

RESOLUTION

**CAPITAL IMPROVEMENT BOARD OF MANAGERS
OF MARION COUNTY, INDIANA**

WHEREAS, the Capital Improvement Board of Marion County, Indiana (the "CIB") is authorized by its enabling statute, Indiana Code § 36-10-9, to finance, construct, equip, operate and maintain any capital facilities or improvements of general public benefit or welfare which promote and serve the commercial, industrial and cultural interests of Indiana and its citizens;

WHEREAS, the CIB is authorized pursuant to Indiana Code § 36-10-9-6 to, among other things, acquire real property by lease or otherwise and lease or otherwise dispose of real property as is necessary or convenient for the exercise of its powers; construct, reconstruct, repair, remodel, enlarge or extend or add to any capital improvement built or acquired by the CIB; control and operate a capital improvement, including leasing all or part thereof; and make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under its enabling statute;

WHEREAS, the CIB currently leases (i) the professional baseball facility known as Victory Field (the "Facility") from the Marion County Convention and Recreational Facilities Authority ("MCCRFA") and (ii) the fourteen (14) acre tract of land upon which the Facility is constructed (the "Land") from the Indiana White River State Park Development Commission ("WRSP"). The CIB in turn subleases the Facility and the Land to the Indians, Inc. d/b/a Indianapolis Indians (the "Indians"). The terms of such lease and sublease documents expire on March 31, 2016. Upon the expiration of such terms, the Facility will become the property of WRSP;

WHEREAS, after lengthy negotiations between representatives of the CIB, the Indians and the WRSP, the parties have reached agreement as to the terms, conditions and provisions of (i) a Lease pursuant to which the WRSP will lease the Facility and the Land (collectively, the "Leased Premises") to the CIB (the "Lease"), and (ii) a Sublease Agreement pursuant to which the CIB will sublease the Leased Premises to the Indians (the "Sublease");

WHEREAS, the CIB believes it would be in the best interest of the CIB, the City of Indianapolis, Marion County, the State of Indiana and the citizens thereof to lease the Leased Premises from the WRSP and in turn sublease the Leased Premises to the Indians, on substantially the terms set forth in the Lease and Sublease, copies of which have been presented; and

WHEREAS, the CIB desires to approve and execute the Lease and Sublease.

NOW, THEREFORE, BE IT RESOLVED BY THE CAPITAL IMPROVEMENT BOARD OF MANAGERS OF MARION COUNTY, INDIANA AS FOLLOWS:

1. It is in the best interests of the CIB, the City of Indianapolis, Marion County, the State of Indiana and the citizens thereof that the CIB lease the Leased Premises from the WRSP and in turn sublease the Leases Premises to the Indians. The CIB hereby approves the Lease and

Sublease in the forms that have been presented and with such changes as are approved by the President or Vice President.

2. The President or Vice President and each of them is hereby authorized to execute the Lease and Sublease in the forms presented and with such changes as are approved by the President or Vice President, and to take all such actions and execute all such instruments as are desirable to carry out the transactions contemplated by or resulting from the Lease, the Sublease and this Resolution, in such forms as the President or Vice President executing the same shall deem proper, to be conclusively evidenced by the execution thereof.

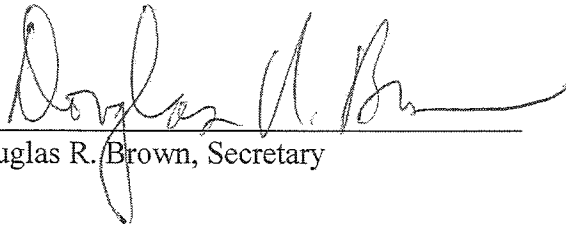
Adopted this 12th day of October, 2015.

CAPITAL IMPROVEMENT BOARD OF
MANAGERS OF MARION COUNTY



Earl A. Goode, President

Attest:



Douglas R. Brown, Secretary

SUBLEASE AGREEMENT

This Sublease Agreement (“Sublease” or “Agreement”) is made and entered into this _____ day of _____, 2015, by and between the CAPITAL IMPROVEMENT BOARD OF MANAGERS OF MARION COUNTY, INDIANA (the “Board”) and the INDIANS, INC., d/b/a INDIANAPOLIS INDIANS (the “Team”).

WHEREAS, the Team has been granted a franchise by the International League to play minor league baseball in Indianapolis, Indiana (the “City”);

WHEREAS, the Board has entered into a long-term lease agreement (“Lease”) concurrently with the date hereof with the Indiana White River State Park Development Commission (“Commission”) for a certain approximately fourteen (14) acre parcel of land located west of West Street and south of Maryland Street in the City, which site is owned by the Commission and described on Exhibit A attached hereto (the “Real Estate”) and all improvements thereon including a professional baseball facility (the “Facility”). Said Real Estate, the Facility and all other improvements thereon and thereto, and all appurtenances thereto collectively are referred to herein as the “Leased Premises;” and

WHEREAS, the parties desire to enter into a sublease arrangement of the Leased Premises.

NOW, THEREFORE, in consideration of the foregoing, the terms and conditions hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I **CERTAIN DEFINITIONS**

Section 1.1. Facility.

The “Facility” consists of the professional baseball facility on the Real Estate, including,

but not limited to, the spectator and press areas, dugouts, locker rooms, clubhouses, suites, batting tunnels, bullpens, offices, scoreboards, field lighting, signage, concession and point-of-sale areas and box office and other improvements, including parking and loading areas and vehicular and pedestrian accessways serving same.

The parties agree that the Team shall provide all furniture, fixtures and equipment necessary to equip the Facility for its intended usage by the Team; and (i) such furniture and equipment, (ii) the primary scoreboard fixture and (iii) the concession equipment fixtures provided by the Team or its concessionaire shall remain the property of the Team. The Team agrees that any such removal of such furniture, equipment and fixtures shall be performed in a professional manner and with any damage to the Facility being repaired by the Team. The Team hereby accepts the Leased Premises in its present “as is” condition.

Section 1.2. Activities.

The “Activities” shall consist of all events (baseball and non-baseball, including, but not limited to, public or private events for Team sponsors and events ancillary to Super Bowls, Final Four, NCAA or conference tournaments) selected by the Team throughout the year, subject to the Board Usage Dates.

Section 1.3. Board Usage Dates.

The “Board Usage Dates” shall consist of no more than thirty (30) days per year whereby the Board shall have the right to use the Facility rent free (except for payment of One Hundred Eight Percent (108%) of the Team’s out-of-pocket costs (“Usage Fee”)); provided that such use shall not interrupt or compete with the Activities.

Section 1.4. Team’s Out-of-Pocket Costs.

The Team’s “out-of-pocket” costs shall be defined as all utilities charges, staffing, box

office and cleanup expense, and any and all other expenses or costs incurred by the Team as a direct result of the Board's usage of the Facility.

ARTICLE II **COMMITTEE**

Section 2.1. Committee.

(a) The Team, the Board and the Commission shall appoint a Committee consisting of representatives of the Board, the Team and the Commission ("Committee") as set forth below. It is intended that the Committee shall (to the extent not otherwise prohibited hereby) (i) work to resolve objections under Section 3.1 of the Lease, (ii) review and make building insurance coverage recommendations requested by the Board under Section 6.1(a), (iii) review and make excess or umbrella insurance coverage recommendations requested by the Board under Section 6.1(i), and (iv) consider requests from the Team or the Board to create a security interest or other lien against any improvements, additions or other construction with respect to the Leased Premises as provided in Section 9.1(b) of the Lease. Notwithstanding the rights and obligations of the Board and the Committee as herein described, the Team expressly acknowledges the right of the Commission to work to resolve objections concerning certain aspects of the Facility as set forth in Section 3.1 of the Lease.

(b) The Board shall appoint three (3) members of the Committee, the Team shall appoint one (1) member and the Commission shall appoint one (1) member. The Board's representatives on the Committee shall be members of the Board. The Team's member shall be a member of the Team's Board of Directors and the Commission's member shall be its Executive Director. The Committee will not meet regularly, but shall meet from time to time at the Indiana Convention Center upon the written request of any Committee member, at date(s) and time(s) mutually agreed upon by Committee members. The Board and Team agree to use

their best efforts to cause their representatives to make time in their schedules for such meetings. Notwithstanding the above, the Committee shall have no authority to modify the rights and obligations of the parties as set forth in this Agreement or the Lease.

ARTICLE III
SUBLEASE; TERM; BOARD'S OBLIGATIONS

Section 3.1. Term.

Subject to the terms and conditions hereof and of the Lease, the Board hereby subleases the Leased Premises to the Team for a period of approximately twenty (20) years, commencing on April 1, 2016 (the "Commencement Date"), and expiring on March 31, 2036 (the "Expiration Date"), unless sooner terminated in accordance with the terms of this Sublease and subject to the right of Board and Team by mutual agreement to enter into up to four, five-year extensions (collectively, the "Term"), for the conduct of the Activities, on an exclusive basis except for the Board Usage Dates. The Facility shall be returned to the Board at the end of the Term in the condition required by Section 8.4 of the Lease.

Section 3.2. Game Time Conflicts.

In the event that a scheduled baseball game time conflicts with any scheduled Indiana Convention Center or Lucas Oil Stadium ("ICCLOS") event, the Board may request the Team to change the appointed game time to a time mutually agreeable to the parties. Additionally, in the event that the Team's schedule reflects a date which conflicts with a convention, concert, sporting event or other activities at the ICCLOS or in the City, the Team and the Board shall work together to determine if the Team's game can be rescheduled to an alternative date. The Team and Board shall work together cooperatively in an attempt to resolve all such conflicts. In the event any such disagreement between the parties regarding dates cannot be resolved, the Team's schedule shall have priority over any alternative date.

Section 3.3. Extension Option.

The parties agree that if the Board and Team do not agree at least one (1) year prior to the Expiration Date to extend the Term of this Agreement, Board shall be entitled to negotiate and enter into agreements with third parties regarding future usage of the Facility and shall have no further obligation to negotiate with the Team as to extension of the Term.

Section 3.4. No Rent.

In consideration of the obligations of the Team under this Agreement, the Team shall not be obligated to pay rent to the Board during the Term. Any obligations to pay rent or the continuation of no rent obligation during any extension of the Term shall be as mutually agreed upon between the Team and Board. The Board shall not issue any bonds which impose any financial obligation on the Team (unless approved by the Team in its sole discretion).

Section 3.5. Board's Obligations Regarding the Facility.

(a) During the Term, the Board shall be responsible, at its sole expense, for the repair, replacement and capital improvements to those Leased Premises systems, fixtures and other items indicated as being the responsibility of the Board on the Victory Field Maintenance Responsibility Exhibit attached hereto as Exhibit B. The Board's repair or replacement obligations under this Sublease shall be conditioned upon the Team's delivery to the Board of written notification of the need for any repair or replacement by the Board, and the Team shall be responsible for all costs and expenses of such repair or replacement, to the extent caused by or resulting from, the Team's failure to deliver such notice within five (5) business days from its actual knowledge of the need therefor. In determining whether the respective obligation is repair or replacement, the Board and Team shall follow the test set forth on Exhibit C.

(b) The Board agrees that in the first four (4) contract years of the Term ("Board

Investment Period”) that it will make up to a Two Million Dollar (\$2,000,000) per contract year (“Annual Limit”) *AND* (Six Million Dollars (\$6,000,000) in the aggregate (“Aggregate Limit”)) investment in capital repair, replacement and improvement projects for the Leased Premises, which obligation is expressly conditioned on the Board in good faith seeking and ultimately obtaining in each such contract year a final appropriation from the appropriate fiscal body of the amount required for each such project. The list of specific projects and the agreed upon procedures to designate and complete all other projects, in each case within the Board’s capped investment obligation, are set forth on Exhibit D.

(c) The Board shall have no liability to the Team by reason of any inconvenience, annoyance, interruption or injury to the business of the Team arising from any such repair, replacements, capital improvements or changes to the Leased Premises by the Board, provided that the Board shall perform such repairs, replacements, improvements or changes at such times and in such reasonable manner as is calculated not to unreasonably interfere materially with the use of the Facility. Any repair, replacement and capital improvements to the Leased Premises by the Board shall be performed in a manner consistent with comparable facilities of similar age in other cities and in a manner consistent with the ICCLOS facility. All work performed hereunder must comply with all governmental laws, rules, regulations and ordinances. If the Board replacement of Facility equipment, fixtures and appurtenances thereto is necessary, the Board shall replace the same with new or completely reconditioned equipment, fixtures and appurtenances, and repair all damages done in or by such replacement. The Board acknowledges and agrees that notwithstanding any responsibilities allocated to the Team on Exhibit B, the Board has the sole responsibility to make all alterations to the Facility (at its sole cost and expense) to keep the Facility in compliance with applicable governmental laws, rules, regulations

and ordinances, except for compliance obligations which are the Team's responsibility under Section 4.1.

