

AMENDED AND RESTATED VYSTAR VETERANS MEMORIAL ARENA USE AGREEMENT BETWEEN CITY OF JACKSONVILLE AND SZH HOCKEY, LLC

THIS AMENDED AND RESTATED USE AGREEMENT (this "Agreement") is made and entered into this ___ day of _____, 2020, and made effective as of July 1, 2020 (the "Commencement Date") by and between the **CITY OF JACKSONVILLE**, a municipal corporation and political subdivision of the State of Florida, whose address for purposes of this Agreement is: City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, Florida 32202 (the "City"), and **SZH HOCKEY, LLC**, a Florida limited liability company, with offices at 12846 Brodick Court, Jacksonville, Florida 32224 (the "Team").

WITNESSETH:

WHEREAS, the City owns the VyStar Veterans Memorial Arena (the "Arena") within the City of Jacksonville, Florida, for use of public purposes and gatherings, including, but not limited to, the exhibition of sports contests such as amateur and professional ice hockey, entertainment and educational events; and

WHEREAS, the Team, as successor in interest to EI Acquisition, LLC, previously entered into that certain Jacksonville Veterans Memorial Arena use Agreement with an Effective Date of August 8, 2017 (as amended, the "Use Agreement"), for the Team to operate the Jacksonville IceMen ice hockey team as a member of the ECHL professional ice hockey league ("ECHL"), with an initial term expiring June 30, 2021; and

WHEREAS, Team has requested and the City has agreed to amend and restate the Use Agreement to extend the term thereof and implement such other terms and conditions as set forth herein; this Agreement is only a modification and restatement of the Use Agreement to be effective as of July 1, 2020 and does not serve as a termination of the Use Agreement, accordingly, the rights and obligations of each of the City and Team for the period prior to the Commencement Date hereof are as set forth in the Use Agreement, and on and after the Commencement Date, those rights and obligations are modified prospectively in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants herein contained, the parties hereto, intending to be legally bound, mutually agree as follows:

1. Recitals. The Recitals set forth above are true and correct and incorporated herein by this reference.

2. Definitions. As used in this Agreement, each of the terms defined in this Section shall have the following meaning ascribed to it, unless the context otherwise requires:

"Additional Rent" means a dollar amount equal to ten percent (10%) of Net Ticket Sales for each Home Game, payable as set forth in Section 6(b) below.

"Arena" means the VyStar Veterans Memorial Arena, located at 300 A. Philip Randolph Blvd., Jacksonville, Florida 32202.

"Arena Advertising" means any advertising in or regarding the Arena or any event to be performed at or in the Arena, other than "Ice Advertising" (as hereinafter defined) means all permanent and temporary announcements, acknowledgments, banners, liquid electronic displays, monument and other signs, show bills and other audio or visual commercial messages of any nature displayed, announced or otherwise presented at, in or on the Arena or any portion thereof, provided that Advertising shall not include: (a) any Advertising contained in the broadcasts, reproductions or transmittals of Team games in any medium or any Advertising of the broadcasts, reproductions or transmittals of Team games in any medium; (b) the Naming Rights; (c) Arena announcements; or (d) the City's program advertisements. For clarity, (i) under this Agreement Advertising does not include any advertising relating to the Team or the events occurring in the Arena which are published, displayed, announced or transmitted in any medium other than by display, announcement or presentation at, in or on the Arena or any portion thereof

"Arena Premises" means that part of the Arena necessary for the proper exhibition of the Team, including but not limited to, the seating and access thereto, the Playing Surface, locker rooms located in the east corridor, player benches, penalty box, scorer's box, concourse(s), loading docks, arena plaza (outside), back stage area, lobby(s), video control booth and ticket sales facilities.

"Concessions" means the business of selling food and beverages (alcoholic and non-alcoholic) as are currently sold by City at the Arena.

"ECHL Requirements" means the requirements regarding the maintenance and operation of an arena facility for the play of ECHL games set forth in the ECHL Constitution, By-Laws, Regulations and League Policies revised and adopted in present form, as amended (the "ECHL Rules"). It is understood and acknowledged that this Agreement will be subject to review and approval by the ECHL in accordance with its Bylaws. The parties will endeavor to assist in and cooperate with the ECHL's due diligence so as to secure ECHL approval of this Agreement as expeditiously as is possible.

"Facility Manager" means SMG, a Pennsylvania limited partnership, or any subsequent entity as appointed by City, which entity is responsible for the operation and management of the Arena.

"Membership" means all of the rights, privilege and powers now or hereafter granted by the ECHL regarding the ownership and/or operation of a hockey team, including, without limitation, the right to conduct ECHL hockey games in and about the County of Duval, State of Florida in accordance with the ECHL Rules now in effect or as changed during the term of this Agreement or any extension or renewal thereof.

"Hockey Season" means each hockey season scheduled by the ECHL commencing with the first Pre-Season Game and ending with the last Play-Off Game, which is typically from October through June of each calendar year.

"Holiday" means a holiday designated and recognized by U.S. Federal Law, the State of Florida, or City.

"Home Game" means any Regular Season Game or Home Play-Off Game scheduled by the ECHL and/or the Team to be played as a home game and/or played by the Team as a home game during each Hockey Season during the term of this Agreement or any extension or renewal thereof.

"Ice Advertising" means advertising associated with dasher boards, temporary banner signage, Zamboni(s), ice surface, penalty boxes and players boxes during Home Games played at the Arena. Ice Advertising does not include any other Arena Advertising.

"Net Ticket Sales" means gross ticket sales for Home Games less applicable sales tax and any ticket user fees or surcharges imposed by City.

"Novelties" means the business of selling souvenirs, clothing, novelties, programs, pennants, caps, pencils and other Team or ECHL personalized novelties as are currently and generally sold at ECHL or professional hockey games.

"Parking Facilities" means that area to be operated by or for the City for the use of Arena patrons for parking purposes for which a charge will be collected by the City or its authorized agents to park automotive transportation.

"Playing Surface" means the ice playing surface installed by or on behalf of City at the Arena.

"Play-Off Game" means any one of a series of Team games scheduled-by and approved by the ECHL after the close of each Regular Hockey Season during the term of this Agreement or any extension or renewal thereof to determine the ultimate champion of the ECHL for such season.

"School Games" means up to two Hockey Games played Monday through Thursday with tickets sold being limited to elementary and middle school students from the North Florida area.

"Team" means EI Acquisition, LLC, an Indiana limited liability company.

"Ticket Surcharge" means a per ticket, ticket user fee of \$1.50 on each ticket sold for each Home Game at the Arena, applicable to the first 132,000 tickets sold, calculated on an annual basis for each Hockey Season. The per ticket, ticket user fee shall increase to \$2.00 on each ticket sold for each Home Game at the Arena in excess of 132,000 in each Hockey Season. The Ticket Surcharge may be amended from time to time by City Council, and any such amendments shall automatically be incorporated into this Agreement. No Ticket Surcharge will be adjusted by the City during an ECHL season. City shall notify Team each December 31 during the Term of this Agreement as to the amount of Ticket Surcharge to be applied for the following Hockey Season. The Failure of City to make such notification to Team shall not be a waiver of the City's right to increase the Ticket Surcharge in the following, or any other, year as provided for herein.

3. Term; Renewal; Termination.

(a) Term; Renewal. The initial term of this Agreement shall be for a period of eight (8) years, commencing July 1, 2017 and expiring June 30, 2025 (the "Initial Term"). The Team may elect to extend the Initial Term for one (1), five (5) year renewal term upon the same terms and conditions as set forth herein (the "Renewal Term") by providing written notice to the City no sooner than twelve (12) months, and no later than four (4) months, prior to the expiration date of the Initial Term. The Initial Term and Renewal Term are sometimes collectively referred to herein as the "Term."

