

**EXHIBIT G**  
**TO STADIUM LEASE**

**AMENDED AND RESTATED INTANGIBLE PROPERTY LICENSE AGREEMENT**

**AMENDED AND RESTATED  
INTANGIBLE PROPERTY LICENSE AGREEMENT**

by and between the

**SANTA CLARA STADIUM AUTHORITY,**  
as Licensor,

and

**FORTY NINERS SC STADIUM COMPANY LLC,**  
as Licensee

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EXHIBITS

Exhibit A - Definitions

## AMENDED AND RESTATED INTANGIBLE PROPERTY LICENSE AGREEMENT

THIS INTANGIBLE PROPERTY LICENSE AGREEMENT (this "Agreement"), dated as of March 28, 2012 (the "Effective Date"), as amended and restated as of June 19, 2013, is by and between SANTA CLARA STADIUM AUTHORITY, a joint exercise of powers entity, created through Government Code sections 6500 *et seq.* ("Licensor"), and FORTY NINERS SC STADIUM COMPANY LLC, a Delaware limited liability company ("Licensee"). Licensor and Licensee collectively are referred to herein as the "Parties," and each of Licensor and Licensee, individually, is sometimes referred to as "Party."

This Agreement amends and restates and hereby supersedes in its entirety the Intangible Property License Agreement entered into by Licensor and Licensee as of March 28, 2012.

### RECITALS

- A. Licensor leases the Stadium Site from the City pursuant to the Ground Lease.
- B. Pursuant to that certain Amended and Restated Stadium Lease Agreement dated as of June 19, 2013 (herein referred to as the "Stadium Lease"), Licensee leases certain Premises from Licensor as are more particularly described therein.
- C. In conjunction with execution of the Stadium Lease, Licensor and Licensee are executing and entering into this Agreement for the license by Licensor to Licensee of certain Intangible Property Licenses related to, among other things, the Premises for the purposes and uses permitted hereunder, on, subject to and in accordance with the terms hereof.
- D. Licensee currently holds title or license to certain Existing Intangible Property Rights, which the Parties intend to acknowledge and which Licensor intends to disclaim and quitclaim to Licensee.

### AGREEMENTS

For and in consideration of the respective covenants and agreements of the Parties herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, Licensor and Licensee do hereby agree as follows:

#### ARTICLE 1

#### DEFINITIONS; REPRESENTATIVES OF THE PARTIES

Section 1.1 Definitions. Unless the context otherwise requires, capitalized terms used in this Agreement have the meanings set forth on Exhibit A attached hereto. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to them in the Stadium Lease.

Section 1.2 Rules as to Usage. The rules set forth in Exhibit B of the Stadium Lease shall be followed when construing words or phrases used in this Agreement.

Section 1.3 Licensor Representative. The Landlord Representative to be designated pursuant to Paragraph 33.26 of the Stadium Lease shall be the Licensor's representative (the "Licensor Representative") hereunder for the purpose of taking any action, decision or determination which is to be taken or made by Licensor under this Agreement.

Section 1.4 Licensee Representative. The Tenant Representative to be designated pursuant to Paragraph 33.27 of the Stadium Lease shall be Licensee's representative (the "Licensee Representative") hereunder for the purpose of taking any action, decision or determination which is to be taken or made by Licensee under this Agreement.

## ARTICLE 2 GRANT OF LICENSES

Section 2.1 Intangible Property Rights. In consideration of and pursuant to the covenants, agreements, and conditions set forth herein:

(a) Intangible Property Licenses. Subject to the provisions of the Stadium Lease and the other Stadium Lease Documents, as applicable, Licensor does hereby grant a license to Licensee, for the Term, for the following rights (collectively, the "Intangible Property Licenses"), with full power to sublicense such rights, which Intangible Property Licenses shall be the exclusive licenses of Licensee for the Term, except as provided herein:

(i) The Stadium. Subject to the provisions of Section 2.4 below, and except as expressly granted to the Stadium Naming Rights Sponsor pursuant to the Stadium Naming Rights Agreement, any and all of the rights (collectively, the "Stadium Rights") to (A) use any Symbolic Representations of the Stadium, (B) display the Stadium Name, attributions for the Stadium or Symbolic Representations on items of personalty within and outside the Premises, (C) use, mark and associate the Stadium Name or such attributions with merchandise or services, (D) contract from time to time with any Person or Persons on such terms as Licensee determines with respect to the use and enjoyment of such Symbolic Representations and any associated Marks, and (E) the full use and enjoyment of the Stadium Name and Symbolic Representations and all associated Marks anywhere, the license of all of the foregoing in this Section 2.1(a)(i) being herein referred to as the "Stadium License";

(ii) Advertising and Sponsorship Rights for the Premises. Any and all of the Advertising and Sponsorship Rights, including Stadium Components Sponsorship Rights, relating to the Premises in accordance with the terms of the Stadium Lease and the other Stadium Lease Documents;

(iii) Other Complex Rights. Subject to the terms of the other Stadium Lease Documents, the full and exclusive right to use, enjoy, exploit, contract for and control all Service Rights, Branding Rights, Pourage Rights, Exclusivity Rights and Concession Rights, but as to such Concession Rights, only as they relate to (A) Concession Operations within Tenant's Exclusive Facilities, (B) Concession Operations during the Tenant Season (excluding in connection with Stadium

Authority Events during the Tenant Season), or (C) Concession Operations in connection with NFL Events during the Stadium Authority Season;

(iv) Telecommunications Rights. To the extent not Existing Intangible Property Rights pursuant to Section 2.1(b) below, any and all of the Telecommunications Rights (as defined in the Stadium Lease) applicable to or for the Stadium Complex, excluding any Non-NFL Event Telecommunications Rights (as defined in the Stadium Lease); and

(v) Licensed Intellectual Property Rights. Any and all of the rights to Intellectual Property and Marks of Licensor associated with or necessary for the full use and enjoyment of the foregoing Intangible Property Licenses pursuant to this Agreement, and which may arise at any time during the Term to develop, apply for registration, and maintain or permit the lapse of registration of all Marks and Intellectual Property (collectively, the "Licensed Intellectual Property Rights").

(b) Existing Intangible Property Rights. Licensor hereby acknowledges that, as between Licensor and Licensee, the following rights (collectively the "Existing Intangible Property Rights") are not vested in, owned by or licensed by Licensor, and the Existing Intangible Property Rights are already vested in, owned by or licensed by only Licensee, and, to the extent that any prior agreement is construed to withhold from Licensee, or to have transferred by Licensor, any of the Existing Intangible Property Rights, Licensor forever re-grants, disclaims and quitclaims in favor of Licensee the Existing Intangible Property Rights:

(i) Licensee's Advertising, Promotion and Sponsorship Rights. The full and exclusive right to use, enjoy, exploit, contract for and control any and all advertising, promotion and sponsorship rights of the Licensee that are not Advertising and Sponsorship Rights under the Stadium Lease;

(ii) Broadcast Rights. Any and all of the rights to the full and exclusive use and enjoyment of, and to control, lease, license, grant concessions with respect to, sell, benefit and enter into agreements with respect to, all radio, television, computer network and other electronic broadcasting, film or tape reproductions, closed circuit, cable or pay television or radio rights and similar rights by whatever means or process, now existing or hereafter developed, for preserving, transmitting, disseminating or reproducing for hearing or viewing (A) NFL Games or other Tenant Events or Tenant Incidental Uses and/or (B) other Licensee-related activities at or near the Premises, (including inside or outside the Premises), including broadcast (analog, digital or HDTV), terrestrial cable, microwave, multipoint distribution services (MDS), multichannel MDS (MMDS), satellite television systems (STV) satellite master antenna televisions systems (SMATV), fiber optic, the World Wide Web, Internet, computer network, computer on-line applications, direct broadcast satellite (DBS), LMDS, Narrow and Broadband Services, transmission directly to so-called "backyard" TVRO receiving dishes, any video dialtone system, open video system (OVS), DPS, Pay-Per-View, radio, and by means of any similar or dissimilar



electronic; analog, digital or other form of distribution means now known or hereafter invented (collectively, the "Broadcast Rights");