(d) The Team shall have the right to review the quality of repair, replacement and capital improvements to the Leased Premises performed by the Board. If the Board shall not perform the obligations under Section 3.5(a)-(c), the Team shall have the right to notify the Board in writing on or before December 1 of any year setting forth specifically the manner in which the Team believes that the Board failed to meet the standard, describing the actions to be taken to cure the same and stating that it will assume the obligation commencing on March 1 of the following year, if such actions are not taken by such date. If the Board does not take such actions by such date, the Team shall assume responsibility for the same as of such March 1 for the remainder of that year of the Term at the cost and expense of the Board, subject to arbitration procedures set forth herein. If the Board has not taken such actions as requested by the Team by such date, the Team may request that the Board enter into arbitration for final disposition and decision concerning this dispute in accordance with the rules of the American Arbitration Association, which decision of the arbitrator shall be final and binding upon the parties. The arbitrator shall have no power to add to, subtract from or modify any of the terms of this Agreement.

Section 3.6. Conditions to Sublease.

The parties agree that the Board's obligations to sublease the Leased Premises to the Team hereunder are expressly conditioned upon (a) the satisfaction of the financial obligations under the bonds issued by the Marion County Convention and Recreational Facilities Authority ("MCCRFA") for the purpose of constructing the Facility and (b) the Commission owning all right, title and interest in and to the Facility. In the event either of the foregoing conditions fails,

the Team and the Board agree to work in good faith to structure a lease and sublease arrangement substantially similar to the terms of this Sublease and the Lease among the Team, the Board, the Commission and MCCRFA.

Section 3.7. Board Usage.

Throughout the Term, the Team shall deliver the Facility to the Board in such condition for the Board's use on Board Usage Dates, and thereafter the Board shall deliver the Facility to the Team in the same condition upon completion of the Board's use. The Board shall pay the Team the Usage Fee incurred as a result of each Board Usage Date within forty-five (45) days of the Board's use. Furthermore, the Board's use of the Facility shall not compete with the revenue generating functions of the Team. The Board shall only utilize the Facility for non-public ticketed events that do not compete with the Activities, such as convention business, graduation ceremonies and the like. Any contemplated Board events which require ticketed admission to the Facility for sporting events, concerts, and other entertainment activities are considered competing events and would require the Team's prior written approval. The Board shall notify the Team in writing of each date it desires to use the Facility subject to the Team's prior written approval, not to be unreasonably withheld. The Team shall work in good faith with its league to obtain the dates requested by the Board. The parties acknowledge that (a) the Team has priority use of the Facility for professional baseball games and (b) while the Board should be able to use the Facility for the Board Usage Dates on published non-baseball dates, professional baseball scheduling complications may prevent the Board's use on requested dates. The Board may assign its dates to a third party subject to the terms hereof and subject to prior written approval of the Team, not to be unreasonably withheld. The parties agree to work together in a spirit of cooperation regarding the dates. To that end, the Team shall provide the Board by February 1 of

each year with a copy of its schedule for the upcoming baseball season, including estimated game times. Additionally, the Team shall respond to the Board's written requests as soon as reasonably possible.

ARTICLE IV
OPERATION OF FACILITY

Section 4.1. Maintenance, Repairs and Replacements Regarding the Facility.

(a) The Team shall be responsible, at its sole expense, for the maintenance of, and repair and replacements to those Leased Premises systems, fixtures and other items indicated as being the responsibility of the Team on Exhibit B. Any maintenance, repair, replacement and capital improvements to the Leased Premises by the Team shall be performed by the Team in a first-class manner consistent with comparable facilities of similar age in other cities and in compliance with the standards, rules, regulations and policies of Triple-A professional baseball and in a manner consistent with the ICCLOS facility. All maintenance, repair and replacement of and capital improvements to the Facility, or any portion thereof, (i) must comply with all governmental laws, rules, regulations and ordinances and all Triple-A professional baseball standards, rules, regulations and policies and (ii) must not materially change the external aesthetics of the Leased Premises without complying with Sections 3.1 and 8.2 of the Lease. If Team replacement of Facility equipment, fixtures and appurtenances thereto is necessary, the Team shall replace the same with new or completely reconditioned equipment, fixtures and appurtenances, and repair all damages done in or by such replacement. In determining whether the respective obligation is maintenance, repair or replacement, the Board and Team shall follow the test set forth on Exhibit C. The Team shall maintain detailed records relating to all maintenance, repair and replacement issues for the Leased Premises, and the same shall be made available on one (1) business days' notice from the Board for its review at the Team's offices.

The Team acknowledges and agrees, notwithstanding any responsibilities allocated to the Board on Exhibit B, the Team has the sole responsibility to make all alterations to the Facility (at its sole cost and expense) for the Facility to comply with all Triple-A professional baseball standards, rules, regulations and policies during the Term (including, but not limited to, alterations with respect to the location of the bullpens and light levels of the field lighting).

(b) Notwithstanding Section 4.1(a) above, no structural or other alterations shall be made to the Facility by the Team, including, but not limited to, any capital improvements, unless such alterations are permitted under the terms of the Lease and are approved by the Board, which approval shall not be unreasonably withheld. Further, the Team shall not make any changes to the aesthetics or content of the exterior façade, landscaping, exterior signage or interior signage which can be seen from beyond the property lines of the Leased Premises except as permitted pursuant to Section 3.1 of the Lease.

(c) The Board shall have the right to review the quality of the Team's performance of its obligations in this Section 4.1. To that end, representatives of the Board and the Team shall be afforded access at all reasonable times to the Facility. If the Team shall not fulfill such obligations to the standard set forth in this Section 4.1, the Board shall have the right to notify the Team in writing on or before December 1 of any year setting forth specifically the manner in which the Board believes that the Team failed to meet the standard, describing the actions to be taken to cure the same and stating that it will assume the obligation commencing on March 1 of the following year, if such actions are not taken by such date. If the Team does not take such actions by such date, the Board shall assume responsibility for the same as of such March 1 for the remainder of that year of the Term at the cost and expense of the Team, subject to arbitration procedures set forth herein. If the Team has not taken such actions as requested by the Board by

such date, the Board may request that the Team enter into arbitration for final disposition and decision concerning this dispute in accordance with the rules of the American Arbitration Association, which decision of the arbitrator shall be final and binding upon the parties. The arbitrator shall have no power to add to, subtract from or modify any of the terms of this Agreement.

(d) If the Board assumes the obligations of the Team, the Board shall use due diligence with respect to fulfilling such obligations, and as long as it uses such care, the Board shall have no liability to the Team by reason of inconvenience, annoyance, interruption or injury to the business of the Team resulting from the performance of such obligations at such times and in such reasonable manner as is calculated not to unreasonably interfere with the operation of the Facility.

Section 4.2. Team as Operator of Facility.

(a) As lessee of the Facility, the Team shall be responsible for the management and all aspects of the operation of the Facility, including with respect to the Activities, other than with respect to the Board's usage on the Board Usage Dates. The Team shall develop policies designed to (i) assure quality control and (ii) assure that the Facility shall be run in a way that reflects positively on the City and encourages families to attend events. The Team shall contract and pay for all services to the Facility throughout the year with respect to the Team's obligations hereunder, including, but not limited to, cleaning, grounds keeping, electricians, plumbers, carpenters, telecommunications technicians, utilities and the Team's maintenance obligations hereunder. All use and operation of the Facility must comply with all governmental laws, rules, regulations and ordinances.

(b) The Team shall obtain and maintain all necessary licenses, authorizations and

permits for operation of the Facility, including, but not limited to, licenses and permits to sell food and beverages. Provided, however, liquor licenses and permits are addressed in (c) below.

(c) All licenses and permits required for the sale of “Alcoholic Beverages” at the Facility shall be held in the name of the Board. The Board shall keep the permits in full force and effect at the expense of the Team and neither party shall take any action which would impair the Board’s ability to hold the permits. The Board shall prepare, file, and process all applications for renewals of the permits. The Team shall provide the Board with the name of the individual who is responsible for the overall management and sale of Alcoholic Beverages at the Facility. Such individual must have been a continuous and bona fide resident of the state of Indiana for the past five (5) years.

(d) The Team shall reimburse the Board within thirty (30) days of the Team’s receipt of any invoice for any and all expenses, costs (including reasonable attorneys’ fees) and other liabilities incurred, directly or indirectly, by the Board as a result of holding and maintaining the permits, including, but not limited to, the permit fees, the annual amount necessary to obtain a federal tax stamp, the costs and expenses incurred in preparing, filing, and processing all applications for renewals of the permits, and all state and local taxes due as a result of the sale and/or distribution of Alcoholic Beverages under the permits including, but not limited to, the Indiana State Sales Tax and the Marion County Food and Beverage Tax. Any unpaid amounts shall bear interest at a rate of 1-1/2% per month, eighteen percent (18%) per annum, and in the event such amounts are not timely paid, the same shall constitute an Event of Default hereunder.

(e) The Team is fully responsible for activities and operations under the Alcoholic Beverage license and the proper enforcement of applicable liquor laws and regulations.

(f) As operator of the Facility, the Team shall also be responsible for and pay for all

aspects of the operation of the Facility, including, but not limited to:

- (i) All ticketing operations, ticket sellers and ticket takers;
- (ii) All ushers and parking attendants and parking, vehicular and pedestrian circulation;
- (iii) All non-uniformed and armed security for the Facility, including security for baseball games and other events;
- (iv) Operating the scoreboard and the public address system;
- (v) Arranging for all announcers, communications and broadcasting; and
- (vi) Operating all concession and catering facilities located at the Facility.

(g) Specifically, but without limiting the generality of the Team's obligations hereunder and under the Lease, in order to provide for a secure, healthy and accessible environment for patrons, the Team shall also provide and pay for at least the following measures at each home game and at all other activities involving paid admission to the Facility:

- (i) A uniformed police officer at every event;
- (ii) Security guards at every event and at least one of the security guards shall work in the parking lot during each event for the purpose of controlling vandalism;
- (iii) Civil Volunteer Police, cadets or auxiliary officers as required by the Indianapolis Police Department for traffic control immediately following each scheduled event until traffic has disbursed so as to not hinder normal transit on the adjoining streets; and
- (iv) Qualified persons to render first aid.

(h) Except as otherwise set forth in this Agreement, the Team shall be responsible for all costs incurred by the Team in connection with the Team's operation of the Facility. The Team shall promptly pay all charges for use or consumption of sewer, gas, electricity, water and all other utility services on the Leased Premises. The Team may operate the Facility itself or hire subcontractors, in compliance with all equal opportunity laws, to perform all or any portion of the operation of the Facility with the Board's prior approval.

(i) Specifically, but without limiting the generality of the Team's obligations hereunder and under the Lease, the Team shall store garbage, trash, rubbish and other refuse in rat-proof and insect-proof containers with adequate screening to hide such garbage, trash, rubbish and refuse from view on the Leased Premises, and remove the same frequently and regularly, with adequate screening to hide such garbage, trash, rubbish and refuse from view, all at the Team's sole cost; not commit or permit waste or a nuisance upon the Leased Premises; not permit or cause odors to emanate or be dispelled from the stadium building on the Leased Premises; not permit the loading or unloading or the parking or standing of delivery vehicles outside any area designated therefor, nor permit any use of vehicles which will interfere with the use of the Facility; comply with all laws, recommendations, ordinances, rules and regulations of governmental, public, private and other authorities and agencies, including those with authority over insurance rates, with respect to the use or occupancy of the Leased Premises, and including but not limited to OSHA regulations. In addition, the Team shall use commercially reasonable efforts to cause the sidewalks adjoining the Leased Premises along Maryland and West Streets to be maintained as public sidewalks free from debris, snow and ice.

(j) The Team shall only use, or permit the use of, the Leased Premises in a dignified and ethical manner consistent with the general high standards of the operation of a baseball stadium and entertainment complex and not in a disreputable or immoral manner or in violation of national, state or local laws.