(b) Early Termination Right of City. If Team fails to achieve an average paid attendance of 3,000 per Home Game for each Hockey Season during the Term of this Agreement, the City may, upon sixty (60) days prior written notice to Team (the "Termination Notice"), terminate this Agreement in its sole discretion, with no financial liability to City.

4. Team Use Rights. City agrees to furnish the public spaces of the Arena to Team, and hereby grants to Team the right and license to use the Arena and Arena Premises for the Term as herein provided, in accordance with the terms and conditions set forth herein. City grants Team exclusive hockey team rights for the ECHL and agrees not to host any other minor league hockey events. City reserves the right to host (a) NHL: games, (b) international and (c) NCAA tournament hockey games at the Arena during the Term.

(a) Team Arena Suite. On an as available basis, Team will receive a suite no charge for all non-Icemen events in the Arena. Any suite so provided shall include up to 16 tickets and 4 parking passes for events at the Arena, subject to the standard Suite Lease Agreement. Food and beverage catering for utilized suites must be purchased through the Arena's designated catering company.

(b) Arena Club Tickets. The Arena Club is an exclusive space and program in the Arena which provides customers an opportunity for rights of first refusal for all Arena events. City shall retain all revenues from the club amenity fee. All seats in Arena Club sections 113-115 shall have a \$5.00 per ticket club amenity fee ("Club Fee"), which shall be added to each ticket per Home Game and fifty percent (50%) of such Club Fees shall be remitted to the City/Facility Manager at settlement. The Club Fee shall not be applied to School Games.

(c) Other Related Uses. If available as determined by the Facility Manager in its reasonable discretion, the Team may use the Arena at the Team's expense for camps, clinics, private lessons and similar uses related to Team's operation or promotion of the Team and the sport of hockey. Notwithstanding the foregoing, City may deny such requests in its sole discretion.

5. Public Address System and Video Boards. Team shall have the exclusive right, to use and control the Arena's public address system and video boards during Home Games played at the Arena and to stage such hockey related intermission entertainment or other hockey related entertainment and promotions in connection with such Home Games as the Team deems appropriate. Team shall make its best effort to promote, during Home Games, other events which may be scheduled for the Arena and, City shall use commercially reasonable efforts to promote

the Home Games during such other events. Team shall be responsible for any damage or destruction caused by it to the public address and/or video boards at the Arena, and Team shall be responsible for the reasonable repair or replacement of the same. The cost for operators of the Public Address System and Video Boards shall be the responsibility of the Team. City/Facility Manager shall receive 25% of the time on the ribbon boards for the 45 minute period immediately prior to game time for each Home Game, and the 45 minute period immediately following the end of each Home Game.

6. Payments to City.

During the Term of this Agreement, Team shall pay the following amounts to City.

(a) Home Game License Fee. The Home Game License Fee is due upon settlement of each Home Game consistent with Paragraph 6.g. below, in the following amounts:

(i) \$10,500 for each Home Game played on a Saturday; and

(ii) \$7,500 for each Home Game played on Sundays through Fridays.

Commencing with the second year of this Agreement, there shall be an annual one and one-half percent (1.5%) increased applied to the Home Game License Fees.

(b) Additional License Fee. When net ticket sales of Team during a Hockey Season reach a level equal to or in excess of \$3,500,000, then for the remainder of each such season Team shall pay an Additional License Fee in an amount equal to ten percent (10%) of Net Ticket Sales for the remainder of that Hockey Season. The Additional License Fees shall be paid at the end of the season as a part of the final Home game settlement.

(c) Upper Bowl Fee. If Team elects to use the Upper Bowl of the Arena in connection with individual Home Games, Team shall pay an additional Five Thousand Dollars (\$5,000) to City for each such Home Game, payable in the same manner as the Home Game License Fee.

(d) Suites. City shall retain all suite revenues, with the exception of the following suites that are available to Team: Suites 200, 201, 234 and 235. City will, at no cost to City, assist Team in determining suite pricing structures so as to maximize marketability. In addition, Team shall have the right to sell available suites and St. John's suites for Hockey Games as notified by the Facility Manager with one month advance written notice, which may be sent via email. Team shall retain the suite revenue and ticket revenue (subject to the Ticket Surcharge) for any such suites it sells pursuant to this paragraph.

(e) Practice Time. No additional rent shall be due and payable to City by Team for practice time at the Arena during the Term of this Agreement or extension thereof.

Team and Facility Manager will mutually agree to practice dates and times if the Arena is available (as determined by the Facility Manager in its sole discretion). City does not guarantee any practice times will be available at the Arena. The Arena will not be available for the Team training camp.

(f) Settlement. Team and City will mutually agree upon and settle after each Home Game (within 7 business days) all Home Game License Fees, Upper Bowl Fees, the Ticket Surcharge, and all other costs, expenses, fees and revenues in connection with this Agreement for each Home Game. If the parties dispute the amount of the settlement, all undisputed amounts shall be paid within the time frames of this Section and not withheld. All sums due and owing by Team under this Agreement shall bear interest at the rate of eighteen percent (18%) per annum computed on a daily basis from date due until the date of payment. Team shall be solely responsible for any guarantee or other payments to visiting teams. All payments from Team due City hereunder shall be paid to City's Facility Manager, to be used to offset City's costs in connection with this Agreement and the maintenance and operation of the Arena and other City owned sports and entertainment facilities.

(g) Suspension of Use. The City may suspend use of the Arena if Team fails to make a required payment within the times frames set forth herein. Prior to suspension, the City shall provide the Team written notice of the failure of payment and an opportunity to cure during the period of ten (10) business days from the date of the notice. If City receives the required payment at or before 5:00 p.m. of the final day of the cure period, City shall not suspend use of the Arena. In the event of suspension, upon payment of the required amount after such suspension, the Team's use of the Arena shall be reinstated prior to the next scheduled Home Game. If the City suspends the use of the Arena, the Team will have the opportunity to reschedule any missed games as required by the ECHL and City shall make good faith efforts to provide Team with available alternative dates, subject to priority of scheduling as set forth in this Agreement.

7. Use of Playing Surface. Team, and its opposing team, at Team's option, may practice on the Playing Surface at the Arena on the day of any scheduled Home Game at no additional charge or fee to Team, provided, however, that Team's insurance coverage will cover such use. Team may also make the Playing Surface available on Home Game days for youth or adult hockey leagues to play or practice on the ice, provided, however, that the Team provides insurance coverage for such use, in form and content acceptable to City in its sole discretion and that Team pays for any additional costs and expenses in connection therewith.

(a) Promotional Events. During Home Games, Team shall be entitled to conduct promotional events in the Arena immediately prior to, and immediately following or during the course of a Home Game, such as preliminary hospitality events, youth/adult ice-hockey games/clinics, half-time shows, and post-game parties, with the prior written consent of the Facility Manager, which shall not be unreasonably withheld. Such events shall not be separate ticketed events. Team shall notify City in writing at least 72 hours in advance for any requested additional staffing needs in connection with such events. Team shall be responsible for any additional costs and expenses associated with Promotional Events.

8. **Parking.** Team shall have the use, at no additional cost to Team, during the Term of this Agreement of up to 40 parking spaces, plus up to two team buses in the Loading Dock and/or West Lot at the Arena for its directors, officers, employees and hockey players and other staff on the day of each Home Game. Team shall not resell the use of the parking spaces to any third parties. In addition, the Team shall have the use of up to 50 parking spaces in Lot Z, on the same terms and conditions of use as are applicable to the 40 parking spaces authorized by this paragraph. Team buses may not park within Lot Z. City/Facility Manager shall use commercially reasonable efforts to work with Team for lots to be used and presold for Team season ticket holders and Team sponsors. City/Facility Manager shall establish pricing and retain all parking revenues from City managed parking lots.

9. **Staffing and Personnel.**

(a) City shall, at its expense, provide the following event personnel and expenses: ushers, police, EMT for patrons, changeover staff, facility engineer, ticket takers, security guards, box office personnel, Concession employees, clean-up, utilities, Zamboni drivers (2), ice crew consisting of four (4) staff members, and parking employees to staff the Arena during Home Games played by the Hockey team in the Arena at reasonable and customary levels. City shall select and supervise any such staff or personnel.

