicted.
  - f. **Shafts.** All shafts, including necessary intelligence to produce accurate plans and building/wall sections depicting these design elements.
  - g. **Openings and Penetrations.** All major openings and penetrations that would be included on a quarter inch (1/4"=1'0") scaled drawing.
  
5. **Mechanical.** The Mechanical systems Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Small diameter (less than 1-1/2" NPS) field-routed piping is not required to be depicted in the Model. Additional minimum Model requirements include:
  - a. **HVAC.** All necessary heating, ventilating, air-conditioning and specialty equipment, including air distribution for supply, return, ventilation and exhaust ducts, control systems, chillers, registers, diffusers, grills, and hydronic baseboards with necessary intelligence to produce accurate plans, elevations, building/wall sections and schedules.
  - b. **Mechanical Piping.** All necessary piping and fixture layouts, and related equipment, including necessary intelligence to produce accurate plans, elevations, building/wall sections, and schedules.
  
6. **Plumbing.** All necessary plumbing piping and fixture layouts, floor and area drains, and related equipment, including necessary intelligence to produce accurate plans, elevations, building/wall sections, riser diagrams, and schedules.
  - a. **Equipment Clearances.** All Mechanical equipment clearances shall be modeled for use in interference management and maintenance access requirements.

- b. **Elevator Equipment.** All necessary equipment and control systems, including necessary intelligence to produce accurate plans, sections and elevations depicting these design elements.
7. **Electrical/Telecommunications/Data.** The Electrical and Telecommunications systems Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch {1/4"=1'0"} scaled drawing. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Small diameter (less than 1-1/2"Ø) field-routed conduit is not required to be depicted in the Model. Additional minimum Model requirements include:
- a. **Interior Electrical Power and Lighting.** All necessary interior electrical components (i.e., lighting, receptacles, special and general purpose power receptacles, lighting fixtures, panel boards, cable trays and control systems), including necessary intelligence to produce accurate plans, details and schedules. Lighting and power built into furniture/equipment shall be modeled.
  - b. **Special Electrical.** All necessary special electrical components (i.e., security, mass notification, public address, nurse call and other special electrical occupancy sensors, and control systems), including necessary intelligence to produce accurate plans, details and schedules.
  - c. **Grounding.** All necessary grounding components (i.e., lightning protection systems, static grounding systems, communications grounding systems, and bonding), including necessary intelligence to produce accurate plans, details and schedules.
  - d. **Telecommunications/Data.** All existing and new telecommunications service controls and connections, both above ground and underground, with necessary intelligence to produce accurate plans, details and schedules. Cable tray routing shall be modeled without detail of cable contents.
  - e. **Equipment Clearances.** All Electrical equipment clearances shall be modeled for use in interference management and maintenance access requirements.
8. **Fire Protection.** The fire protection system Model may vary in level of detail for individual elements, but at a minimum must include all features that would be included on a quarter inch (1/4"=1'0") scaled drawing. Where applicable and as required for construction documents, the model, or host platform will include additional scales as required to show necessary details. Small diameter (less than 1-1/2" NPS) field-routed piping is not required to be depicted in the Model. Additional minimum Model requirements include:
- a. **Fire Alarms.** Fire alarm/mass notification devices and detection system shall be indicated with necessary intelligence to produce accurate plans depicting them.
  - b. **Fire Protection System.** All relevant fire protection components (i.e., branch piping, sprinkler heads, fittings, drains, pumps, tanks, sensors, control panels) with necessary intelligence to produce accurate plans, elevations, building/wall sections, riser diagrams, and schedules. All fire protection piping shall be modeled.

**LOD 400:** BIM for Construction Administration (Optional Service).

**LOD 500:** BIM for Facility Management (Contractor agreements only).

LOD 500 BIM shall be provided by Contractor or Managing General Contractor (MGC). Contractor or MGC shall submit a fully complete LOD 500 BIM model to the A/E Consultant for the extraction of COBie in Excel format.

Model Content Requirements: Model Elements are modeled as constructed assemblies actual and accurate in terms of size, shape, location, quantity, and orientation. Non-geometric information may also be attached to modeled elements. Facilities Management information completed with all requested information developed to Construction Operations Building Information Exchange (COBIE) and LOD 500 standards.

**Potential Uses**

- a. Facility Management. The Model may be utilized for maintaining, altering, and adding to the Project.
- b. Project Record Documents. As-built data accurately portrayed in the BIM model for future reference and reuse.

**COBie Data**

Within 30 days from the issuance of NTP, during PHASE I - Schematic Design, Testing & Analysis Phase, the County and Operator shall finalize and select items from the following Omniclass 23 table to establish the basis of COBie elements to be tracked and delivered in the completed model.

23-13	Structural and Exterior Enclosure Products
23-15	Interior and Finish Products
23-17	Openings, Passages and Protection Products
23-21	Furnishings, Fixtures and Equipment Products
23-23	Conveying Systems and Material Handling Products
23-27	General Facility Services Products
23-29	Facility and Occupant Protection Products
23-31	Plumbing Specific Products and Equipment
23-33	HVAC Specific Products and Equipment
23-35	Electrical and Lighting Specific Products and Equipment
23-37	Information and Communication Specific Products and Equipment

Table 1.0 – Selected Excerpt from Omniclass Table 23

**End of Attachment 1a: BIM Standards of Care**