Section 4.3. Representations and Warranties regarding the Leased Premises.

(a) Each party represents and warrants to the other party that to the best of its knowledge, the Leased Premises and the operation thereof are not subject to any existing, pending, or threatened investigation by any governmental authority under any applicable federal,

state, or local law, regulation, or ordinance pertaining to (i) air quality, (ii) water quality or (iii) the handling, transportation, storage, treatment, usage, or disposal of Toxic or Hazardous Substances (as defined in Section 4.4) at or upon the Leased Premises.

(b) The Board represents and warrants to the Team that the Board has the full right, power and authority to execute this Agreement and to sublease the Leased Premises as provided in this Agreement and to carry out all of its obligations hereunder.

Section 4.4. Environmental Indemnity.

(a) The Board agrees to indemnify, defend (with counsel reasonably satisfactory to the Team), and hold the Team harmless from any claims, judgments, decrees, damages, penalties, fines, expenses, liabilities, administrative orders or losses made, issued, incurred or suffered during or after the Term arising out of or in any way relating to the presence, release, or disposal of Toxic or Hazardous Substances on or from the Real Estate at or prior to April 1, 1996 (the "Commencement Date" set forth in an original Sublease between the Board and the Team), or as a result of a breach of the environmental warranties made by the Board above, in each case except to the extent caused by the actions or omissions of the Team or its officers, employees, contractors or agents.

(b) The Team agrees to indemnify, defend (with counsel reasonably satisfactory to the Board), and hold the Board harmless from any claims, judgments, decrees, damages, penalties, fines, expenses, liabilities, administrative orders or losses made, issued, incurred or suffered during or after the Term arising out of or in any way relating to the presence, release, or disposal of Toxic or Hazardous substances on or about the Real Estate after April 1, 1996, or as a result of a breach of the environmental warranties made by the Team above, in each case except to the extent caused by the actions or omissions of the Board or its officers, employees,

contractors or agents.

(c) For purposes of this Sublease, the term “Toxic or Hazardous Substances” shall mean any material or substance that is defined, classified or listed as: (i) a “hazardous substance” pursuant to section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601(14), as now existing or hereafter amended; (ii) a “hazardous substance” pursuant to section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1321, as now existing or hereafter amended; (iii) a “hazardous waste” pursuant to section 1004 or section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6903, 6921, as now existing or hereafter amended; (iv) a toxic pollutant pursuant to section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. § 1317(a)(1), as now existing or hereafter amended; (v) a “hazardous air pollutant” under section 112 of the Clean Air Act, 42 U.S.C. § 7412, as now or hereafter amended; (vi) an “extremely hazardous substance” pursuant to section 302(a) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11002(a), as now existing or hereafter amended; (vii) a “toxic chemical” pursuant to section 313(c) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11023(c), as now existing or hereafter amended; (viii) a “hazardous material” under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. § 1802(4), as now existing or hereafter amended; (ix) toxic or hazardous substances pursuant to any federal, state or local laws, regulations or ordinances now existing or hereafter enacted, adopted or promulgated; or (x) presenting a risk to human health or the environment under other applicable federal, state or local laws, regulations or ordinances, now existing or hereafter enacted, adopted or promulgated. “Toxic or Hazardous Substances” specifically includes, but is not limited to, asbestos, polychlorinated biphenyls (“PCBs”), petroleum and petroleum-based derivatives, and urea formaldehyde.

Section 4.5. Concessions.

(a) As operator of the Facility, the Team shall purchase, lease or contract for the purchase or lease of all concession areas and equipment. Concession operations may be reviewed and suggestions offered by the Board. Provided that any recommendations made by the Board are in the best interests of the Team and its shareholders, as determined solely by the Team's Board of Directors, the Team shall implement the recommendations of the Board.

(b) The Team shall have control over product and brand designation, pricing, quality, merchandising and staffing of concessions within the Facility with the objective of ensuring a wide variety of quality foods at reasonable prices served in unique and appealing ways. For the Board Usage Dates, the Board shall utilize the Team's concession operator.

(c) Any such concession furniture, fixtures and equipment provided by the Team or its concessionaire, whether or not the same become affixed to the Facility, shall remain the property of the Team, and if removed by the Team, such removal shall be performed in a professional manner and with any damage to the Facility being repaired by the Team.

(d) The Team agrees to maintain a level of services which will provide an effective and convenient operation of stadium food and refreshment facilities. All food, drinks, beverages, confections and other items sold or kept for sale at the Facility, including Alcoholic Beverages, shall be of the first quality, wholesome and pure, and will conform in all respects to the federal, state and city regulations, and shall be subject to inspection and approval or rejection by all governmental health officers. The Team shall post in a conspicuous place at each concession stand, permanent or temporary, a complete list of prices of all articles there offered for sale.

Section 4.6. Revenue.

(a) As operator of the Facility, the Team shall be entitled to receive all revenue

streams generated at the Facility, including, but not limited to, all revenues from ticket sales, suite rental, sponsorships, stadium signage and other advertising, parking, sales of concessions, novelties and clothing, sales of broadcast and telecast rights, league expansion fees and Team fundraising; provided, however that the Board shall retain any revenue from its permitted use of the Facility on Board Usage Dates as otherwise provided herein.

Section 4.7. Marketing.

(a) The Team shall annually develop or update its marketing plan for the operation of the Facility. Each annual plan or update shall be submitted to the Board for review and comment by January 1 of each year, commencing January 1, 2017 and throughout the Term.

(b) The objective of the Team's marketing plan shall be to maximize attendance at the Facility throughout the year (except for winter) including times other than the baseball season. The plan shall address:

- (i) Maximizing attendance at baseball games including selling season tickets, suites, promotions, etc.;
- (ii) Entertainment before, during and after games, on the field, in the stands, etc.;
- (iii) Attraction of people on a regional basis;
- (iv) Cooperation with other downtown entertainment, educational and recreational facilities, including those owned or operated by the Commission or the Board, in joint or promotional activities; and
- (v) Promotion of other events such as high school and college baseball games, concerts, festivals, convention activities, band competitions, etc.

(c) If attendance for Team games in any one season is below 500,000, the Team shall retain a consultant at the Team's expense to assist in developing the marketing plan for the next season. The consultant shall be approved by the Board. Provided that such action is in the best interests of the Team and its shareholders, as determined solely by the Team's Board of

Directors, the Team shall implement the recommendations of the consultant.

Section 4.8. Food and Beverage.

The Team shall provide and determine designated area(s) in the Facility wherein patrons may bring in food and non-alcoholic beverages.

Section 4.9. No Liens.

The Team shall not suffer any mechanics' or materialmen's lien to be filed against the Leased Premises by reason of work, labor, services or materials performed or furnished the Team. If any such lien shall at any time be filed as aforesaid, the Board or the Landlord (as defined in the Lease) may contest the same in good faith, but, notwithstanding such contest, the Team, within fifteen (15) days after the filing thereof, shall cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction, or otherwise. In the event of the Team's failure to release of record any such lien within the aforesaid period, the Board or the Landlord may remove said lien by paying the full amount thereof or by bonding or in any other manner the Board or Landlord deems appropriate, without investigating the validity thereof, and irrespective of the fact that the Team may contest the propriety or the amount thereof, and the Team, upon demand, shall pay the Board or Landlord, as applicable, the amount so paid out by such party in connection with the discharge of said lien, together with reasonable expenses incurred in connection therewith, including reasonable attorneys' fees. Nothing contained in this Sublease shall be construed as any consent on the part of the Board or the Landlord to subject the Board's or the Landlord's estate in the Leased Premises to any lien or liability under the lien laws of the State of Indiana.

ARTICLE V
TAXES

The Team shall be responsible for the payment of all ad valorem taxes legally imposed,

assessed or levied against the Team's personal property and for the payment of all transaction privilege taxes, sales taxes or other similar excise taxes legally imposed, assessed or levied against the Team on account of ticket, concession and similar sales or transactions at the Facility.

The Team shall pay the monthly food and beverage taxes to the Indiana Department of Revenue with the appropriate completed county food and beverage tax return by the twentieth day of each month. The tax return shall continue to be filed under the Board's Food and Beverage Reporting Number which has previously been assigned. The Team shall send a copy of each tax return and proof of payment of the tax to the Board by the twenty-fifth day of each month. The Team shall indemnify the Board for any tax liability.

The Board shall pay all taxes and special assessments, if any, which may be levied, asserted or assessed upon the Leased Premises based on the value of real property, including real estate taxes, any tax substituted for or equated with real estate taxes or based on value or assessed or estimated value, levied, asserted or assessed against the Team by reason or on account of or measured by any leasehold interest, possessory interest or proprietary interest, or other interest, privilege or right existing or asserted to exist under real estate or interest in real estate (whether held to be real or personal or mixed) or by virtue of this Agreement.

The Board shall reimburse the Team for the amount of Discriminatory Taxes (as defined below) incurred by the Team, which reimbursement shall be made by the Board no later than the 15th of the month following the month in which the Board is in receipt of an invoice therefor from the Team, along with reasonable supporting documentation of the payment of such amount, assuming that the Board received such invoice on or prior to the 25th of such month (or if receipt occurs after the 25th of a month, the Board shall pay such amount no later than the 15th of the second following month). For purposes of this Agreement, a Discriminatory Tax shall be

deemed to have been incurred by the Team whether such Discriminatory Tax is levied upon the Team, its employees or upon any of its employees, agents, contractors, invitees, patrons, licensees, customers, attendees, spectators, ticket holders, visiting Triple-A professional baseball teams or press and media personnel to whom Team has given the right or a license to use or occupy the Facility in accordance with the terms and conditions of this Sublease.

For purposes of this Agreement, "Discriminatory Taxes" shall mean any tax, user fee or other monetary obligation, fee, charge or penalty imposed or increased after the date first above written directly or indirectly by the Board, MCCRFA, the County of Marion, Indiana or the City of Indianapolis, Indiana, or any affiliate or related municipal entity of any of the foregoing (except as specifically mandated or required to be so imposed or increased by the State of Indiana or any other state or federal governmental entity), associated with attendance or participation of any entity or person at any event at the Facility, the licensing of any Facility suite, or the income derived by the Team or its employees as a result of Triple-A professional baseball Activities, which tax, user fee or other mandatory obligation, fee, charge or penalty is not imposed in a proportionate and comparable manner upon those entities or persons attending or participating in events in all venues owned, controlled or operated, directly or indirectly, by the Board, MCCRFA, the County of Marion, Indiana or the City of Indianapolis, Indiana, or any affiliate or related municipal entity of any of the foregoing, and seating more than five thousand (5,000) persons, including Lucas Oil Stadium and Banker's Life Fieldhouse and any other venue in which professional basketball, baseball, football, hockey, soccer or any other professional sport is then played, the licensing of suites in such venues, the rental payments made by the tenants of such venues, or the income derived by the tenants of such venues or such tenants' employees.

ARTICLE VI
INSURANCE

Section 6.1. Team's Insurance.