(b) In addition, City shall provide regular box office hours and personnel from August 1 through the end of the Hockey Season during normal business hours of 10:00 a.m. through 4:00 p.m., Monday through Friday (except Holidays) for the sale of individual tickets. From time to time throughout the term of this Agreement and any extension or renewal thereof, City and Team shall review and, if City and Team agree that revisions are appropriate, revise the days and hours of the box office operations as appropriate to maximize ticket sales on a commercially reasonable basis. Team shall utilize exclusively City's contracted ticket agent (Ticketmaster) for outlet and phone sales. Team shall have the right to sell the available non-season ticket inventory to groups of more than ten (10) people. Team shall be responsible for the promotion and sale of season tickets, group tickets, partial season plans and promotional practices for Home Games. Partial season plans shall involve the sale of tickets to no less than five (5) Home Games during any Hockey Season to each buyer in a single purchase transaction.

(c) The Team shall pay for and be responsible for all costs attendant to , the players, officials, timers, score keepers, skater crew to shovel snow, scoreboard operators, video & ribbon board operators, stagehands, public address announcers, lighting technicians (to handle any lighting requirements (not including City's maintenance and repair obligations) other than turning the lights on before each Home Game and turning the lights off after each Home Game), spotlight operators and other persons directly engaged in the conduct and production of Team's Home Games. Team shall be responsible for all COVID-19 related costs, inclusive of any increased staffing and disinfecting costs.

(d) Actual staffing levels shall be based on the attendance projections supplied by the Team and prior Home Game average attendance and shall be based on City and/or its Facility Manager's reasonable determination of staffing necessary to ensure safe and proper

presentation of the Home Games. Team shall notify City's Facility Manager of any projected special needs and those requests must be submitted to the Facility Manager at least 72 hours before each Home Game and shall be provided at Team's sole cost and expense. Such request does not guarantee the City's ability to provide such services or staffing.

(e) Team may from time to time request the Facility Manager to provide additional personnel to support a specific activity conducted by the Club. For such additional personnel Team shall reimburse the City in accordance with the then standard Arena rates. City may fulfill any of its staffing and equipment obligations under this Agreement through its Facility Manager.

10. Equipment. City shall provide and maintain the following equipment for Team's use in the Arena for its Home Games: dasher boards, dasher board carts, penalty boxes, team benches, officials/scorers box, scorer's table and ice resurfacers. City shall also provide the public address system, video board system, and video/broadcast production room.

11. Concession Rights. City shall retain all concession rights and revenues for the Home Games and any ancillary events authorized hereby. The Team shall receive a thirty percent (30%) discount off retail Concession prices for a suite utilized by the Team Owner or President of the Team for Hockey Games. Such discount may not be extended to third-party suite users, such as Team sponsors. Notwithstanding the foregoing, Team may provide a bag lunch at no cost for each student who purchased a ticket to a School Game.

12. Merchandise Rights. Team shall retain 100% of its merchandise/novelty revenue and is solely responsible for all cost and expenses related thereto (including but not limited to salaries, commission, taxes, cost of goods sold, etc.). City shall provide reasonable storage for Team's merchandise/novelty inventory, at Team's sole risk. The Facility Manager and Team will coordinate so as to mutually agree to locations at the Arena for merchandise sales during Home Games.

13. Sponsorship Rights. Team shall retain revenues from all Team specific advertising, sponsorship and promotion revenue, such as Playing Surface logos, dasher logos, team marketing and Zamboni. City shall have the prior right of approval in its sole discretion of all advertising and sponsorship logos to ensure adherence to Arena exclusivity categories and appropriateness of signage. Arena exclusive sponsors include the following categories: (i) banking and financial services; (ii) automobiles; (iii) and alcoholic and non-alcoholic beverages. Arena exclusive sponsors shall have the first right to sponsor Team sponsorships. If an Arena exclusive sponsor declines participation as a Team sponsor, Team may pursue a sponsor in such exclusive categories, excluding non-alcoholic beverages. City shall have the right to approve any signage inventory being offered to any exclusive category sponsor. Team shall have no authority to bind the City or Arena to any exclusive sponsorship agreements. Team shall be solely responsible for all costs attendant to its sponsorship agreements and signage, including all associated advertisement, design, installation and removal. Team is permitted to have a table display on the concourse during its Home Games for Team marketing and promotional purposes. Additional tables for sponsors will be made available (noting that sponsors will not be able to conduct cash sales transactions at these tables and may not block or interfere with existing sponsors or advertisers or advertisements).

The City shall retain all other sponsorship rights not specifically granted to Team hereby. Such rights retained by the City includes, but is not limited to, Arena sponsorship and advertising in the concourse, Arena, static video board, Arena TV, concourse sponsor activation and static Arena signs. Team shall be required to use the sponsorship name of the Arena in its marketing efforts of the Team. Team may make use of ribbon board advertising consistent with Paragraph 14 below. Notwithstanding the foregoing, Team and Facility Manager on behalf of the City, with the written consent from the other party, shall have the right to sell each other's sponsorship inventory as set forth in this section. In such instances, the entity that sells the other parties inventory shall retain a thirty-five percent (35%) commission on the net sale of the inventory.

14. Team Advertising Rights.

(a) With the prior written approval of the Facility Manager, in its sole discretion, Team shall have the right during its Home Games and at its sole cost and expense, to install advertising in the following locations within the Arena: the dasher boards, Zamboni (or equivalent ice cleaning machine), ice surface (except as otherwise set forth in this Agreement), penalty boxes, center hung video boards, ribbon boards and player boxes. Team shall retain all revenues associated therewith and from any promotions of a temporary nature that do not interfere with City's pre-existing advertising, rights or revenues; provided, however, that Team shall not cause, permit or suffer any advertising that would violate any provisions of any City agreements in effect as of the Effective Date of this Agreement, or thereafter granted by the City (with timely written notification thereof to Team), to third party major advertisers in the Arena of food or beverage brand names, concessions, or other major Arena advertisers (collectively, "City Exclusive Advertising"). Any costs and expenses associated with Team Advertising, including but not limited to the installation and removal of the same, shall be the responsibility of the Team.

(b) Team shall have the right to use and sell advertisements on, operate and control the ribbon boards within the Arena during Home Games or any event of Team under this Agreement, including a time period from Two (2) hours before the start of any such game or event, and until One (1) hour after the conclusion of any such game or event. Team shall be entitled to receive and retain all proceeds from fascia board(s) advertisements which Team procures. Team shall provide 25% of the inventory on ribbon boards to City/Facility Manager for 45 minutes prior to each game and 45 minutes immediately following each game.

15. Media Rights. During the term of this Agreement as it may be extended or renewed, as between City and Team, Team shall have the following exclusive rights with respect to the radio, television, cable and other broadcast of Home Games played at the Arena:

(a) The parties agree that the copyright to all media transmissions referenced in this Paragraph 15 shall vest solely with the Team and/or its designee or assignee. The Team may freely share in or assign the copyrights to these transmissions at its sole discretion.