(iii) Telecommunications Service Rights. Any and all Telecommunications Rights relating to Licensee's activities and/or operations;

(iv) Domain Name Rights. Any and all of the rights to register and maintain a web site or equivalent electronic information distribution system relating to NFL Home Games, Tenant Events, and/or other activities of Licensee at or near the Premises, including the rights to register and maintain a name that identifies and refers to one or more Internet protocol addresses (*i.e.*, a domain name) or its equivalent for electronic access to such a web site or system (collectively, the "Domain Name Rights"); and

(v) Existing Intellectual Property Rights. Any and all of the rights associated with or necessary for the full use and enjoyment of the foregoing Existing Intangible Property Rights pursuant to this Agreement in connection with the Licensee's (or its Sublicensee's) NFL Games and other Tenant Events and the other rights granted to Licensee under the other Stadium Lease Documents and which may arise at any time during the Term to develop, apply for registration and maintain or permit the lapse of registration of all Marks and Intellectual Property (collectively, the "Existing Intellectual Property Rights").

The provisions of this Section 2.1(b) shall survive expiration or earlier termination of this Agreement.

(c) The right of Licensee to register Intellectual Property shall be shared with Licensor (only pursuant to Section 2.2 below) and, except as may be expressly provided in the Stadium Naming Rights Agreement, no other Person; provided, however, that the foregoing shall not apply to Existing Intellectual Property Rights and Licensee shall have no limitations on its rights to share any right to register such Existing Intellectual Property Rights.

Section 2.2 Title; No Infringement. Except as set forth in the Stadium Naming Rights Agreement, Licensor represents, warrants and covenants to Licensee as of the Effective Date that (a) Licensor has not granted or licensed to any Person (other than Licensee) any right, title or interest in or to the Intangible Property Rights, (b) Licensor's right, title and interest in and to the Intangible Property Licenses are free and clear of any and all Liens of any kind or nature whatsoever except for Liens to secure a Permitted Landlord Financing and no other debt, (c) Licensor has full right, power and authority to grant to Licensee all of Licensor's right, title and interest in and to the Intangible Property Licenses as granted to Licensee hereunder, (d) Licensor has not and will not (i) grant any other Person any rights or licenses in conflict with the terms hereof as to any Intangible Property Rights herein granted and disclaimed in favor of Licensee, except as provided in the Stadium Lease and the Stadium Naming Rights Agreement, or (ii) register, or permit any Person to register, any Intellectual Property relating to the Intangible Property Rights (other than those specified in clause (i) hereof) with any Governmental Authority and (iii) to the best of Licensor's knowledge and belief, Licensor's ownership and use of the Intangible Property Licenses do not, and the grant and license to

Licensee of Licensor's right, titles and interests in and to the Intangible Property Licenses pursuant to the terms and conditions stated herein do not, infringe on the rights of any other Person.

Section 2.3 Scope and Limitations on Intangible Property Licenses.

(a) Exclusive or Restrictive Provisions. Licensor and Licensee acknowledge that certain exercises of the Intangible Property Licenses, including the sublicensing of Intangible Property Licenses as permitted or allowed under this Agreement, including this Section 2.3, may confer substantial benefits on Licensee if Licensee agrees to certain exclusive or restrictive provisions. Subject to the other provisions of this Agreement and the provisions of the other Stadium Lease Documents, Licensee shall be permitted to enter into Sublicenses regarding the Intangible Property Licenses as it finds desirable, including Sublicenses imposing restrictions or granting Exclusivity Rights. All such Sublicenses shall at all times be subject and subordinate to this Agreement and the Stadium Lease, including any expiration or earlier termination hereof.

(b) Other Rights. In no event shall any Intellectual Property, intangible property or intangible property rights of or owned, held or controlled by either Party other than the Intangible Property Rights granted, licensed, disclaimed or quitclaimed by Licensor to Licensee hereunder ("Other Rights") be deemed a part of or subject to this Agreement. The Parties do not intend, nor shall the terms of this Agreement be deemed, to in any way impair or restrict either Party's use or enjoyment of its Other Rights.

(c) Rights of Licensee to Revenues.