During the Term, the Team shall carry and maintain, at its sole cost and expense:

(a) Special cause of loss (or equivalent basis) insurance, subject to no more than a \$25,000 deductible, but any amounts deducted shall be the responsibility of the Team, for the Facility, Team's personal property and fixtures, and any improvements thereto, providing coverage against physical loss, damage and destruction by fire, earthquake, flood, vandalism, boiler and/or mechanical breakdown and eruption, off-premises power failure, terrorism (TRIA) and other perils with limits sufficient to cover the full 100% replacement cost of the Facility and any improvements thereto, as such value may increase and decrease from time to time. Flood and earthquake can be insured at mutually approved sub-limits of at least \$5 Million each. The Board and the Commission shall each be named as an additional insured and loss payee on such policy. The Team shall increase the building limit by the greater of 2% annually or the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Wage Earners and Clerical Workers, United States Average, Subgroup "All Items" (1982 – 1984 = 100). Notwithstanding the foregoing, if the Board, in good faith, believes that such building coverage is inadequate, the Board may request that the Committee review and make a recommendation as to the proper amount of building coverage;

(b) Except as otherwise provided by contractors and subcontractors, builders risk insurance for any construction, alterations or improvement activity undertaken with respect to the Facility, whether by the Team, the Board or the Commission;

(c) Commercial general liability insurance, including bodily injury, property damage, contractual products liability, and liquor liability coverage (the responsibility for the latter may

be assigned to Team's vendor), with the following limits:

Each Occurrence Limit	\$1,000,000
General Aggregate	\$2,000,000
Products/Completed	
Operations Aggregate	2,000,000
Personal Injury &	
Advertising Injury	1,000,000
Medical Expense (Any One Person)	1,000
Damage to Rented Premises	100,000
Included Contractual Liability	1,000,000
Included Liquor Liability	1,000,000
Include Federal Terrorism (TRIA)	

(d) Worker's compensation insurance in accordance with the laws of the State of Indiana;

(e) Employer's liability, with the following limits:

Bodily Injury by Accident	\$1,000,000	Each Accident
Bodily Injury by Disease	1,000,000	Policy Limit
Bodily Injury by Disease	1,000,000	Each Employee

(f) Rental and business interruption insurance (with Team as beneficiary), including off-premises power service coverage, with exclusions from coverage mutually agreeable to the parties, covering at least loss of rents, loss of income and extra expenses, in each case for a period of at least one (1) year;

(g) Automobile liability for owned, non-owned and hired vehicles, including uninsured and underinsured with limits of not less than \$1,000,000;

(h) Blanket employee dishonesty coverage with at least a \$200,000 limit and covering all funds or property held by the Indians on behalf of the Board or Commission; and

(i) Umbrella or excess liability coverage in a minimum of \$10,000,000 per occurrence and \$10,000,000 in the aggregate, providing limits that follow form referenced in subparts (c), (e) and (g) above. The policy shall contain coverage for terrorism and a retention of

not more than \$10,000, but any amounts retained shall be the responsibility of the Team. The policy shall not contain any exclusion except those customarily contained within the coverage form on such policies. If coverage is on an excess form, CIB reserves the right to both review and approve said coverage on an annual basis. The Team agrees that it shall increase excess or umbrella coverage, if necessary, consistent with its industry. If the Board, in good faith, believes that this coverage is inadequate, the Board may request that the Committee review and make a recommendation as to the proper amount of excess or umbrella coverage.

Section 6.2. Waiver of Subrogation.

(a) It is the intent of the parties that the risk of loss or damage arising out of or relating to this Agreement should be borne by insurance to the extent of available coverage. Accordingly, the Board and the Team waive all rights against each other and the Landlord (and against their respective agents, employees, representatives and/or insurers) for any loss or damage to any building, structure, or other tangible property, or any resulting loss of income, or losses under worker's compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of such other party (its agents, employees and/or representatives); provided, however, that: (i) this waiver of rights shall only be applicable to the extent of insurance proceeds actually paid to the parties suffering such loss or damage; and (ii) this waiver of rights shall in no way diminish the indemnity obligations of the Team as set forth in Section 6.5 hereof.

(b) Said waiver of rights shall be in addition to, and not in limitation or derogation of, any other waiver of release contained in any related agreement with respect to any claim of the Team or the Board. Inasmuch as the waiver of rights shall mean that neither party shall be liable to the other party hereto or to any insurance company (by way of subrogation or otherwise) and

will preclude the assignment of any of such claim(s) (by way of subrogation or otherwise) to an insurance company (or any other person), the Team and the Board shall give written notice of the terms of this mutual waiver of rights to their respective insurers and shall have their insurance policies endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of this waiver of rights.

Section 6.3. Insurance Criteria.

All policies of insurance required to be maintained by this ARTICLE VI (a) shall be issued by insurance companies licensed to do business in the State of Indiana, and having an A.M. Best Rating of A- or better; (b) shall provide, unless the Team's commercially reasonable efforts to confirm the same are unsuccessful, that such policies shall not be cancelled or modified as to scope or amount of coverage, unless thirty (30) days prior written notice is given to the Board and Landlord; (c) shall have notice of non-payment and non-renewal sent by the carrier to the Board and the Landlord promptly thereafter; (d) shall be the primary policies, not contributing with or in excess of the coverage that the Board or the Landlord may carry; (e) shall be permitted to be maintained within a blanket policy or an umbrella policy; (f) shall contain Federal Terrorism insurance to the limits required by law for all policies; (g) shall name the Board, the Landlord and their respective officers, directors, members, agents and employees as additional insureds and loss payees with respect to the policies to be maintained by the Team listed in ARTICLE VI, except with respect to the worker's compensation policies; and (h) shall be subject to the Board's review for proper limits and coverages upon written request therefor. The Team agrees to (i) provide at least sixty (60) days prior written notice of any non-renewal of and (ii) provide prompt notice to the Board and the Landlord upon any non-payment for any of the insurance coverage required to be maintained by the Team hereunder.

Section 6.4. Evidence of Insurance.

On or before the Commencement Date and upon the date of renewal of the policies of Insurance that the Team is required to maintain pursuant to this ARTICLE VI, the Team shall deliver to the Board and the Landlord certificates of insurance evidencing such insurance. Such certificates shall specify the types and amounts of coverage evidenced thereby, the waiver of subrogation described in Section 6.2 above, and the insurance criteria described in Section 6.3 above. The Team shall maintain and renew or replace all policies of insurance for which it is responsible pursuant to this ARTICLE VI for the entire Term.

Section 6.5. Indemnity.

The Team agrees to indemnify and hold harmless the Board, the Landlord and their respective officers, directors, employees and agents, from any and all actions, causes of action, demands, and claims of any nature whatsoever for injury to or death of persons or loss of or damage to property in any way arising out of (a) the Team's failure to fulfill any of its duties or obligations hereunder, including without limitation the maintenance, repair or replacement of the Facility, or any portion thereof, as contemplated by this Agreement after the Commencement Date, (b) all possession, use, occupancy or operation of, and capital improvements to, the Leased Premises hereunder and (c) the Team's breach of any of its representations, warranties or covenants contained hereunder, in each case except to the extent the Team shall be entitled to indemnity by the Board hereunder. The Board agrees to indemnify and hold harmless the Team and its officers, directors, employees and agents, from any and all actions, causes of action, demands and claims of any nature whatsoever for injury to or death of persons or loss of or damage to property in any way arising out of (a) the Board's improvement, repair or replacement of the Facility, or any portion thereof as contemplated by this Agreement after the

Commencement Date, (b) the Board's possession, use or occupancy of the Facility on a Board Usage Date as set forth in Section 3.7 and (c) the Board's breach of any of its representations, warranties or covenants contained hereunder, in each case except to the extent the Board shall be entitled to indemnity by the Team hereunder.

ARTICLE VII
LOSS OF FACILITIES

Section 7.1. Eminent Domain; Condemnation.

(a) During the Term, the Board agrees that it shall not exercise the right of eminent domain for itself, or for any other unit of local government, to acquire all or any portion of the Leased Premises.

(b) If all of the Leased Premises or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings, this Agreement shall automatically terminate on the earlier to occur of (i) the date on which title to the Facility vests in the condemning authority, or (ii) the date on which the Team is dispossessed of the Facility.

(c) If a portion of the Leased Premises or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings and such taking materially affects Team's ability to utilize the Leased Premises, the Team shall have the right to terminate this Agreement effective as of the earlier to occur of (i) the date on which title to the condemned portion of the Leased Premises vests in the condemning authority, or (ii) the date on which the Team is dispossessed of the portion of the Leased Premises, by giving written notice to the Board within sixty (60) days after the Team's receipt of notice of the partial condemnation.

(d) If a portion of the Leased Premises or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings and the Team does not

terminate this Agreement pursuant to the terms and conditions of Section 7.1(c) above, (i) this Agreement shall be deemed terminated with respect to only the condemned portion of the Facility or use thereof; and (ii) the Board shall, at its sole cost and expense to the extent of an award received by the Board under Section 7.1(e), promptly make any repairs and restoration that the Team deems reasonably necessary as a result of such condemnation.

(e) Each party shall have the right to seek, at its sole cost and expense, any award to which it might be entitled as a result of any condemnation of all or any portion of the Leased Premises or the use thereof. Neither party shall have any rights to any award made to the other.

(f) If all or a portion of the Leased Premises or the use thereof is temporarily condemned, this Agreement shall remain in full force and effect.

Section 7.2. Damage to the Facility.

If the Facility or any portion thereof is damaged or destroyed by fire or any other casualty, then neither party shall have the right to terminate this Agreement but the Board shall promptly employ commercially reasonable efforts to restore and repair the Facility as soon as reasonably possible to a condition substantially similar to that prior to such damage or destruction and the Term shall be extended by the period of restoration and repair. To that end, the Board shall use all insurance proceeds available for such purposes and the Team shall assign any applicable proceeds to the Board. The Board's obligation hereunder shall not exceed such proceeds.

ARTICLE VIII
DEFAULTS AND REMEDIES

Section 8.1. Default by the Team.

(a) An Event of Default by the Team shall be deemed to have occurred under this Agreement if:

- (i) It fails to observe or perform any other obligation, condition or covenant on its part to be performed or observed hereunder, and such failure remains uncured for more than 30 days after the Team's receipt of written notice of such failure from the Board (or such longer period as may be reasonably necessary to effect such cure, if such cure cannot be effected within such 30 day period using reasonable efforts);
- (ii) The Team's interest in and to the Facility or this Agreement is taken by process of law directed against the Team, or is subject to attachment by any creditor or claimant of the Team, and such attachment is not discharged or disposed of within 30 days after levy thereof;
- (iii) The Team (A) admits in writing its inability to pay debts generally as they become due, (B) makes an assignment for the benefit of creditors, (C) applies for or consents to the appointment of a receiver, trustee or liquidator of the Team or substantially all of the Team's assets, (D) files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization under any bankruptcy or insolvency laws, or (E) files an answer admitting the material allegations of a petition filed against the Team in any bankruptcy, reorganization or insolvency proceedings;
- (iv) A court enters an order, judgment or decree, without the application, approval or consent of the Team, approving a petition (A) seeking reorganization of the Team under any bankruptcy or insolvency law, (B) appointing a receiver, trustee or liquidator for the Team or substantially all of the Team's assets, or (C) adjudicating the Team as bankrupt or insolvent, and such order, judgment or decree is not vacated, stayed or set aside within 45 days after its date of entry; or
- (v) The Team loses its franchise due to its negligence, willful misconduct or material violation of league rules.

(b) If the Team shall be deemed in default under this Agreement pursuant to the terms and conditions of Section 8.1(a) above, the Board shall be entitled to seek only the following exclusive remedies:

- (i) Seek monetary damages;
- (ii) Cure such default on behalf of the Team and bill the Team for all costs incurred by the Board to effect such cure, including reasonable attorneys' fees incurred by the prevailing party;
- (iii) Seek specific performance for enforcement of the Board's rights or Team's obligations under this Agreement; and
- (iv) Then, only following the failure of all of the Board's other remedies,

terminate this Agreement upon written notice to the Team.

Section 8.2. Default by the Board.

- (a) An Event of Default by the Board shall have occurred under this Agreement if:
 - (i) The Board fails to perform or observe any obligation or condition on its part to be performed or observed hereunder that relates to the Team's right to use and operate the Facility, subject to the rights of use by the Board; or
 - (ii) The Board fails to perform or observe any other obligation or condition on its part to be performed or observed hereunder, and such failure remains uncured for more than 30 days after the Board's receipt of written notice of such failure from the Team (or such longer period as may be reasonably required to effect such cure if such cure cannot be effected within such 30 day period using reasonable efforts).

(b) If the Board shall be deemed in default under this Agreement pursuant to the terms and conditions of Section 8.2(a) above, or if an Event of Default by the Board exists under the terms of the Lease with the Commission (as defined therein), the Team shall be entitled to seek only the following exclusive remedies:

- (i) Seek monetary damages;
- (ii) Cure such default on behalf of the Board and bill the Board for all costs incurred by the Team to effect such cure, including reasonable attorneys' fees incurred by the prevailing party;
- (iii) Seek specific performance for enforcement of the Team's rights or Board's obligations under this Agreement or the Lease; and
- (iv) Then, only following the failure of all of the Team's other remedies, terminate this Agreement upon written notice to the Board.

Section 8.3. Remedies Cumulative.

Except as expressly limited in this ARTICLE VIII, the remedies described herein are cumulative and are not intended to be exclusive of any other remedies to which the parties may be entitled at law or in equity. The failure of a party to (a) insist in any one or more instances upon the strict performance or observance of any of the obligations or conditions of this

Agreement by the other party, or (b) exercise any remedy contained herein for any nonperformance or nonobservance of any obligation or condition by the other party, shall not be considered a waiver of such party's rights to later insist upon performance or observance or to exercise its remedies. Additionally, the exercise or commencement of the exercise of any right or remedy by either party shall not preclude the simultaneous or later exercise of any or all other rights and remedies available to such party.