(b) To broadcast and disseminate, by radio or television or other method of transmission or communication, aural reports of all or any part of any Home Games played by Team at the Arena during the period covered by the Agreement;

- (c) To broadcast and disseminate by means of VHF or UHF or any other method of free television, the Home Games played at the Arena;
- (d) To authorize exhibition of any or all of the Home Games played at the Arena by means of cable, satellite, subscription, internet, pay television, closed circuit television or other methods or medium hereafter developed or used; and
- (e) To disseminate by any computer-based or other digital technology any portion of any game or other hockey-related information from the Arena.
- (f) During the term of this Agreement or any extension thereof, Team shall have the exclusive right to authorize commercial sponsorship with respect to any broadcasts of any Home Games played at the Arena and of any hockey related special radio, television, cable, digital or other programs presented by Team originating from the Arena. Team shall be entitled to receive all revenue resulting from the exercise of its rights and Team shall bear all of the third party costs of any such broadcasts and any commercial sponsorship thereof. If a commercial sponsor of the Team obtained by Team desires advertising in the Arena that would not otherwise constitute Ice Advertising (but would therefore constitute Arena Advertising), such advertising shall be subject to the prior approval of City, which shall not be unreasonably withheld, and upon such approval City shall be entitled to receive all revenues resulting therefrom .
- (g) The City shall make available, without additional cost to Team and to the extent available, reasonable space in the Arena for camera locations, announcer positions and all other locations needed for the reasonable and customary exploitation by Team of Home Games on television and radio. Notwithstanding the foregoing, City undertakes no responsibility or obligation whatsoever to construct such space, locations or positions.
- (h) During the term of this Agreement as the same may be extended or renewed, Team shall have the right to use the official name and any other official means of identification of the Arena in connection with Team's exercise of its rights under this Paragraph 15.
- (i) The Team shall have exclusive control of broadcast, video and audio operations, at its own expense, for any Home Game or event of Team at the Arena during this Agreement or any extension thereof. For any broadcast, video or audio content, the Team shall procure proper licensure for the same, with applicable certificates provided to City upon City's request.
- (j) The Team shall pay any additional costs and expenses associated with said broadcast, including but not limited to paying the "Film rate" on all stagehands.

16. Team's Proprietary Intellectual Property. City shall have no right to use or to license others to use any of Team's logos, registered trademarks, mascot or other intellectual property of Team which is exclusively owned by Team, except with the prior written consent of Team. As a condition to such consent, Team may require that City or City's licensee pay to Team royalties commensurate with normal industry and ECHL practice. City shall have the right to use Team's name and/or the name of the Team, its logos, registered trademarks, mascot or other intellectual

property in promoting the Arena and/or events to be held at the Arena with the prior approval of Team which approval will not be unreasonably withheld, conditioned or delayed.

17. Ticketing.

(a) Team will have sole and exclusive responsibility for and assume all costs for the control of, the accounting of, and the administration of sales of season, group, promotional, complimentary, and package sale tickets for Home Games for the Team's use of the Arena. Team shall have the right to sell individual tickets, but shall include the Ticket Surcharge amount on all tickets sold for its Home Games, and shall reimburse the City for the Ticket Surcharge at settlement of each Home Game. For computerized tickets, Team must utilize the services of the contracted supplier of ticket services for the City, and is subject to its requirements. The Team shall have the right to establish any and all prices for all tickets regardless if sold by the Team or the Arena Box Office. All tickets must be appropriately bar coded. City, through its Facility Manager, shall provide ticket sellers on Team's Home Game days only. All tickets sold are subject to seven percent (7%) sales tax.

(b) Ticketmaster Agreement. Team shall utilize the services of Ticketmaster, or its successor as selected by the City, for computerized ticket sales under the identical rates and terms of the City's existing and subsequent agreements with Ticketmaster or its successor.

(c) Box Office Reporting. City, through its Facility Manager, shall provide a statement detailing all standard and reasonably requested ticket data in connection with each Home Game.

(d) Complimentary Tickets. Team is allowed up to 54,000 complimentary tickets per Hockey Season, calculated as 1,500 complimentary tickets for 36 Home Games, which tickets are not subject to the Ticket Surcharge. If fewer than 36 Home Games are played in any Hockey Season, the maximum amount of complimentary tickets shall reduce by 1,500 for each Home Game below 36 per Hockey Season. Any requests of Team to distribute complimentary tickets above the 54,000 level shall require the prior written approval of City, which may be withheld in its sole discretion. In addition to the foregoing, the City shall receive up to 50 complimentary tickets for each Home Game, which number is not included in the 1,500 complimentary tickets number referenced above. If Team distributes more than the 54,000 allowed complimentary tickets in a Hockey Season, the Team shall pay the applicable Ticket Surcharge on each ticket above 54,000.

(e) Redemption Nights. For up to four (4) Home Games per Hockey Season, Team may allow ticket holders of unused tickets for which the City has already been paid the Ticket Surcharge to exchange them for tickets to future Home Games during that Hockey Season (the "Redeemed Tickets"). The Redeemed Tickets will be deemed Complimentary Tickets and will not be included within the 1,500 Complimentary Ticket allowance, and no additional Ticket Surcharge shall be due on the Redeemed Tickets.

(f) Ticket Rebate. Team shall receive a Home Game License Fee Rebate (based on scan drop count) for each Home Game as follows: (i) \$1.50 for patron attendance on the

first 4,000 attendees. For patron attendance in excess of 4,000 attendees, a \$2.50 Home Game License Fee Rebate shall apply based on the total number of attendees. This total will be included in the ticket settlement and due to Team within seven (7) days from the date of the game. For purposes of clarity, the ticket rebate for a Home Game having patron attendance of 5,000, would be calculated as $\$2.50 \times 5,000 = \$12,500$. The Team is not eligible for a ticket rebate for School Games.

(g) Arena Club Tickets. City and Team shall split on a 50/50 basis the \$5.00 per ticket club amenity fee as set forth in Section 4(b) above.

18. Scheduling of Home Games.

(a) City Use Priority. City shall have priority scheduling for all events at the Arena. Team shall have priority schedule over any other sports tenant at the Arena from October 1 through March 31 of each year this Agreement is in effect.

(b) Scheduling Regular Season Home Games. By January 1st of each year of this Agreement (or earlier if required by the ECHL), City, through its Facility Manager, shall coordinate with the Team to provide the Team sixty (60) available dates (the "Available Dates List") for the following Hockey Season. The Available Dates List shall provide Team with available dates falling within the ECHL season that are not then taken or held, and City shall use commercially reasonable efforts to ensure that Team is able to comply with ECHL scheduling requirements, within the City's contractual limitations, and subject to this Agreement. City does not guarantee a minimum number of weekend dates will be available. Team scheduling rights are subordinate to all events held at TIAA Bank Field that utilize the stadium bowl, including but not limited to the annual Florida-Georgia game, the TaxSlayer Bowl, all Jaguars home games, the Monster Truck Jam, and the Guns & Hoses event. In the event a Jaguars home game is scheduled the same day as a Home Game, the Team shall be required to reschedule its Home Game to another date, at its sole cost and expense. On June 1st of each year or once the ECHL schedule is announced, whichever first occurs, the team shall release dates not confirmed in the ECHL schedule.

(c) Play-Off Games. City shall use its commercially reasonable best efforts to cooperate with Team for playoff scheduling purposes in the event the Team makes the playoffs each post season of this Agreement.

(d) City Buyout Clause. City shall have the option to buy back confirmed scheduled Home Game dates, with Team rescheduling the same to another available date, upon the following conditions:

- (i) City will provide Team at least eight (8) weeks advance written notice.
- (ii) City will provide Team first priority choice for a replacement date from all unscheduled inventory of dates at the time of notice.
- (iii) The event the City desires to schedule in place of Team's Home Game should be for at least 4,000 tickets sold or provide at least \$20,000 in gross revenues to the Arena.

- (iv) City shall rebate to Team fifty percent (50%) of the applicable Home Game License Fee, and up to \$5,000 in actual, documented travel costs for the visiting Team, for a total, maximum amount of \$10,250. In the event the City elects to buyout a Home Game, City shall offset the buyout amount owed to Team against future Home Game License Fee(s), Additional License Fee(s) and Upper Bowl Fee(s) until the buyout amount is paid in full.

19. Failure of Team to Use Reserved Dates. If for any reason not specified in Paragraph 21 below, Team shall fail to use the Arena on a date reserved by the Team, and Team does not reschedule its use, and the City is unable to rent the Arena to another user on such date, the Team shall pay the City the Home Game License Fee for each such Home Game date not used.