(i) Subject to the provisions of the other Stadium Lease Documents, and specifically without limiting Licensor's rights in the Stadium Lease to Stadium Naming Rights Revenue and Stadium Authority Concession Revenue, Licensee shall be entitled to, and is hereby granted the full and exclusive right to contract for, collect, receive and retain all gross income and revenues and other consideration of whatever kind or nature realized (collectively, the "Revenues") by, from or in connection with the Intangible Property Licenses, including all gross revenues, royalties, license and use fees, concession fees and income and receipts of any nature.

(ii) Licensor hereby disclaims and quitclaims to Licensee any right to collect, receive or retain any gross income, revenues, royalties, license and use fees, or other consideration of any kind or nature realized by, from or in connection with the Existing Intangible Property Rights.

(d) Rights to Defend Intellectual Property.

(i) Defense of Licensor's Intellectual Property. Except as provided in Section 2.3(d)(ii) below, during the Term or the life of the Intellectual Property which makes up the Intangible Property Rights, whichever is shorter, Licensee and Licensee's agents or sublicensees are empowered, but shall have no obligation:

(A) To bring suit in its own name or, if required by law, jointly with Licensor, at Licensee's expense, for infringement of the Intangible Property Licenses;

(B) To enjoin infringement in any such suit and to collect for Licensee's use, damages, profits and awards of whatever nature recoverable for such infringement;

(C) To pursue any other remedy available under Applicable Law; and

(D) To settle any claim or suit for infringement of the Intangible Property Licenses, including by granting the infringing party a Sublicense.

Licensor agrees to cooperate with Licensee so that Licensee may fully exercise, perfect, enjoy and maintain the Intangible Property Licenses granted herein and the Existing Intangible Property Rights disclaimed herein, including, at Licensee's request and expense, joining in the actions described in above clauses (A), (B), and (C) of this Section 2.3(d)(i) if requested by Licensee.

(ii) Stadium Name Intellectual Property. In the event Licensor or Licensee obtains any Intellectual Property, including Marks, with respect to the Stadium Name, (A) such Intellectual Property shall, subject to the rights granted to the Stadium Naming Rights Sponsor pursuant to the Stadium Naming Rights Agreement, be included in the Stadium License and (B) during the Term or the life of such Intellectual Property, whichever is shorter, (i) Licensee shall be obligated to use commercially reasonable efforts to defend such Intellectual Property as provided below in subparagraph (A) of this Section 2.3(d)(ii), and (ii) Licensor shall have the right, but not the obligation, to defend such Intellectual Property as provided below in subparagraph (B) of this Section 2.3(d)(ii).

(A) Except to the extent that Licensee has notified Licensor that Licensee elects to relinquish to Licensor any Intellectual Property for the Stadium Name as provided below in subparagraph (B) of this Section 2.3(d)(ii), Licensee shall use commercially reasonable efforts to defend any Intellectual Property for the Stadium Name against any infringement from time to time known to Licensee. In such regard, Licensee shall have the right to:

(1) Bring suit in its own name or, if required by law, jointly with Licensor, at Licensee's expense, against any known infringement of such Intellectual Property;

(2) Seek an injunction of any known infringement in any such suit and to collect for Licensee's use, damages, profits and awards of whatever nature recoverable for such infringement; and

(3) Settle any claim or suit for infringement, including granting the infringing party a Sublicense under the terms and conditions permitted in this Agreement, but no such settlement shall diminish or relinquish any rights of Licensor to recover any damages suffered or incurred as a result of such infringement unless Licensor has consented to the same, which consent shall not be unreasonably withheld.

Licensor agrees to cooperate with Licensee so that Licensee may fully exercise, perfect, enjoy and maintain such Intellectual Property, including, at Licensee's request and expense, joining in the actions described above in clauses (A)(1), (A)(2) and (A)(3) of this Section 2.3(d)(ii).