Section 8.4. Specific Performance.

(a) The Team hereby acknowledges, agrees and stipulates that (i) the public economic, civic and social benefits from the Team playing baseball games at the Facility are unique, extraordinary and immeasurable, (ii) the subject matter of this Sublease and the Lease are unique, (iii) the Board, the City of Indianapolis, Marion County, the State of Indiana and the public at large will suffer immediate, unique and irreparable harm for which there would be no adequate remedy at law in the event that the Team breaches any obligation under ARTICLE IV and ARTICLE XIV hereunder, and (iv) money damages for any such breach could not adequately compensate the Board or the community.

(b) The Team hereby further acknowledges, agrees and stipulates that (i) in addition to all other remedies to which the Board may be entitled, the Board shall be entitled, after posting bond or other security as may be required by a court of competent jurisdiction and without any further showing of irreparable harm, balance of harms or the inadequacy of money damages as a remedy, to obtain from a court of competent jurisdiction specific performance and any other temporary, preliminary or permanent injunctive relief for any breach or threatened or imminent breach of any obligation under ARTICLE IV and ARTICLE XIV hereunder and (ii) the administration of a properly-tailored order for such relief under such circumstances would

not be impractical.

(c) The Team hereby expressly waives the right to assert any claim contrary to any of the acknowledgments and stipulations set forth in Section 8.4 of this Sublease.

ARTICLE IX
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ARTICLE X
SALE OF TEAM SHARES OR ASSETS

Section 10.1. Sale of Shares.

The shareholders of the Team may sell their shares at any time without restriction. Such transferability of shares of Team shall in no way affect the enforceability of this Agreement.

Section 10.2. Sale of Assets.

The Team may only sell or otherwise transfer all or substantially all of its assets (including the franchise and this Agreement) to another entity upon (a) approval of (i) the International League or the current Minor League Baseball Association governing the Team, (ii) National Association of Professional Baseball Leagues, and (iii) the Office of the Commissioner of Baseball, (b) the acceptance of an assignment of this Agreement by such transferee in a form reasonably acceptable to the Board and (c) compliance with the terms of Section 10.3 below; provided, however, that the parties expressly agree that the transfer of the Team's assets shall in no way entitle the transferee to avoid performance of any term hereof, including, but not limited to, the obligation of the Team to play its home games in the Facility as required by ARTICLE XIV hereof.

Section 10.3. Right of First Refusal.

During the Term of this Agreement, if the Team shall desire to sell all or substantially all of the assets of the Team contemplated by, and subject to the conditions of, Section 10.2 above, or the team shall enter into meaningful negotiations with a third party in that respect (such

'meaningful negotiations' to be defined as trading drafts of a term sheet, letter of intent, purchase and sale agreement or other similar document), then the Team shall deliver written notice to the Board advising the Board of such desire and/or that such negotiations have commenced and identifying the party with whom the Team is negotiating, provided that the Board shall maintain the identity of such party as confidential to the extent permitted by applicable law. If the Team has notified the Board of meaningful negotiations and is prepared to accept an offer ("Acceptable Offer") from an offeror ("Offeror"), the Team shall deliver to the Board written notice of the Acceptable Offer together with a copy of the Acceptable Offer, which Acceptable Offer shall be maintained as confidential by the Board to the extent permitted by applicable law. The Board shall have a right of first refusal to match any Acceptable Offer received by the Team to sell all or substantially all of the assets of the Team contemplated by, and subject to the conditions of, Section 10.2 above. The Board must exercise such right by providing written notice to the Team within the longer of (i) forty-five (45) days after the Board receives a copy of the Acceptable Offer or (ii) ninety (90) days after the Board receives notice that meaningful negotiations have commenced. The Board shall have an additional ninety (90) days following the date of the Board notice of the exercise of such right to close such transaction on the same or better terms than the Acceptable Offer. The Board's right hereunder is expressly assignable. The Team shall use its best efforts to obtain all necessary league and shareholder approvals for such transaction. In the event the Team, despite its best efforts, does not receive all necessary league or shareholder approvals, the Team may enter into a transaction with such Offeror pursuant to the terms of the Acceptable Offer, provided such transaction closes within 365 days of the Board's receipt of written notice of the Acceptable Offer from the Team. If the Team does not close such transaction with such Offeror in the specified 365 day period, or a new or revised Acceptable

Offer is received, then the Board shall have the same right of first refusal first referenced in this Section for such revised offer and all other new or subsequent offers to purchase all or substantially all of the assets of the Team. Notwithstanding anything to the contrary herein, the right of first refusal under this Section 10.3 shall not be applicable to any Acceptable Offer that includes an agreement by the purchaser to extend the Term of this Sublease for a period not less than five years (5) years upon the same terms and conditions as set forth in this Sublease.

Section 10.4. Team's Right to Terminate Agreement.

Notwithstanding any provision of this Agreement to the contrary, the Team shall have no further obligations under this Agreement only after the occurrence of one (1) of the following:

- (i) a major league baseball franchise is located in the Indianapolis area and the Team is therefore prohibited from continuing a minor league franchise in the Indianapolis area;
- (ii) the Team terminated this Agreement under Section 8.2(b)(iv);
- (iii) the International League, or any other league in which the Team is a member, ceases operations; provided that Team shall make good faith efforts to continue to play professional baseball, in which case this Agreement shall remain in effect; or
- (iv) the International League, or any other league in which the Team is a member, mandates changes to the Facility that are equally applicable to all teams in such league and which changes are not permitted under the terms of the Lease or Section 4.1(b) of this Sublease.

ARTICLE XI
ASSIGNMENT AND SUBLETTING

Section 11.1. Assignment.

This Agreement may not be assigned by the Team except as part of the sale of the assets of the Team as provided for in Section 10.2 hereof. The Board shall have no authority to deny the assignment as part of the sale of assets of the Team unless: (a) it determines that the prospective assignee is not creditworthy to fulfill its obligations hereunder as determined by a

third party qualified credit analyst, such as a financial institution, selected by Team and the Board, and/or (b) finds that prospective transferee or its controlling principals have felony convictions or have controlling interests in businesses which engage in pornography or related enterprises. In the event that the Board denies the assignment for the reasons set forth in this ARTICLE XI, Team shall continue to perform its obligations hereunder until a suitable assignee is selected by Team.

Section 11.2. Sub-Sublease.

The Team shall obtain the approval of the Board, not to be unreasonably withheld, of the sub-sublease of certain areas of the Facility, by way of example and not limitation, restaurant and related retail facilities.

**ARTICLE XII
RIGHT TO NAME FACILITY AND ADVERTISING RIGHTS**

The parties agree that Team shall have the right to name the Facility with the approval of the Board, not to be unreasonably withheld. The Team shall not display any signage, commercials, boards or other advertising, marketing or promotional materials with content, incorporating any of the areas set forth on Exhibit E attached hereto.

**ARTICLE XIII
BOARD RIGHTS**

The Team shall provide the Board the right to utilize at no cost ten (10) season tickets to Team home games and with no cost, two (2) suites at a location mutually agreeable to the parties and four (4) VIP parking spaces for purposes of business cultivation for the City of Indianapolis and ICCLOS.

**ARTICLE XIV
ADDITIONAL COVENANTS OF TEAM AND BOARD**

The Team makes the following additional covenants for the entire Term of this

Agreement:

(a) The Team shall maintain its good standing with the International League or its successors;

(b) The Team shall conduct its play as a Triple-A team;

(c) The Team shall play approximately half of its baseball games at home, and all home games at the Facility;

(d) The Team agrees that pricing of baseball tickets and concessions shall be in amounts so as to encourage and facilitate attendance by families to all baseball games in the Facility;

(e) The Team agrees to continue to make commercially reasonable efforts to utilize modern ticketing systems in order to maximize ticket distribution throughout Indiana; and

(f) Upon request of the Board, senior executives or directors of the Team will meet with the Board on an annual basis during the Board's regularly scheduled February or March meeting (which meetings will be open to the public) to review the status of facility maintenance and capital improvements, plans and requests for capital improvements, etc. In addition, upon request of the Board, the Team will report to the officers of the Board (either in person or in writing at the Board's discretion) annually which reports shall cover such topics as the Board requests in its discretion.

The Board, and its successors or assigns, covenants that for the Term of this Sublease and any extension thereof, it shall not offer any financial incentives, or assist in establishing or locating, any other professional baseball franchise or organization within Marion County. "Financial incentives" shall include, but not be limited to, cash payments, tax abatements, transferring interests in real estate or personal property, loans, guarantees or any other form of

financial accommodations. Provided, however, that this covenant shall not apply in the event that pursuant to Section 10.4(i) the Team receives an award related to such location or establishment of a professional baseball franchise or organization.

The Team agrees to fulfill the obligations of the "Subtenant" under the terms of the Lease. The Board agrees to fulfill the obligations of the "Tenant" under the terms of the Lease.

ARTICLE XV **QUIET ENJOYMENT**

The Board covenants that, subject to the terms and conditions of this Agreement, the Team shall peaceably and quietly have, hold and enjoy the Facility for the Term and any extended Term. The Board represents that there are currently no liens, judgments or claims to the Facility that will affect the Team's right to occupy and enjoy the Facility. The Team acknowledges that the Landlord or Board may in the future desire to mortgage its fee interest in the Leased Premises provided that the proceeds of such financing are used exclusively to finance the Board's obligations under the Lease. The Team shall cooperate with the Landlord and Board in such regard, including execution of appropriate forms of subordination and estoppel certificates, so long as the rights of the Board and Team are not disturbed.

ARTICLE XVI **NOTICES**

All notices permitted or required to be made hereunder shall be in writing and delivered by hand, overnight courier, electronic mail or certified mail. Notices shall be deemed given (a) when actually received if delivered by hand, (b) one business day after being sent by electronic mail or after delivery to an overnight courier if delivered by an overnight courier, or (c) three business days after deposit with the United States Postal Service if delivered by certified mail. All such notices shall be addressed to the appropriate party as follows:

If to the Board, to: Executive Director

100 South Capitol Avenue
Indianapolis, IN 46225
E-mail: barney.levengood@icclos.com

With a copy to:

Bingham Greenebaum Doll LLP
2700 Market Tower
10 West Market Street
Indianapolis, IN 46204-2982
Attn: W. Tobin McClamroch, Esq.
David R. Prechtel, Esq.
E-mail: tmccclamroch@bgdlegal.com
dprechtel@bgdlegal.com

If to the Team, to:

President
Indians, Inc.
501 West Maryland Street
Indianapolis, IN 46225
E-mail: max@indyindians.com

With a copy to:

Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, IN 46204-2017
Attn: Michael J. Messaglia, Esq.
E-mail: mmessaglia@kdlegal.com

Either party may from time to time designate a different address for notices by giving notice to that effect to the other party in accordance with the terms and conditions of this ARTICLE XVI.

ARTICLE XVII **MISCELLANEOUS**

Section 17.1. Force Majeure.

Wherever there is provided in this Agreement a time for the performance of any obligation other than the payment of a sum certain, the time provided therefor shall be extended for as long as and to the extent that delay in compliance with such time limitation is due to an act of God or other factors beyond the reasonable control of such party.

Section 17.2. Partial Invalidity.

If any provision of this Agreement or its application to any party or circumstances shall

be determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement or the application of such provision to persons or circumstances, other than those as to which it is so determined invalid or enforceable to any extent, shall not be affected thereby, and each provision hereof shall be valid and enforceable to the fullest extent permitted by law.

Section 17.3. Obligations of the Board and the Team.

The obligations and undertakings of the Board and the Team under or pursuant to this Agreement are and shall be the obligations solely of the Board and the Team. No recourse shall be had, whether in contract, in tort or otherwise against any officer, director, employee, agent, member, volunteer or representative of the Board or the Team in his or her individual capacity on account of any obligation or undertaking of or any act or omission by the Board or the Team under or pursuant to this Agreement.

Section 17.4. Time of the Essence.

Time is of the essence with respect to all provisions of this Agreement. Accordingly, subject to applicable grace and cure periods provided for herein and the terms and conditions of ARTICLE VIII above, the failure of either party to perform any act strictly within the applicable period specified herein shall entitle the other party to exercise all rights and remedies contemplated hereby.

Section 17.5. Successors and Assigns; Third Party Beneficiary.