20. Home Ice Commitment. Subject to a Force Majeure event, ECHL requirements, and so long as City is not in default hereunder, Team covenants and agrees that it shall, during the Term, utilize the Arena as its "home ice" for all Home Games, excluding preseason games.

21. Force Majeure. A party shall not be in default or liable to the other party under this Agreement if and to the extent it is unable to fulfill any of its obligations under this Agreement because it is prevented, hindered or delayed in doing so by reason of a strike, lockouts, labor dispute, boycott, material or energy shortage, casualty loss, severe weather conditions, acts of God, order of any government officer or court (but excluding, as to the City, order promulgated by the City itself), terrorism, national emergency or war (collectively, "Force Majeure").

22. ECHL. The business of the Team includes operating a professional ice hockey team in the ECHL. In matter related to such activities, the obligations of the Team's ECHL team under this Agreement are subject to the constitution, bylaws and rules and regulations of the ECHL. Team warrants that it shall be and remain a member in good standing in the ECHL, a successor league or another equivalent minor league organization. The Team hereby warrants to and specifically covenants and agrees with the City as follows:

(a) To its knowledge, no rule, regulation, policy, constitution or by law (or any provision of any thereof) of the ECHL prohibits, limits or affects in any manner or respect the right or power of Team to enter into, accept or perform all of the terms and conditions of this Agreement;

(b) Notwithstanding any provisions to the contrary herein, this Agreement is contingent upon: (i) the Team being granted an ECHL franchise or the relocation of such a franchise to the City of Jacksonville; and (ii) the approval of this Agreement by the ECHL.

23. Maintenance, Repairs, Alterations, and Improvements.

(a) City's Responsibilities. Except as otherwise provided in this Agreement, City shall be responsible for all operating and maintenance expenses of the Arena and Arena Premises, including but not limited to the Zamboni(s) and all other Arena equipment. Without limiting the foregoing, the City shall, at its sole cost and expense, maintain and repair the playing surface at the Arena during the term of this Agreement, and, at its cost, except as otherwise

expressly set forth in this Agreement, furnish all labor, material, supplies and equipment necessary to maintain and clean the Arena and Arena Premises and keep them in an orderly condition, including the prompt removal and disposal of all rubbish, trash and garbage in the Arena prior to the next scheduled Home Game in the Arena. Team is aware of the current condition of the Arena and Parking Facilities and accepts the same in its as-is, where-is condition.

(b) Team Alterations. Team may not make any alterations or improvements to the Arena or the Arena Premises without the prior written consent of the City, which may withhold in its sole discretion. Notwithstanding the foregoing, Team may, with the prior written approval of the City, in its sole discretion, theme the home Team locker room, at its sole cost and expense. Team acknowledges and agrees that the home Team locker room is not exclusive to Team and may be used by other users of the Arena. When the locker room is unavailable because of other events at the Arena, City will use commercially reasonable efforts to find temporary storage for Team equipment at the Arena, but does not guarantee such storage space will be available.

24. Utilities. The City shall furnish, at its expense, electric power, HVAC, water and sewer services to the Arena. It is understood and agreed that if the City is unable to furnish any of the foregoing services as a result of circumstances beyond the reasonable control of the City, then such failure shall not be considered a breach of this Agreement.

25. Condition of Ice Playing Surface.

(a) The Playing Surface shall be maintained, marked and equipped by the City, at the City's expense (except for the first ice installation of each Hockey Season, which shall be at the expense of the City and Team on a 50/50 basis, with the exception of any and all costs attendant to Team Logo production), the marking of the Team Logo and Team advertisements, which shall be done by and at Team's expense). City and Team agree that the ice playing surface for any hockey game and any related events on ice shall be of high quality, appropriate temperature and maintained in a professional manner. Personnel with proper ice maintenance and training shall be provided by the City, at the expense of the City. The condition of ice shall be subject to the reasonable approval by the ECHL. The City shall be responsible, at its expense, for the changeover of the ice and playing surface for practice times of the Team, Home Games and any other event required by this Agreement where an ice playing surface is required. It shall be the responsibility of the City, at its expense, to restore the Arena playing surface within the time schedule set forth herein, and to the official standards of the ECHL Requirements for the use by Team for the exhibition of ECHL hockey following any use of the Arena by Team or anyone other than Team and to reinstate the required markings in the normal level and condition of such hockey playing areas.

26. Entry and Inspection. The City reserves and shall always have the right at all times to enter the Arena and Arena Premises at reasonable times and upon reasonable prior notice to Team for the purpose of viewing and ascertaining the condition of the same, or to protect its interest in the Arena and the Arena Premises or to inspect the operations conducted thereon. In the event that such entry or inspection by the City discloses that the Arena Premises are not in a safe or satisfactory condition and, if the maintenance of such area is Team's responsibility under this Agreement, the City shall have the right to cause Team to correct any unsafe or unsatisfactory condition created by the Team or by the Team's occupancy of the Arena Premises or by any other

team playing in any Home Game with the Team in the Arena or any other invitee of the Team (other than persons paying admissions to view any Home Games). Team shall have the right to inspect the Arena Premises at reasonable times and from time to time (and on an emergency basis, where appropriate) and to cause City to correct any unsafe condition if such unsafe condition is the responsibility of City to correct.

27. Insurance; Casualty. Please see Exhibit A attached hereto and incorporated herein by this reference for the insurance requirements of Team.

28. Indemnification. Please see Exhibit B attached hereto and incorporated herein by this reference for the indemnification requirements of Team.

29. Damage or Destruction of Arena.

(a) Substantial Destruction. In the event that the Arena is substantially or totally damaged or destroyed by fire, flood or other similar or dissimilar cause whatsoever (e.g., an event of Force Majeure), then to the extent that insurance proceeds are available, the City shall promptly commence and thereafter diligently proceed to repair and rebuild the Arena (excluding Team's property) to its condition immediately prior to such substantial damage or destruction, so long as such damage or destruction was not caused or contributed to by the intentional act or negligence of Team, or its affiliates, or their agents, employees, invitees or those for whom Team is responsible. Alternatively, the City or Team may elect to terminate this Agreement; provided that if either party elects to terminate this Agreement, then it shall give notice of the termination to the non-terminating party within sixty (60) days after the date of such substantial damage or destruction. It is understood and agreed that the City is not liable to Team for any losses arising from such destruction and Team shall be responsible for payment of and obtaining any business interruption insurance to protect Team against lost revenues in the event the Arena is unavailable as a result of this Section. During such time as the Arena is unavailable, this Agreement shall be suspended and the obligations of the parties abated until the City reconstructs the Arena, if at all, and makes it available to Team. Team shall have the option of terminating the Agreement if: (i) City has failed to substantially restore the Arena within one hundred eighty (180) days of such substantial damage or destruction (the "Restoration Period"); and (ii) the Restoration Period has not been delayed by a Force Majeure event.

(b) Partial Destruction. If the Arena is partially damaged or destroyed by fire, flood or other similar or dissimilar cause whatsoever (e.g., an event of Force Majeure), then to the extent that insurance proceeds are available, the City shall promptly commence and thereafter diligently proceed to repair and rebuild the Arena (excluding Team property) to its condition immediately prior to such partial damage or destruction, fire or other casualty, so long as such damage or destruction was not caused or contributed to by the intentional act or negligence of Team, or its affiliates, or their agents, employees, invitees or those for whom Team is responsible. Alternatively, the City or Team may elect to terminate this Agreement; provided that if either party elects to terminate this Agreement, then it shall give notice of the termination to the non-terminating party within sixty (60) days after the date of such partial damage or destruction. If the City fails to substantially complete the necessary repairs or rebuilding within one hundred eighty (180) days from the date of such partial destruction, Team may at its option terminate this

Agreement by delivering written notice of termination to the City, whereupon all rights and obligations under this Agreement shall cease to exist.