(B) In lieu of undertaking to defend any Intellectual Property for the Stadium Name against any infringement, as required under subparagraph (A) of this Section 2.3(d)(ii), Licensee shall have the right to relinquish to Licensor the license herein granted to use such Intellectual Property with respect to the particular defined area or defined field of use infringed upon by delivering written notice thereof to Licensor within thirty (30) days after the date Licensee receives notice of such infringement. In such circumstances, (1) the license herein granted with respect to such Intellectual Property shall be relinquished to Licensor with respect to the defined area or defined field of use described in any such notice from Licensee and any such Intellectual Property obtained by Licensee shall be licensed to Licensor with respect to such defined area or defined field of use, (2) Licensor shall have the right, but not the obligation, to take the actions described above in subparagraph (A) of this Section 2.3(d)(ii) with respect to such infringement in the defined area or defined field of use described in Licensee's notice, all at Licensor's cost and expense, (3) Licensee shall reasonably cooperate with Licensor in such action so that Licensor may fully exercise, perfect, enjoy and maintain such Intellectual Property in the defined area or defined field of use, including, at Licensor's request and expense, joining in the actions described above in subparagraph (A) of this Section 2.3(d)(ii) and (4) any such relinquishment to Licensor of such Intellectual Property with respect to a particular defined area or defined field of use shall not limit or reduce Licensee's rights with respect to such Intellectual Property outside of such defined area or any other field of use that is not described in the foregoing notice from Licensee to Licensor.

(e) Duration. The period during which any Sublicense of the Intangible Property Licenses shall exist shall in no event extend beyond or survive the expiration or earlier termination of the Stadium Lease (or, if applicable, any New Lease) in accordance with the Stadium Lease Documents, unless extended by the mutual agreement of the Parties.

(f) Compliance with Applicable Laws. Licensee shall, throughout the Term, within the time periods permitted by Applicable Laws, comply or cause compliance, to the extent within its control, with all Applicable Laws applicable to the Intangible Property

Licenses. Licensee shall, however, have the right to contest the validity or application of any Applicable Law, and if Licensee promptly contests and if compliance therewith may legally be held in abeyance during such contest without the imposition of any Liens on the Intangible Property Licenses, Licensee may postpone compliance until the final determination of such contest, provided, however, that such contest is prosecuted with due diligence, except that Licensee shall not so postpone compliance therewith in such a manner as to subject Licensor to any prosecution for a criminal act. Even though a Lien against the Intangible Property Licenses may be imposed by reason of such noncompliance, Licensee may nevertheless delay compliance therewith during contest thereof provided that Licensee furnishes Licensor with adequate security against any loss by reason of such Lien and effectively prevents foreclosure thereof.

Section 2.4 Licensor's Reserved Rights.

(a) Rights Reserved by Licensor. Notwithstanding anything to the contrary contained in this Agreement, Licensor hereby reserves the following:

(i) Subject to the provisions of Section 2.4(b) below, all Stadium Naming Rights, and the full use and enjoyment thereof (the "Naming Rights License");

(ii) The non-exclusive right to use, subject to Licensee's reasonable approval, the Stadium Name, image, and likeness solely for non-revenue generating purposes; provided that (A) Licensee may withhold such approval if such use by the Licensor would cause Licensee to be in violation of any Advertising and Sponsorship Contract or, in Licensee's reasonable judgment, would not be consistent with the reputation of the Team, and (B) in no event shall Licensor have the right to use the logos or Marks of Tenant, the Team or any Second Team for any purposes without Tenant's approval, which may be granted or withheld in its sole discretion; and

(iii) The non-exclusive right to use any Symbolic Representation of the Stadium, so long as such Symbolic Representation is approved by Licensee, such approval to be limited to the style and design of the same and not to be unreasonably withheld.

(b) Stadium Naming Rights.