This Agreement and all terms and conditions contained herein shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto. The Landlord is an intended third party beneficiary of this Sublease as its interest appear.

Section 17.6. Entire Agreement.

This Agreement, together with the Lease and all exhibits attached hereto, which are incorporated herein by reference, constitutes the entire and exclusive agreement between the Board and the Team relating to the Team's use of the Facility during the Term. This Agreement may not be modified or terminated, nor any of its provisions waived, except by an agreement in writing signed by the party against whom the enforcement of any such modification, termination or waiver is sought. All prior agreements and understandings relative to the use, possession or occupancy of the Facility by the Team are deemed merged herein or hereby revoked. Effective as of the Commencement Date, this Sublease shall supersede and replace the Sublease Agreement dated in 1994 (the "Prior Sublease") by and between the Board and the Team, provided the terms of the Prior Sublease shall survive and continue to govern all matters arising under the Prior Sublease, including without limitation all indemnity obligations thereunder. The Board shall not amend, modify or terminate the Lease in any manner that the rights and obligations of the Team are negatively affected without the prior written consent of the Team, which consent may be given or withheld in the sole discretion of the Team.

Section 17.7. Representations.

Each party hereby represents and warrants to the other that, it has all necessary right, power and authority to enter into this Agreement, provided that with respect to the Board's authority to sublease the Leased Premises is contingent upon the satisfaction of the conditions in Section 3.6. Additionally, each party represents and warrants that the execution and delivery of this Agreement and the performance and observance of all obligations and conditions to be performed or observed by each party hereunder have been duly authorized by all necessary action of the Team and the Board.

Section 17.8. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana. In the event of any proceedings regarding this Agreement, the parties agree that the venue shall be the state courts of Indiana or the U.S. District Court for Southern District of Indiana, Indianapolis Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedure prescribed by law.

Section 17.9. Arbitration.

(a) Each party shall promptly serve a notice to the other party advising of its desire for arbitration pursuant to Section 3.5 and Section 4.1 and shall request the American Arbitration Association to submit a list of proposed arbitrators who are generally familiar with the subject-matter involved in the dispute and from which an arbitrator shall be selected by the following method: each party shall strike any names from the list deemed unacceptable, number the remaining names in order of preference, and return the list to the American Arbitration Association. The American Arbitration Association shall then invite an arbitrator to serve from among those names remaining on the list, in the designated order of mutual preference.

(b) The ruling of the arbitrator shall be binding upon the parties hereto. The arbitrator shall follow the Commercial Arbitration Rules of the American Arbitration Association. Either party shall have the right to secure a mandatory injunction in any court of competent jurisdiction to enforce any final order of the arbitrator. If the arbitrator's decision is in favor of a party, all direct costs incurred by the other party in making the required maintenance, repair, replacement or capital improvement shall be reimbursed to such party within thirty (30) days after presentation of a statement therefor, together with interest at a rate of 1-1/2% per month,

eighteen percent (18%) per annum. Costs of the parties shall be paid as determined by the arbitrator.

(c) Arbitration under this Agreement shall be mandatory for matters contemplated by Section 3.5 and Section 4.1. Arbitration shall not be required for any other matters unless the parties mutually agree to submit such dispute to arbitration.

IN WITNESS WHEREOF, the parties have executed this Sublease Agreement as of the date first above written.

“BOARD”

“TEAM”

**CAPITAL IMPROVEMENT BOARD OF
MANAGERS OF MARION COUNTY,
INDIANA**

**INDIANS, INC.
d/b/a INDIANAPOLIS INDIANS**

By: _____
Earl Goode
President

By: _____
Max B. Schumacher
Chairman and President

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EXHIBIT A

REAL ESTATE

Beginning at the intersection of the Eastern channel line of White River (being also the Western boundary of vacated Water Street) with the Southern 31.5 foot right-of-way line of relocated Washington/Maryland Street per plans for project no. IX-B176(4), the next six (6) courses being along said line: 1) South 88 degrees 03 minutes 59 seconds East (bearings based on Indiana State Plane Coordinate System, East Zone) along a variable width right-of-way 198.26 feet to the beginning of a non-tangent curve concave Northwesterly having a central angle of 42 degrees 26 minutes 03 seconds and a radius of 542.72 feet; 2) thence Easterly and Northeasterly along said curve and 44.5 foot right-of-way an arc distance of 401.95 feet (said arc being subtended by a chord having a bearing of North 58 degrees 09 minutes 03 seconds East and a length of 392.82 feet) to the Point of Tangency thereof; 3) North 36 degrees 56 minutes 01 seconds East along said 44.5 foot right-of-way 296.92 feet (296.87 feet, plan) to the Point of Curvature of a curve concave Southeasterly having a central angle of 55 degrees 03 minutes 03 seconds and a radius of 413.87 feet; 4) thence Northeasterly and Easterly along said curve and 44.5 foot right-of-way an arc distance of 397.65 feet (said arc being subtended by a chord having a bearing of North 64 degrees 27 minutes 33 seconds East and a length of 382.53 feet) to the end thereof; 5) thence South 87 degrees 47 minutes 21 seconds East along a variable right-of-way 86.10 feet to a point where said right-of-way is 44.84 feet wide; 6) thence South 87 degrees 58 minutes 42 seconds East along a variable right-of-way 247.81 feet to a point where said right-of-way is 45 feet wide; being also on the West right-of-way of West Street per plans for project IX-B029(2), the next two (2) courses being along said line; 1) South 44 degrees 03 minutes 19 seconds East 38.45 feet to a point on the 50 foot right-of-way of said street; 2) South 02 degrees 18 minutes 56 seconds West along a variable right-of-way 739.99 feet to a point where said right-of-way is 65 feet wide; thence North 79 degrees 48 minutes 15 seconds West 496.79 feet; thence North 87 degrees 55 minutes 00 seconds West 152.81 feet to a point on the North face of an existing retaining wall; thence North 87 degrees 57 minutes 01 seconds West along the North face of said wall and the prolongation thereof 764.47 feet to the Eastern channel line of White River, being also the Western boundary of vacated Water Street; thence North 19 degrees 35 minutes 14 seconds East along said Eastern channel line 58.79 feet to the POINT OF BEGINNING.

EXHIBIT B

VICTORY FIELD MAINTENANCE RESPONSIBILITY EXHIBIT

ISSUE/SYSTEM	BOARD	TEAM
Asphalt	Replace (or scarify and resurface) at end of useful life, approximately 20-25 years (As part of any major repair e.g. scarifying, Board would be responsible to stripe)	Maintain and repair (Seal, stripe, re-coat and make repairs, e.g. potholes)
Back Flow Preventers	Replace at end of useful life, approximately 30-40 years	Maintain and repair plus yearly inspections by Water Company
Banner Poles (West and Maryland Streets)	Replace at end of useful life, approximately 30-35 years	Maintain and repair
Carpet	No responsibility	Maintain, repair and replace as needed
Cast in Place and Pre-Cast Concrete	Replace at end of useful life, approximately 20-80 years (Sidewalks, curbs, decks, walls, columns, foundations, lower bowl seat risers, precast upper deck seating tubs and outfield retaining wall) Structural repair or replacement (e.g. Broken material, major cracks wider than ¼ inch, crumbling, major spalling, exposed rebar, etc).	Maintain and make repairs (where repairs are possible) (Cosmetic repair (e.g. Minor cracks (¼ inch or less), minor spalling and chipping, crack sealing, etc.)
Ceilings	Replace as needed (Hard Ceilings and concourse Ceiling Grid)	Maintain, repair and replace as needed (Suspended Ceilings)

ISSUE/SYSTEM	BOARD	TEAM
Civil – (Storm Drains, Sanitary Sewers, Field Drains)	Replace at end of useful life, approximately 30-50 years (Catch basins, storm piping, sewer lines and field drainage sub-soil system)	Maintain and repair
Club Houses & Auxiliary Locker Rooms	Replace at end of useful life approximately 20-25 years (Mill work, tile, metal and wooden lockers)	Maintain and repair
Concession Stands	Replace at end of useful life approximately 20-25 years (Mill Work, front s/s counters, roll doors (frontline), fly fans and grease traps)	Maintain, repair and replace as needed (All concession equipment, Beer & Soda distribution equipment, hoods & associated fire suppression equipment, hand sinks & three compartment sinks, coolers)
Domestic Hot Water w/ Storage Units	Replace at end of useful life approximately 25-35 years (Main piping system, insulated tanks, circulating pumps, Valves 4" & above - butterfly-gate-ball-plug-check bypass, softener, mixing valves, controls/electronics)	Maintain, repair and replace as needed (Electric circulating motors, burners, anode rods, Valves under 4" - butterfly-gate-ball-plug-check bypass)
Doors & Frames	Replace at end of useful life, approximately 20-60 years (Doors, hinges and frames)	Maintain, repair and replace as needed (Locksets, doorknob and closures)
Drinking Fountains	Replace at end of useful life, approximately 30-60 years (China and/or Stainless Steel Basin)	Maintain, repair and replace (Valve, spigot & drain)
EIFS (Exterior Insulation Finishing System)	Replace at end of useful life, approximately 25-35 years	Maintain and repair

ISSUE/SYSTEM	BOARD	TEAM
Electrical	<p>Replace at end of useful life, approximately 30-60 years</p> <p>(Main Switch Gear, distribution wire and associated conduit from switch gear out to panel boxes-Panel Boxes plus Transformers, wire out to fixtures).</p>	<p>Maintain, repair and replace as needed</p> <p>(Breakers and Fuses in all switch gear & panels; Maintenance on all high and low voltage systems</p> <p>(Capacitors –AV 4000). Outlets, fixtures, ballast, bulbs, capacitors, motor starters and exit signs)</p>
Expansion Joints	<p>Replace at end of useful life, approximately 25-35 years</p>	<p>Maintain and repair</p>
Exterior Fence and Entrance Gates	<p>Replace at end of useful life, approximately 20-25 years</p>	<p>Maintain and repair</p>
Fire Alarm System	<p>Replace at end of useful life, approximately 20-30 years</p> <p>(Main panel, distribution wire, sub panel in outfield buildings, main Annunciator Panel and associated wiring out to devices)</p>	<p>Maintain, repair and replace as needed</p> <p>(Horn strobes, strobes, heat sensors, smoke detectors, pull stations)</p>
Fire Suppression System	<p>Replace at end of useful life, approximately 30-50 years.</p> <p>(Fire compressor, main piping and branch piping, Stop valves & alarm valves (4 inches or greater) plus fire pump)</p>	<p>Maintain, repair and replace as needed</p> <p>(Heads, Stop valves & alarm valves, less than 4 inches)</p>
Flagpoles	<p>Replace at end of useful life, approximately 30-40 years</p>	<p>Maintain and repair</p>
Floors (other than carpet)	<p>Replace at end of useful life, approximately 25-40 years</p> <p>(VCT (vinyl composition tile), ceramic, plus media deck & party terrace floor coatings)</p>	<p>Maintain, repair and replace as needed</p> <p>(Concourse restrooms and concourse sealant/coating installed by Team)</p>

ISSUE/SYSTEM	BOARD	TEAM
Furniture (Offices, Club House, Suites and Conference Rooms)	No responsibility	Maintain, repair and replace as needed
Gas	Replace at end of useful life, approximately 30-40 years (Main lines, branch lines to shut off's, Valves 4" & above)	Maintain, repair and replace as needed (Shut off valve, connection to equipment, Valves under 4")
Generator	Replace at end of useful life, approximately 30-40 years (Including ASCO switch/wiring)	Maintain and repair plus supply fuel
Grease Traps & Grease Interceptors	Replace at end of useful life, approximately 20-35 years	Clean, maintain and repair
Grinder Pumps & Associated Pit	Replace at end of useful life, approximately 20-30 years (Pump & Pit, including controls and electronics)	Maintain, repair and replace as needed (Bearings & electric motors)
Heating Systems – (Glycol System)	Replace at end of useful life, approximately 25-45 years (Boilers & Circulating Pumps)	Maintain, repair and replace as needed (Electrical motors, gas burners, controls)
HVAC (Cabinets)	Replace at end of useful life, approximately 30-40 years (Package Units, Roof Top units-distributions piping, duct work & diffusers)	Maintain, repair and replace as needed (Belts, motors, bearings, filters, VAV Units and coils)