30. Condemnation.

(a) Total Taking. In the event the entire Arena is appropriated or taken under the power of eminent domain, or sold under threat thereof by any other public or quasi-public authority (all of which will be referred to as a "Condemnation"), then this Agreement shall be terminated as of the date the condemning authority takes title or possession, whichever first occurs. Team shall have no claim to the award in condemnation for the City's interest in the Site and Arena; provided, however, that Team shall have a claim to the portion of the award in condemnation that represents compensation for the taking of the interest of Team under this Agreement.

(b) Partial Taking. In the event that only a portion of the Arena is taken by condemnation, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. Provided, however, that if so much of the Arena is taken by such Condemnation as would materially, substantially and adversely affect Team's Home Games, Team shall have the option, to be exercised in writing within thirty (30) days after the City shall have given Team written notice of the condemnation (or in the absence of such notice, within thirty [30] days after the condemning authority shall have taken possession), to terminate this Agreement as of the date the condemning authority takes such possession. If Team does not give timely notice to terminate, this Agreement shall remain in full force and effect as to the remainder of the Arena that is suitable for the use then being made of the Arena by Team. Whether this Agreement terminates or continues in full force or effect, Team shall have no claim to the award in condemnation for the City's interest in the site or Arena; provided, however, that Team shall have a claim to the portion of the award in condemnation that represents compensation for the taking of the interest of Team under this Agreement.

31. Default, Termination and Other Remedies.

(a) Default. Team shall be in default under this Agreement if any of the following occur: (i) Team fails (A) to pay any amount due hereunder (including, without limitation, the Operating Expenses) when the same is required to be paid hereunder and Team fails to pay such amounts within twenty (20) business days after Team has been served with written notice of such non-payment, (ii) Team or any of its officers, directors, employees or agents fails to perform or fulfill any other term, covenant, or condition contained in this Agreement and Team fails to commence a cure thereof within thirty (30) calendar days after Team has been served with written notice of such breach, or if such breach cannot, with due diligence, be cured within thirty (30) calendar days, Team does not commence curing within thirty (30) calendar days and with reasonable diligence completely cure the breach within a reasonable period of time after the notice, or (iii) Team makes a general assignment for the benefit of creditors, or (iv) Team is adjudicated bankrupt or an involuntary petition in bankruptcy is filed against it or any of its properties is seized upon levy or execution. City shall be in default under this Agreement if (x) City fails to pay any appropriated amount due hereunder when the same is required to be paid and City fails to pay such amounts within thirty (30) business days after City has been served with written notice of such

default; (y) City is adjudicated bankrupt or an involuntary petition in bankruptcy is filed against City or any of property of City is seized upon levy or execution; and (z) City fails to perform or fulfill any material term, covenant, or condition contained in this Agreement and City fails to commence a cure thereof within thirty (30) business days after City has been served with written notice of such default, or such other period time as expressly set forth in this Agreement. Nothing herein shall be construed as excusing either party from diligently commencing and pursuing a cure within a lesser time if reasonably possible. Notwithstanding the above, if the breach by City or any of its officers, directors, employees, or agents of such other term, covenant, or condition is such that it threatens the health, welfare, or safety of any person or property, then Team may, in its discretion, require that such breach be cured immediately.

(b) Termination and Other Remedies. Upon a default pursuant to Section 31(a) hereof, beyond all applicable notice and cure periods set forth in this Agreement, the non-breaching party may, at its option, upon written notice or demand upon the other party, (i) cancel and terminate this Agreement and the use rights granted herein and the obligations of the parties with respect thereto, (ii) recover all damages caused by the breach of the defaulting party, and/or (iii) all remedies available at law or in equity for breach of this Agreement except as otherwise provided in this Agreement. No right or remedy conferred upon or reserved to City or Team in this Agreement is intended to be exclusive of any other right or remedy, and each right and remedy shall be cumulative and in addition to any other right or remedy of City or Team under this Agreement, or now or hereafter existing at law or equity, or by statute.

32. Audits.

(a) On August 31 of each year of this Agreement, Team, at Team's sole cost and expense, shall provide to the City (with a copy to its Facility Manager) an attestation examination report certified to the City and performed by an Independent Certified Public Accountant in conformity with the Attestation Standards of the American Institute of Certified Public Accountants (AICPA) relating to the prior calendar year. The examination shall include, at a minimum, a review of the internal controls, compliance with this Agreement, and amounts due and payable to the City for the following matters:

- i. Ticket Surcharges;
- ii. Home Game License Fees;
- iii. Additional License Fees;
- iv. Upper Bowl Fees;
- v. Turnstile counts; and
- vi. All other amounts due and payable from Team to the City set forth in this Agreement.

The City's Council Auditor's Office shall have the right, at City's cost and expense, to audit the above-named revenue sources and to review the work papers of the Independent Certified Public Accountant, and the City may require that certain reports and schedules be presented in a format reasonably prescribed by it.

(b) By the 5th business day after each hockey game played, the City shall provide the Team written accountings reconciling all ticket sales. Said written accountings for

ticket sales so provided shall itemize information for gross ticket sales, less fees charged by Ticketmaster, sales tax paid, actual credit card processing fees, and Ticket Surcharges, so long as said fees are included within gross ticket sales. Any amounts due by the City to the Team for ticket sales shall be paid within two (2) business days after receipt of said written accountings by the Team, and Team shall confirm receipt of said written accountings via electronic mail sent to City.

(c) By the 5th day of each calendar month, the City shall provide written accountings reconciling and itemizing all other payables and receivables for hockey games (excluding ticket sales) but including and not being limited to, concessions, parking, post-game skates and any other activity causing income or expense to occur. Any amounts due from by one party to the other shall be paid by the 15th day of each calendar month.

(d) The Parties agree that the Team shall have the right to examine the any information supporting and/or related to City's accountings, including Facility Manager's relevant books and records, for any Home Game of Team held under this Agreement, upon written request, so long as 14 days' advance notice is provided thereof to the City.

(e) Any such accountings provided in writing to Team by City shall be deemed incontestable unless objected to by Team, in writing, specifying the nature of and reasons for such objection, within fourteen (14) business days after receipt by Team.

(f) Any such audit shall be limited to books and records relating to the basis for any amounts shown or not shown on the accountings provided herein, and Team shall not have the right to examine books and records relating to City's business generally.

33. Team Representations, Covenants, and Warranties. Team shall use the Arena and Arena Premises for the purpose of exhibiting Home Games and related uses as set forth herein. Team represents, warrants, covenants and agrees that, during the term hereof and any extension or renewal thereof, Team shall:

(a) Authority. It has the full power and authority to enter into this Agreement and perform each its obligations hereunder; and

(b) Approvals. It is legally authorized and has obtained all necessary regulatory approvals for the execution, delivery, and performance of this Agreement.

(c) ECHL Games. Play and cause to be played all Home Games at the Arena under and in strict accordance with ECHL Rules, as they may be hereafter amended.

(d) Membership in ECHL. Maintain Team's membership in the ECHL in good standing.

(e) Membership. Hold and maintain any and all rights and its membership to play ECHL hockey in the metropolitan area of Jacksonville, Florida in accordance with ECHL Rules as they may be hereafter amended, and will not do or suffer anything to be done which will cause such rights or franchise to be lost or impaired or diminished in any respect or moved from Duval County.

(f) Character and Standing. Maintain an ECHL hockey team of the character and standing required by the ECHL Rules as they may be hereafter amended for the conduct of ECHL hockey.

34. City Representations and Warranties. City represents and warrants to Team that:

(a) It has the full right and power and authority to (a) enter into this Agreement and perform each its obligations hereunder, (b) grant the rights set forth to in this Agreement.

(b) It is legally authorized and has obtained all necessary regulatory approvals for the execution, delivery, and performance of this Agreement.