(i) Given the Parties' substantial interest in the Premises and the public character thereof, Licensor shall not permit any name to be given to the Stadium without the prior approval of the Licensee; *provided, however*, that Licensee's approval of a Stadium Name proposed by Licensor is hereby deemed to have been given unless the proposed Stadium Name (i) violates any Applicable Law (ii) promotes a use of the Stadium other than a Permitted Use or (iii) has the potential to cause embarrassment, disparagement, contumely or obloquy to Licensee (including names containing slang, barbarisms, racial epithets, obscenities or profanity, that relate to any illicit drugs or any sexually oriented business or enterprise, that could reasonably be construed to promote violence, expressly encourage illegal activity, or that contain any overt political or religious references). In the event it is determined

that a proposed Stadium Name violates the restrictions set forth above in this Section 2.4(b), Licensee may withhold its approval of such name in its sole discretion. If Licensee's consent is required under this Section 2.4(b), Licensee shall be deemed to have given its approval to any name requested by Licensor unless, within sixty (60) days following receipt of Licensor's request for such approval, Licensee notifies Licensor in writing of Licensee's disapproval and furnishes Licensor the reason for such disapproval in reasonable written detail. Notwithstanding anything herein to the contrary, under no circumstance shall the Stadium Naming Rights apply to Stadium Components or any area other than the Stadium, unless otherwise agreed by Licensee. The Parties acknowledge, and any Stadium Naming Rights Agreement shall provide, that the Stadium Naming Rights Sponsor may also enter into separate contracts with Tenant, the Team or any Second Team for Advertising and Sponsorship Rights and Stadium Components Sponsorship Rights, the Stadium Authority shall have no interest in, nor any right to revenue from, any such separate contracts, and all revenue under such contracts shall constitute Tenant Revenue.

(ii) Notwithstanding the provisions of Section 2.4(a) above to the contrary, if the Stadium Authority Put Right is exercised pursuant to the Stadium Lease, then, as more particularly described in Paragraph 15.1 of the Stadium Lease, the Stadium Authority Put Notice shall include the Stadium Authority's full and complete assignment to Tenant, effective as of the Tenant Season Expansion Date, of all of the Stadium Authority's rights to the Stadium Naming Rights and to Stadium Naming Rights Revenue under any then existing Stadium Naming Rights Agreement; and, effective from and after the Tenant Season Expansion Date, and continuing through the remainder of the Lease Term (including any Extension Terms), Tenant shall have the sole and exclusive right to market and sell the Stadium Naming Rights, and shall be entitled to all Stadium Naming Rights Revenue.

(c) Adoption of Nomenclature. Subject to the provisions of Section 2.4(b) hereof and the terms of the other Stadium Lease Documents, from and after the date Licensor enters into a Stadium Naming Rights Agreement or Licensee enters into any contracts granting Stadium Components Sponsorship Rights, the Parties shall (i) adopt the nomenclature designated in such contract for the portion of the Stadium covered by such contract, and (ii) refrain from using any other nomenclature for such portion of the Stadium covered in any documents, press releases, Signage and directional signage to such portion of the Stadium, or promotional materials produced or disseminated in connection with such portion of the Stadium or Stadium Events or other activities therein.

(d) License for Licensee's Nomenclature. In the event that, pursuant to the provisions of Section 2.4(b), Licensor is required to adopt the nomenclature designated by Licensee for any such portion of the Stadium, Licensee hereby grants and licenses to Licensor for the period that Licensor is required to use such nomenclature the full, non-exclusive, royalty free right to use such nomenclature for the same purposes and uses specified in Section 2.4(a) above.

Section 2.5 Indemnification.

(a) Licensee's Agreement to Indemnify. LICENSEE SHALL, EXCEPT AS PROVIDED IN SECTION 2.5(b) OR OTHERWISE EXPRESSLY PROVIDED IN THE STADIUM LEASE DOCUMENTS, DEFEND, PROTECT, INDEMNIFY AND HOLD LICENSOR AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, SUITS, CLAIMS AND JUDGMENTS FOR INFRINGEMENT (INCLUDING REASONABLE ATTORNEYS FEES AND EXPENSES), ARISING FROM OR IN CONNECTION WITH (A) ANY USE OF THE INTANGIBLE PROPERTY LICENSES BY LICENSEE OR ANY OF LICENSEE'S AFFILIATES, AGENTS, EMPLOYEES, SUBLICENSEES OR CONTRACTORS OR (B) ANY VIOLATION BY LICENSEE OF THIS INTANGIBLE PROPERTY LICENSE AGREEMENT OR ANY APPLICABLE LAW.