ISSUE/SYSTEM	BOARD	TEAM
Irrigation	Replace at end of useful life, approximately 25-40 years (Controller/timer, main line, sub-mainline, lateral and distribution piping plus Valves 4" & above butterfly-gate-ball-plug-check bypass-anti-siphon)	Maintain, repair and replace as needed (Pressure regulator, valves, value boxes, rain-off sensor, pop-up gear, and retractable rotary sprinkler heads, Valves under 4" (butterfly-gate-ball-plug-check bypass-anti-siphon)
Items Maintained, Repaired and Replaced Solely by Team	No responsibility	Maintain, repair and replace as needed; example: <ul style="list-style-type: none"> • Auxiliary Outfield Box Office & Storage • Big League Gift Store Improvements made by Team • Home Club House Laundry Equipment and Visitor Clubhouse Laundry Equipment plus exhaust • The Cove • Hot Corner Gift Shop Improvements made by Team • Left Field Scoreboard • Main Scoreboard • Max Bell • Party Terrace Areas (except floors) • Restroom Epoxy Resin Floors • Right Field Party Deck • Suite Level Conference Room • All "Scheduled Capital Replacements" and all "Additional Capital Repairs and Replacements," if any, made by the Board under Exhibit D.
Kitchens / Commissary	No responsibility	Maintain, repair and replace as needed

ISSUE/SYSTEM	BOARD	TEAM
Landscaping – (Trees, bushes and turf)	No responsibility	Maintain, repair and replace as needed
Laundry Facilities (washers, dryers, soap system and visiting club house dryer exhaust system)	No responsibility	Maintain, repair and replace as needed
Loading Dock Lift	Replace at end of useful life, approximately 25-35 years	Maintain and repair
Masonry	<p>Replace at end of useful life, approximately 40-60 years.</p> <p>(Outfield fence columns, block walls, decorative brick facades, brick veneer, Structural repair or replacement e.g. Broken material, cracks wider than ¼ inch, crumbling, major spalling, exposed rebar, etc.)</p>	<p>Maintain and make repairs (where repairs are possible)</p> <p>(Minor cosmetic repairs, cracks less than ¼ inch wide, Minor spalling and chipping; crack sealing)</p>
Mill Work	Replace at end of useful life, approximately 25-30 years.	Maintain and repair
Miscellaneous	Those items which are not otherwise described in this Exhibit B which are part of the Facility shall be replaced at the end of their useful life	Maintain and repair those items which are not otherwise described in this Exhibit B which are part of the Facility
Phone, IT, WiFi	No responsibility	Maintain, repair and replace as needed
Playing Field	<p>No responsibility</p> <p>(Note: If subsurface drainage requires repair – Board responsible for gravel and down)</p>	Maintain, repair, and replace sand and sod as needed

ISSUE/SYSTEM	BOARD	TEAM
Plumbing	Replace at end of useful life, approximately 30-60 years (Main Supply, domestic-pipes and pumps, including booster pump) Valves 4" & above (butterfly-gate-ball-plug-check bypass)	Maintain and repair (Motors-impellers-bearings-hydrants) bibs Valves under 4" (butterfly-gate-ball-plug-check bypass)
Pneumatic Controls	Replace at end of useful life, approximately 25-40 years (Air Compressor and Tubing)	Maintain, repair and replace as needed (Thermostats, Dryer, Filters)
Railings	Replace at end of useful life, approximately 25-50 years	Maintain and repair
Rest Rooms	Replace at end of useful life, approximately 30-40 years (China, sinks, mirrors, partitions)	Maintain, repair and replace as needed (Faucets, valves, p-traps, soap dispensers, paper dispensers, partition accessories e.g. locks, coat hooks, hinges)
Roof	Replace at end of useful life, approximately 20-25 years (Membrane, flashing and coping)	Maintain and repair (Membrane, flashing, seams and coping)
Scoreboard – Video Board – TV Monitors	No responsibility, except as set forth on Exhibit D	Maintain, repair and replace as needed, except as allocated to the Board on Exhibit D
Seating	No responsibility, except as set forth on Exhibit D	Maintain, repair and replace as needed, except as allocated to the Board on Exhibit D
Security Intrusion and Surveillance	No responsibility	Maintain, repair and replace as needed

ISSUE/SYSTEM	BOARD	TEAM
Sound System	Replace at end of useful life, approximately 20-25 years. (Amplifier, racks and speakers plus permanent cabling)	Maintain and repair (Microphones, mixers, portable sound systems and cables)
Sports Equipment	No responsibility	Maintain, repair and replace as needed
Sports Lighting	Replace at end of useful life, approximately 30-40 years (Main gear & panels, distribution wire, contactors and light poles plus foundations)	Maintain, repair and replace as needed (Fixtures, ballast, bulbs and fuses, clean and maintain contactors)
Stairs	Replace at end of useful life, approximately 25-50 years (metal pans, railing, concrete)	Maintain and repair
Structure Steel	Replace at end of useful life, approximately 50-100 years.	Painting
Suites	Replace at end of useful life, approximately 20-25 years (Mill work, store front, doors & frames, seats (per note on replacement))	Maintain, repair and replace as needed (Carpet, ceiling, furniture, appliances, TV's)
Ticket System & T.V.'s	No responsibility	Maintain, repair and replace as needed
Training rooms, Laundry, Player's Food Prep	No responsibility	Maintain, repair and replace as needed
Transformers (IPL) One (1) Building One (1) Field Lighting IPL – Responsible	No responsibility	No responsibility

ISSUE/SYSTEM	BOARD	TEAM
Vertical Transportation	Replace at end of useful life, approximately 25-40 years (Passenger (2) freight (1))	Maintain and repair
ADA Lifts in Visiting Dugout	Replace at end of useful life, approximately 20-35 years	Maintain and repair as needed
Wall Coverings	No responsibility	Maintain, repair and replace as needed
Way Finding Signage	Replace at end of useful life, approximately 25-35 years	Maintain and repair
Window / Glazing	Replace at end of useful life, approximately 30-60 years	Clean, maintain and repair (Replace broken glass)

EXHIBIT C

REPLACEMENT / MAINTENANCE / REPAIR TEST

Notwithstanding any provisions of this Sublease to the contrary, if the Board's obligation to repair or replace a Component or System (as defined below) under Exhibits B and C is caused by Team's failure to perform "Normal and Routine Maintenance," then the Team shall be obligated to make such repair or replacement to the extent the need therefor is caused by such failure.

"Normal and Routine Maintenance" shall mean the maintenance or repair obligations with respect to each Component or System, including without limitation (i) commercially reasonable inspections and scheduled maintenance to maintain all warranties on equipment, components or systems, (ii) commercially reasonable regularly scheduled preventive maintenance programs and (iii) maintaining records of the foregoing.

The Team and Board, as applicable, will be responsible to make necessary repairs to each item, component or system of the improvements or fixtures comprising the Leased Premises (each, a "Component" or "System"), until the earlier of the following two (2) events (the "Replacement Threshold") with respect to each such Component:

1. Any Component or System shall be replaced once the "Life Threshold" of the Component has been reached. The "Life Threshold" shall have been reached if the system or Component either:

- (a) Has worn out;
- (b) Has reached the end of its useful life;
- (c) Is not functioning;
- (d) Is computer hardware or software that is no longer supported by the manufacturer;
- (e) Is no longer in compliance with codes and is not entitled to "grandfather" status; or
- (f) Is no longer deemed safe or reliable for use during events.

2. If the repair cost of any Component or System exceeds 50% of the current replacement cost, then the Component or System shall be replaced by the party with the replacement obligation ("Replacing Party"); *provided* that the Replacing Party may elect, in its sole discretion, to require such Component or System to be repaired, and not replaced, with the Replacing Party and the party with the repair obligation ("Repairing Party") each responsible for 50% of such repair cost, so long as the repair can reasonably be determined to extend the useful life of the Component for an additional five (5) years, with all future repairs being paid 50% by each party until the Replacement Threshold is otherwise reached.

Once the Replacement Threshold is reached, (a) the Team shall replace the Systems or Components for which it is responsible at Team's expense; and (b) the Team shall provide prompt written notice to the Board of any necessary replacement for which the Board is responsible, and the Board shall replace the Systems or Components for which it is responsible at Board's sole expense; **provided however**, the Team shall be responsible for any increased replacement cost resulting from any failure to so notify the Board.

Notwithstanding the foregoing, (a) if the Board would otherwise be required to replace an item of computer hardware or software due to lack of a manufacturer's support, Board may, in lieu thereof, pay the cost required by such manufacturer to reinstitute support, provided that such hardware or software remains compatible with other hardware or software utilized by the Team, (b) the Board shall have the option to repair any Component or System whose Life Threshold is reached within the last three (3) years of the Term, and (c) the Team shall have the option to continue to repair (in lieu of replacement) any Component or System whose Life Threshold is reached within the last three (3) years of the Term.

In addition, the Team shall, on an annual basis, provide the Board with a written good faith estimate of all replacements of the Systems and Components expected to be necessary for the following three years.

EXHIBIT D

PROCEDURES TO IMPLEMENT SCHEDULED CAPITAL REPAIRS AND REPLACEMENTS AND ADDITIONAL CAPITAL REPAIRS AND REPLACEMENTS

1) Subject to the Board seeking and ultimately obtaining in each applicable contract year a final appropriation from the appropriate fiscal body of the amount required, the Board agrees that it will make an investment up to the Annual Limit AND the Aggregate Limit during the Board Investment Period in the Scheduled Capital Repairs and Replacements and Additional Capital Repairs and Replacements (each as defined below), as follows:

2) "Scheduled Capital Repairs and Replacements" shall mean the following capital replacements and improvements -- in each case as described in the Victory Field Feasibility Study dated April 20, 2015 completed by Browning Day Mullins Dierdorf Architects ("Feasibility Study"), which is incorporated herein by reference -- unless one or more of such projects are removed or new projects are added, in each case upon mutual agreement of the Board and the Team:

- a. Complete "Sound System Replacement" (range of cost \$250,000 to \$300,000);
- b. Complete "Scoreboard Replacement and New Ribbon Boards" (range of cost \$1.95 to \$2.15 Million);
- c. Complete the "Suite Renovation" (range of cost \$50,000 to \$65,000 per suite for 30 suites, total \$1,500,000 to \$1,950,000);
- d. Complete the "Suite Level Common Area Renovation" (range of cost \$195,000 to \$215,000);
- e. Complete the "Suite Level Restrooms" (range of cost \$115,000 to \$125,000)
- f. Complete "Replacement of Stadium Seating" (range of cost \$1.65 to \$1.75 Million);
- g. Complete the "Auxiliary Storage Building" (range of cost \$210,000 to \$235,000);
- h. Complete the "Administration Office Level Extension" (range of cost \$1.44 to \$1.54 Million); and
- i. Complete the "Home Plate Club" (Suite/Press Level) (range of cost \$1.7 to \$1.85 Million).

Notwithstanding any other provision of this Sublease to the contrary, the Scheduled Capital Repairs and Replacements shall be undertaken in the sequence listed above (with "a" coming first), unless otherwise changed upon mutual agreement of the Board and the Team. If the Scheduled Capital Repair and Replacement expenditures by the Board within the scope of Authorized Project (a) exceeds the Annual Limit during a respective contract year or (b) exceeds the Aggregate Limit during the Board Investment Period, then the Team shall promptly reimburse the Board for all such expenditures.

3) To the extent all of the Scheduled Capital Repairs and Replacements are completed and do not cost, in the aggregate, greater the Aggregate Limit, the Board shall make such other additional capital repairs, replacements and improvements (“Additional Capital Repairs and Replacements”) – up to the amount of the Annual Limit during any contract year of the Board Investment Period and up to the amount of the Aggregate Limit during the entire Board Investment Period – as requested by the Team (excluding Components and Systems which are the Team’s responsibility under Section 4.1 and Exhibit B) and approved by the Board, such approval not to be unreasonably withheld provided the Procedures (defined below) are followed. For purposes of clarity, the Board shall not be required to make Scheduled Capital Repairs and Replacements and Additional Capital Repairs and Replacements (a) in a sequence other than as set forth in Section 2 of this Exhibit, (b) in excess of the Annual Limit during any contract year of the Board Investment Period or (c) in the aggregate in excess of the Aggregate Limit during the entire Board Investment Period. If the Additional Capital Repair and Replacement expenditures by the Board within the scope of Authorized Project (y) exceeds the Annual Limit during a respective contract year or (z) exceeds the Aggregate Limit during the Board Investment Period, then the Team shall promptly reimburse the Board for all such expenditures.