35. Compliance with Laws. Team, at its sole cost and expense, comply with all applicable federal, state and local laws, rules and regulations, as they may be amended from time to time, pertaining to its use of the Arena, including but not limited to, the following: (i) all building, zoning, and fire protection regulations; (ii) all regulations and instructions regarding the disposal of sewage, garbage and industrial or hazardous wastes promulgated or enforced by any federal, state or local agency; (iii) all regulations requiring that Team obtain licenses or permits for its activities on or in the Arena, and (iv) Team's activities and obligations in connection with this Agreement. City confirms that to its knowledge and without investigation, the Arena is in compliance with all applicable laws and regulations.

36. IRS Requirements. It is specifically understood that City intends to comply with Internal Revenue Service laws, regulations, rulings, notices or procedures ("IRS requirements"), issued prior or subsequent to the date of this Agreement, governing the management of governmental facilities financed with the proceeds of tax-exempt bonds, and in particular any such IRS requirements which implement Section 1301(e) of the Tax Reform Act of 1986. Notwithstanding any other provision of this Agreement, if any provisions of this Agreement conflicts with any IRS requirements (or if bond counsel to City determines that an amendment to this Agreement is necessary in order to satisfy the conditions of the Private Activity Bond Rules) and City so informs Team, then the parties agree to amend the Agreement appropriately to the extent necessary to avoid such conflict. If compliance affects economic and business terms in a material manner, hereafter, such terms will be adjusted to reflect the true intent of the parties.

37. Civil Rights Act. During the performance of this Agreement, City and Team shall comply fully with Title VI and Title VII of the Civil Rights Act of 1964, as amended, and all other regulations promulgated thereunder, in addition to all applicable state and local ordinances concerning Civil Rights.

38. Subsequent Enactment of Ordinances; Reformation. In the event that the City of Jacksonville and/or the State of Florida in the future adopts any law or otherwise imposes any ordinance, regulation and/or restriction pursuant to its regulatory and/or governmental powers which materially affects the terms of this Agreement (except in connection with the Ticket Surcharge imposed by City), then Team shall be entitled to (i) terminate this Agreement upon providing written notice of such termination to the non-terminating party or (ii) have this Agreement reformed by a court of competent jurisdiction so that such subsequent adoption shall,

to the extent possible, not materially affect the performance required by, or the benefit to be received by, Team under the terms of this Agreement.

39. Construction of this Agreement.

(a) Choice of Law. This Agreement shall be deemed to be made, governed by, and construed in accordance with the laws of Duval County and the State of Florida, without giving effect to the conflict of law principles thereof.

(b) Paragraph Headings. The paragraph headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Agreement or to define, limit, or describe the scope or intent of this Agreement or the particular paragraphs hereof to which they refer.

(c) Entire Agreement; Amendments. This Agreement (including all Exhibits and other documents and matters annexed hereto or made a part hereof by reference) contains all of the covenants, agreements, terms, provisions, and conditions relating to the rights and obligations of City and Team with respect to the Arena. No alterations, amendments, or modifications hereof shall be valid unless executed by an instrument in writing by the parties hereto.

(d) Severability. If any provision or a portion of any provision of this Agreement is held to be unenforceable or invalid by a court of competent jurisdiction, the validity and enforceability of the enforceable portion of any such provision and/or the remaining provisions shall not be affected thereby.

(e) Time. Time is of the essence hereof, and every term, covenant, and condition shall be deemed to be of the essence hereof.

(f) Successors. This Agreement shall be binding upon, and shall inure to, the benefit of the successors and assigns of City, and to such successors and assigns of Team as are permitted to succeed to the Team's right upon and subject to the terms hereof.

(g) Independent Contractor; No Partnership. City and Team shall each be and remain an independent contractor with respect to all rights and obligations arising under this Agreement. Nothing herein contained shall make, or be construed to make, City or Team a partner of one another, nor shall this Agreement be construed to create a partnership or joint venture between and of the parties hereto or referred to herein.

(h) Singular and Plural. Whenever the context shall so require, the singular shall include the plural, and the plural shall include the singular.

40. Miscellaneous.

(a) Waiver. The failure of any party to enforce any of the provisions of this Agreement, or any rights with respect hereto, or the failure to exercise any election provided for herein, will in no way be considered a waiver of such provisions, rights, or elections, or in any way

affect the validity of this Agreement. The failure of any party to enforce any of such provisions, rights, or elections will not prejudice such party from later enforcing or exercising the same or any other provisions, rights, or elections which it may have under this Agreement.

(b) Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned or transferred in any manner whatsoever by Team without the prior written consent of City, which shall not be unreasonably withheld, conditioned or delayed. City shall be entitled to assign its rights and obligations hereunder to its Facility Manager or to any other management company retained by City to manage the Arena, and in such event, City shall have no further liability to Team hereunder for the performance of any obligations or duties arising after the date of such assignment. In connection with any assignment of this Agreement by Team or any successor thereto, Team shall cause to be delivered to City, simultaneously with any assignment, sale or transfer, an instrument in form and content acceptable to the City in its reasonable discretion, in writing executed by the assignee or transferee, by which the assignee or transferee shall assume and agree to perform all of the terms and provisions of this Agreement on the Team's part to be kept and performed that have not been fully performed previously.

(c) Notices. Any notice, consent, or other communication given pursuant to this Agreement shall be in writing and shall be effective either (i) when delivered personally to the party for whom intended, (ii) upon delivery by an overnight courier services that is generally recognized as reliable, and the written records maintained by the courier shall be prima facie evidence of delivery, or (iii) on delivery (or attempted delivery) by certified or registered mail, return receipt requested, postage prepaid, as of the date shown by the return receipt; in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

If to City: City of Jacksonville
 Attn: Sports and Entertainment Director
 117 W. Duval Street, Suite 280
 Jacksonville, Florida 32202

With a copy to: City of Jacksonville
 Office of General Counsel
 117 W. Duval Street, Suite 480
 Jacksonville, Florida 32202

With a copy to: ASM-Jacksonville
 300 A. Philip Randolph Blvd.
 Jacksonville, Florida 32202
 Attention: General Manager

with a copy to: ASM
 Conshohocken State Road, Suite 450
 300 Four Falls Corporate Center
 West Conshohocken, PA 19428
 Attention: Contracts Administrator, Stadiums and Arenas

If to Team: SZH Hockey, LLC
DBA Jacksonville IceMen
Attn: Andrew Kaufmann
4130 Salisbury Road, Suite 1340
Jacksonville, Florida 32216
Attn: Bob Ohrablo; Andy Kauffman

(d) Title and Covenant Against Mechanics Liens. Team covenants and agrees not to suffer or permit any lien of mechanics or materialmen to be placed upon or against the Arena. In case of any such lien attaching, Team shall immediately pay and remove same or cause the same to be bonded or transferred to other security. If any such liens so attach and Team fails to pay and remove same or cause the same to be bonded or transferred to other security within twenty (20) days, then the City (at its election), may pay and satisfy the same, and in such event the sums so paid plus interest at the maximum lawful rate shall be due and payable at once without notice or demand. At the City's request, Team shall execute a written instrument to be recorded for the purpose of providing notice of the existence of the provisions of this Section in accordance with Section 713.10, Florida Statutes.

(e) Estoppel Certificates. Each party (as "responding party") shall at any time within fifteen (15) business days after written request from the other party ("requesting party") execute, acknowledge and deliver to the requesting party a statement in writing as of the date of such certification (i) attaching a true and correct copy of this Agreement (including any amendments thereto); (ii) certifying that this Agreement is in full force and effect and acknowledging that there are not, to the responding party's knowledge without inspection, audit or investigation, any uncured defaults on the part of the requesting party (or specifying such defaults, if any are claimed); (iii) the amount of rental and other fees or surcharges paid in connection with this Agreement and whether any such rental and other fees and surcharges have been paid more than one (1) month in advance; and (iv) whether this Agreement has been assigned. Any such statements may be conclusively relied upon by any prospective purchaser or encumbrancer of Team or of its interests herein and by any bond holders, underwriters and financiers of the City, as specifically addressed in such estoppel certificate.

(f) Consent. Wherever City's consent or approval is required under this Agreement, such consent shall not be unreasonably withheld or delayed, unless otherwise noted herein.