4) This Exhibit sets forth the agreed upon procedures for the completion of the Scheduled Capital Repairs and Replacements and the designation and completion of the Additional Capital Repairs and Replacements, if any (the “Procedures”).

5) Representatives of the Team and Board shall meet and confer with one another (and, as necessary, with representatives of any architects, construction managers or other third parties (“Professionals”)) to discuss the Scheduled Capital Repairs and Replacements and any proposed Additional Capital Repairs and Replacements (collectively “Proposed Projects”), will be considered evaluated and pursued in accordance with and subject to the terms and conditions of the Sublease. As the Team and Board reach agreements on the Proposed Projects, including updates and additions thereto, those agreements shall be confirmed in writing and shall be communicated to any applicable Professionals.

6) Consistent with the agreed priority/sequence of the Proposed Projects, the Professionals, after discussions with and information provided by the Team and Board, shall develop and identify the following for each Proposed Project:

- (A) An outline of the program requirements/scope of work for each Proposed Project (“Program”);
- (B) A preliminary schedule and key milestone dates to design, procure and/or construct each Proposed Project (“Schedule”) and, in doing so, shall consider and coordinate with the event schedule for the facility where the work or installation will be performed;
- (C) Projected costs estimates for each Proposed Project (“Budget”); and
- (D) Once the Program, Budget and Schedule have been developed for a Proposed Project and delivered to the Team and Board, the Professionals shall provide, on a project-by-project basis;

- i) A fee proposal to cover its remaining design services to undertake and complete that Project, if authorized and approved by the Team and Board; and
- ii) A cost estimate for the agreed scope of construction management services to undertake and complete that Project, if authorized and approved by the Team and Board.

7) It is recognized that the Team, Board and any Professionals do not have control over: (i) the cost or availability of labor, materials or equipment; (ii) the method by which contractors and/or suppliers will determine the amount of their bid or proposal; (iii) the means, methods, techniques or procedures to be utilized by the contractors who will be selected to perform the Proposed Projects; and/or (iv) whether the selected contractors and/or suppliers will adhere to the applicable Schedules for the Proposed Projects. Accordingly, the Team and Board cannot and do not represent or warrant that: bids or proposals ultimately received will not vary from the Budgets developed for the Proposed Projects; or that the work or procurement as actually performed will not vary from the Schedules developed for the Proposed Projects.

8) Once the Team and Board receive the information described in Section 6 for a particular Proposed Project, the Board shall prepare and deliver to the Team a written summary of the estimated costs and expenses which have been identified for the Proposed Project and including a recommended contingency to be carried for that Proposed Project (“Estimate Breakdown”). The Board shall also prepare and deliver to the Team a recommendation on how the costs and expenses for the Proposed Project are to be allocated in accordance with the Sublease (“Allocation”), which Allocation shall identify the portion of the Estimate Breakdown to be allocated to the Scheduled Capital Repairs and Replacements and any Additional Capital Repairs and Replacements during a respective year.

9) Once the information set forth in Sections 6 and 8 is developed for each Proposed Project, the Team and Board shall meet to review and discuss the information and to mutually develop a plan by which Proposed Projects are reviewed, evaluated and decisions are made as to whether Proposed Projects are authorized to proceed, all in a manner that is consistent with and calculated to meet the terms and conditions of the Sublease, including but not limited to the Board’s commitment to and payment of the Scheduled Capital Repairs and Replacements and any Additional Capital Repairs and Replacements (and Team’s commitment to or payment of any amounts exceeding the Annual Limit or the Aggregate Limit for any Scheduled Capital Repairs and Replacements and Additional Capital Repairs and Replacements). As part of this review and in accordance with and subject to its rights and obligations under the Sublease, the Team shall advise the Board: (i) whether or not it wishes to proceed with a Proposed Project; (ii) to proceed with a Proposed Project after making certain revisions to the applicable Program, Budget and/or Schedule; (iii) to reorder the priority and sequence of the Proposed Project; and/or (iv) whether the Team has any questions or objections to the Allocation for the Proposed Project. The Board shall promptly consider the Team’s position and respond thereto, in accordance with and subject to the Board’s rights and obligations under the Sublease. If any disagreement exists, it shall be addressed and resolved between the Parties under the terms and conditions of the

Sublease. When the Program, Schedule, Budget and Allocation for a Proposed Project has been approved by both the Team and Board, the Board shall, in good faith, seek any required appropriation of the funding for that Project. If the Board obtains appropriation for a Project, that Project shall proceed as an "Authorized Project." If the Board does not obtain appropriation for a Project, then the Team and Board shall in good faith discuss whether and how to have such Project reconsidered, amended or abandoned.

10) For each Authorized Project, the Parties shall acknowledge and confirm the following, in writing:

- (A) The agreed Program, Budget, Schedule and Allocation for the Authorized Project; and
- (B) The agreed fee proposal and the agreed scope of services and estimated fee for any Professionals to undertake and complete the Project.

11) For each Authorized Project approved by the Parties in writing pursuant to Section 10, the Parties agree that the Board shall:

- (A) Enter into a Project Authorization with appropriate Professionals, based upon the agreed fee proposal, agreed scope of services and estimate fee for that project; and
- (B) Upon completion of necessary plans, specifications or other design documents, proceed with the necessary procurement process (under Ind. Code 36-1-12 and/or Ind. Code 5-22, as applicable), to select the contractor and/or supplier who will construct the improvements and/or deliver the materials, equipment or supplies for that Authorized Project.

12) Upon receipt of bids, quotations or other proposals for an Authorized Project, the Parties agree that the Board shall review with the Team all information received and shall confer with the Team as to the award of a contract or the rejection of all bids, quotations or proposals received, consistent with the public procurement laws of the State of Indiana. It is expressly acknowledged and agreed that the Board shall, at all times, comply with all applicable procurement laws and that the final decision to award contracts or reject bids, quotations or proposals shall be made by the Board. If an award of contract is being considered, Team and Board shall confirm, in writing, their agreement as to the amount and other terms and conditions of the contract to be awarded, based upon the bids, quotations or proposals received and in accordance with all applicable procurement laws. Once an award is made, Board shall promptly tender to the selected contractor or supplier for execution, the form of the contract included in or otherwise referenced in the procurement package, consistent with the applicable bid, quotation or proposal price and confirming all other terms and conditions on which the award is made. Once the selected contractor or supplier has executed the contract in the form as tendered, Board shall also execute the contract and shall so advise the Team.

13) During the period in which Scheduled Capital Repairs and Replacements and Additional Capital Repairs and Replacements are being reviewed, evaluated, procured and/or

undertaken, Board shall maintain and share with Team a Progress Report, which shall be periodically updated as reasonably necessary to keep the Parties apprised of the current status of both Proposed Projects and Authorized Projects and the current status of the Scheduled Required Expenditures. It is expected that the Progress Report, will include:

- (A) A list of the then current Proposed Projects which are being considered, reviewed and evaluated;
- (B) A list of the Authorized Projects which are then in process of being designed, procured, delivered or constructed;
- (C) A list of the Authorized Projects which have been completed as of that date; and
- (D) A combined summary of the Allocations for all Authorized Projects.

14) The Board shall be responsible for delivery of the Authorized Projects through design and construction professionals under contract with the Board. The Team shall have no responsibility to pay any of the costs related to any Authorized Project. All consents, approvals, requests or other information provided by Team are provided to assist in the development of improvements that are useable and appropriate in Team's experience with the Leased Premises. However, the Team shall have no responsibility as to the design or construction of the Authorized Projects, except that Team shall abide by discretionary design choices made at their request as to space utilization, floor planning and aesthetic factors related to an Authorized Project. In an effort to facilitate and expedite the development, design, procurement, construction and delivery of each Authorized Project and to minimize the potential for change to the applicable Program, Schedule, and Budget, the Team and Board shall: actively participate in; share information regarding; and render decisions in a timely manner (consistent with the applicable Schedule) throughout the design, procurement and construction phases of each Authorized Project. Both Parties shall attend meetings and otherwise communicate with one another and with representatives of the Professionals to review and discuss the progress and development of each Authorized Project, to consider and promptly evaluate any issue that may arise and to reach a mutual agreement on how any such issue is to be addressed and resolved. This shall include, but not be limited to, the following:

- (A) As plans, specifications and other design documents are developed; as updated and revised schedules are issued; and as reports on actual and projected costs are updated and circulated for each Authorized Project (collectively "Project Information"), the Parties shall:
 - (i) Promptly review such Project Information as it is received;
 - (ii) Immediately advise the other Party if it has any questions or concerns about or objections to the Project Information;
 - (iii) Meet with the other Party and/or the Professionals, as necessary and appropriate, to discuss any questions, concerns or objections

which have been identified and to explore options to address and resolve such issues;

- (iv) Confirm, in writing, all agreements reached between the Parties;
and
 - (v) Take all necessary and reasonable steps to promptly implement all agreements reached.
- (B) If either Party or the Professionals, contractor or supplier recommends a proposed change to an Authorized Project, the Parties shall promptly meet to discuss the proposed change. Once an agreement is reached to adopt or reject the proposed change, the Parties shall confirm that agreement, in writing, and shall proceed in accordance therewith. Any agreed change shall be confirmed by a written change order signed by the Board, the Team, any applicable Professionals, and the applicable contractor or supplier.
- (C) If a Professional, contractor or supplier asserts a claim for additional compensation, an extension of time or other contractual relief, the Parties shall promptly meet to discuss the claim and whether it should be granted or denied. Once an agreement is reached as to the asserted claim, the Parties shall confirm that agreement, in writing, and shall proceed in accordance therewith. If the Parties agree to deny the claim and it is thereafter pursued, the Parties shall cooperate with one another in the defense of the claim.
- (D) If either Party should discover or suspect a defect, deficiency or delay in the design, construction or delivery of an Authorized Project, it shall immediately advise the other Party in writing. The Parties shall promptly meet to discuss the potential defect, deficiency or delay and, if confirmed, shall reach agreement as to the steps necessary to address and resolve such issue. Once an agreement is reached it shall be confirmed, in writing, and the Parties shall proceed in accordance therewith.
- (E) When a contractor or supplier asserts that it has achieved Substantial Completion of an Authorized Project (or a portion thereof), the Parties shall meet with one another and with the Professionals to review the work or supplies performed or delivered to date, including the contractor's or supplier's punch list. Based upon that review, the Parties shall determine whether Substantial Completion has been achieved and whether additional defective or incomplete items need to be added to the punch list. Substantial Completion shall be confirmed by the Team, Board, Professionals and applicable contractor or supplier signing a certificate of substantial completion ("Substantial Completion").

- (F) Upon Substantial Completion, the Parties shall cooperate with one another as the Team assumes occupancy and use of the Authorized Project, including each Party providing prompt written notice to the other of any defect or deficiency subsequently discovered and the enforcement of warranty and/or correction of work obligations as against the applicable contractor and/or supplier.

15) If any changes, developments or other occurrences arise which affect the Program, Schedule or Budget for an Authorized Project, including, but not limited to the items described in Section 14 above, the Board and Team shall, during their meetings, determine whether the issues can be resolved without change to the applicable Program, Schedule or Budget and, if not, the Parties shall discuss and agree upon the necessity and extent of adjustments to the Program, Budget, or Schedule, so that the Authorized Project can proceed to completion. The Board and Team shall confer in good faith in an effort to promptly address and resolve issues which arise during the course of Authorized Projects, with the objective to avoid or minimize the adverse effect of any occurrence. Once the Parties have reached agreement as to how to address and resolve an issue, Board shall give appropriate direction to the Professionals, contractors and/or suppliers to implement the agreed upon change. The performance of any work or the procurement of any materials, equipment or supplies that are affected by a change, development or other occurrence shall be suspended while the Board and Team consider available options and the work or procurement shall resume when an agreement between the Parties has been reached and confirmed in writing.

16) The Procedures set forth herein may only be amended, modified or supplemented by a writing signed by both Board and Team.

EXHIBIT E

PROHIBITED ADVERTISING CONTENT

- Promoting violence
- Illegal activity, including illegal drug use
- Political advertising
- Tobacco related products or the use thereof
- Feminine hygiene products
- Contraceptive devices or services
- Adult entertainment or disreputable sexually oriented businesses
- Advertising for telephone services imposing charges per call or minute, other than long distance calls or cellular calls
- “get rich” products or services
- Contain profanity