(g) Jury Trial Waiver. City and Team each hereby irrevocably, knowingly and voluntarily waive trial by jury in any action, proceeding or counterclaim brought by either of the parties against the other or their successors in respect to any matter arising out of or in connection with this Agreement, the relationship of City and Team, Team's use or occupancy of the Arena, and/or any claim for injury or damage, or any emergency or statutory remedy.

(h) Quiet Enjoyment. Team shall have the right to enjoy during the Initial Term of this Agreement, as amended or extended, the quiet, peaceable and undisturbed possession in accordance with and subject to the provisions of this Agreement.

(i) Surrender. Upon expiration or termination of this Agreement, Team shall return and deliver the Arena and Arena Premises to the City in substantially the same condition in which the Arena existed as of the Commencement Date, subject to reasonable wear and tear, alterations by Team permitted by this Agreement, maintenance and repairs for which the City is responsible, Force Majeure events, casualty, and condemnation.

(j) No Third Party Beneficiary. Nothing contained in this Agreement shall be construed to confer upon any other party the rights of a third party beneficiary.

(k) Counterpart Execution. This Agreement may be executed in counterparts, each of which will be deemed an original document, but all of which shall constitute a single document. This document will not be binding on or constitute evidence of a contract between the parties until such time as a counterpart of this document has been executed by each party and a copy thereof delivered to the other party to this Agreement. The pdf or other electronic signature of a party is and shall be deemed to be an original execution and is binding.

(l) Construction of this Agreement. This Agreement shall not be construed for or against any party on the basis that such party drafted any portion of this Agreement. In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural, in any place in which the context so requires.

(m) Survival. The covenants, warranties, representations, indemnities and undertakings of the parties set forth in this Agreement shall survive the termination or expiration of this Agreement.

(n) Radon Gas. Team hereby acknowledges receipt of the following notice as required by Chapter 88-285, Laws of Florida: "RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."

IN WITNESS WHEREOF, City and Team have duly executed this Agreement as of the day and year first above written.

ATTEST:

By: _____
James R. McCain, Jr.
Corporation Secretary

CITY OF JACKSONVILLE

By: _____
Lenny Curry, Mayor

WITNESS:

By: _____
Name: _____
Date: _____

Form Approved:

By: _____
Office of General Counsel

WITNESS:

By: _____
Name: _____
Date: _____

WITNESS:

By: _____
Name: _____
Date: _____

SZH HOCKEY, LLC, an Florida limited liability company

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

WITNESS:

By: _____
Name: _____
Date: _____

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EXHIBIT A

INSURANCE REQUIREMENTS

Without limiting its liability under this Agreement, Team shall at all times during the term of this Agreement procure prior to commencement of work and maintain at its sole expense during the life of this Contract (and Team shall require its, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Schedule	Limits
Worker's Compensation Employer's Liability	Florida Statutory Coverage \$ 100,000 Each Accident \$ 500,000 Disease Policy Limit \$ 100,000 Each Employee/Disease

This insurance shall cover the Team (and, to the extent they are not otherwise insured, its subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act, USL&H and Jones, and any other applicable federal or state law.

Commercial General Liability	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$1,000,000	Personal/Advertising Injury
	\$1,000,000	Each Occurrence
	\$ 50,000	Fire Damage
	\$ 5,000	Medical Expenses

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management. An Excess Liability policy or Umbrella policy can be used to satisfy the above limits.

Automobile Liability (Coverage for all automobiles, owned, hired or non-owned used in performance of the Agreement)	\$1,000,000	Combined Single Limit
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Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

Professional Liability
(Only if Team operations includes Medical Professionals)

\$1,000,000 per Claim and Aggregate

Any entity hired to perform professional services as a part of this contract shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Agreement and with a three year reporting option beyond the annual expiration date of the policy.

Personal Property: Team may place its personal property on or within the Facilities during the Agreement Term from time to time at its discretion; however, all Team personal property that may be on the Facilities during the Agreement Term shall be thereon at Team's sole risk. Under no circumstances will the City be responsible for the Team's personal property.

Additional Insurance Provisions

- A. **Additional Insured:** All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.
- B. **Waiver of Subrogation.** All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.
- C. **Team's Insurance Primary.** The insurance provided by the Team shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.
- D. **Deductible or Self-Insured Retention Provisions.** All deductibles and self-insured retentions associated with coverages required for compliance with this Agreement shall remain the sole and exclusive responsibility of the named insured Team. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Agreement.
- E. **Team's Insurance Additional Remedy.** Compliance with the insurance requirements of this Agreement shall not limit the liability of the Team or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Agreement or otherwise.
- F. **Waiver/Estoppel.** Neither approval by City nor failure to disapprove the insurance furnished by Team shall relieve Team of Team's full responsibility to provide insurance as required under this Agreement.
- G. **Certificates of Insurance.** Team shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- H. **Carrier Qualifications.** The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.

- I. Notice. The Team shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not available then the Team, as applicable, shall provide said a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the Team under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.
- L. Special Provisions: Prior to executing this Agreement, Team shall present this Agreement and Attachment B & C to its Insurance Agent affirming: 1) That the Agent has personally reviewed the insurance requirements of the Agreement Documents, and(2) That the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Team.

**EXHIBIT B
INDEMNIFICATION**

(a) CITY Indemnity. CITY shall hold harmless, indemnify and defend Team and Team's members, officers, employees and agents (collectively the "Team Indemnity Parties") from and against any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, including for injury to persons or the death of persons or damage to or destruction of property, which may be incurred by, charged to or claimed against or recovered from any of the Team Indemnity Parties in connection with or arising out of (i) any negligent acts or omissions by CITY, its members, elected officials, officers, employees or agents (collectively the "CITY Indemnity Parties"), or (ii) any use of the Arena for CITY Events.

It is expressly understood and agreed, by the parties, that the CITY'S indemnity shall be governed by the provisions of and shall not exceed the specific monetary limitations in Section 768.28, Florida Statutes, as that statute exists on the effective date of this Agreement. It is expressly understood and agreed, by and between the parties that CITY'S indemnity for its negligence, expressed herein, is not and shall not be construed as any alteration or waiver of sovereign immunity, in tort, beyond that which has provided by the Florida Legislature in Section 768.28 Florida Statutes.

(b) Team Indemnity. Team shall hold harmless, indemnify and defend CITY and the CITY Indemnity Parties from and against any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, including for injury to persons or the death of persons or damage to or destruction of property, which may be incurred by, charged to or claimed against or recovered from any of the CITY Indemnity Parties in connection with or arising out of (i) any negligent acts or omissions by the Team Indemnity Parties, or (ii) any use of the Arena for CLUB Events.

If an Indemnity Party exercises its rights under this Agreement, the Indemnity Party will (1) provide reasonable notice to the party from which indemnification is being sought of the applicable claim or liability, and (2) allow such notified party, at its own expense, to participate in the litigation of such claim or liability to protect their interests. The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by, any insurance provided pursuant to this Agreement or otherwise. Such terms of indemnity shall survive the expiration or termination of this Agreement with respect to matters occurring prior thereto.

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes

Nothing in this Exhibit B shall constitute a waiver by either CITY or Team or limit CITY or Team's right to recover with respect to any tort action against the other party, subject to the limitations and provisions of Section 768.28, Florida Statutes, which are not hereby altered, expanded or waived. In the event of any joint negligence on the part of CITY and CLUB, any loss shall be apportioned in accordance with the provisions of the Uniform Contribution Among

Tortfeasors Act (Section 768.31, Florida Statutes), as that statute exists on the effective date of this Agreement, and subject to the limitations and provisions of Section 768.28, Florida Statutes, which are not hereby altered, expanded or waived.

This Exhibit B relating to indemnification shall survive the Term, and any holdover and/or contract extensions thereto, whether the Term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Agreement, with respect to matters occurring prior thereto.