(b) Licensee's Exclusions. NOTWITHSTANDING THE PROVISIONS OF SECTION 2.5(a), LICENSEE SHALL NOT BE LIABLE FOR ANY LIABILITIES, DAMAGES, SUITS, CLAIMS OR JUDGMENTS FOR INFRINGEMENT (INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES) ARISING FROM OR IN CONNECTION WITH LICENSOR'S VIOLATION OF ANY PROVISIONS OF THIS INTANGIBLE PROPERTY LICENSE AGREEMENT OR ANY APPLICABLE LAW, PROVIDED SUCH VIOLATION IS NOT CAUSED BY THE NOMENCLATURE LICENSOR IS REQUIRED TO ADOPT PURSUANT TO SECTION 2.4(b).

(c) Licensor's Agreement to Indemnify. LICENSOR SHALL, EXCEPT AS PROVIDED IN SECTION 2.5(d) OR OTHERWISE EXPRESSLY PROVIDED IN THE OTHER STADIUM LEASE DOCUMENTS, DEFEND, PROTECT, INDEMNIFY AND HOLD LICENSEE AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, SUITS, CLAIMS AND JUDGMENTS FOR INFRINGEMENT (INCLUDING REASONABLE ATTORNEYS FEES AND EXPENSES), ARISING FROM OR IN CONNECTION WITH (A) ANY USE OF THE STADIUM RIGHTS BY LICENSOR OR ANY OF LICENSOR'S AFFILIATES, AGENTS, EMPLOYEES, SUBLICENSEES OR CONTRACTORS OR (B) ANY VIOLATION BY LICENSOR OF THIS INTANGIBLE PROPERTY LICENSE AGREEMENT OR ANY APPLICABLE LAW.

(d) Licensor's Exclusions. NOTWITHSTANDING THE PROVISIONS OF SECTION 2.5(c), LICENSOR SHALL NOT BE LIABLE FOR ANY LIABILITIES, DAMAGES, SUITS, CLAIMS OR JUDGMENTS FOR INFRINGEMENT (INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES) ARISING FROM OR IN CONNECTION WITH LICENSEE'S VIOLATION OF ANY PROVISIONS OF THIS INTANGIBLE PROPERTY LICENSE AGREEMENT OR ANY APPLICABLE LAW, PROVIDED SUCH VIOLATION IS NOT CAUSED BY THE NOMENCLATURE LICENSEE IS REQUIRED TO ADOPT PURSUANT TO SECTION 2.4(b).

(e) Conduct of Claims. The Party entitled to indemnification under this Section 2.5 (the "Indemnified Party") shall reasonably promptly after the receipt of notice of

any legal action or claim against such Indemnified Party in respect of which indemnification may be sought pursuant to this Section 2.5, notify the other Party (the "Indemnifying Party") of such action or claim. The Indemnifying Party shall not be obligated to indemnify the Indemnified Party with respect to any such action or claim if the Indemnified Party knowingly fails to notify the Indemnifying Party thereof in accordance with the provisions of this Section 2.5(e) in sufficient time to permit the Indemnifying Party to defend against such matter and to make a timely response thereto, including any responsive motion or answer to a complaint, petition, notice or other legal, equitable or administrative process relating to the action or claim, but only in so far as such knowing failure to notify the Indemnifying Party has actually resulted in prejudice or damage to the Indemnifying Party. In case any such action or claim shall be made or brought against the Indemnified Party, the Indemnifying Party may, or if so requested by the Indemnified Party shall, assume the defense thereof with counsel of its selection reasonably acceptable to the Indemnified Party and which shall be reasonably competent and experienced to defend the Indemnified Party. In such circumstances, the Indemnified Party shall (i) at no cost or expense to the Indemnified Party, cooperate with the Indemnifying Party and provide the Indemnifying Party with such information and assistance as the Indemnifying Party shall reasonably request in connection with such action or claim and (ii) at its own expense, have the right to participate and be represented by counsel of its own choice in any such action or with respect to any such claim. If the Indemnifying Party assumes the defense of the relevant claim or action, (A) the Indemnifying Party shall not be liable for any settlement thereof which is made without its consent and (B) the Indemnifying Party shall control the settlement of such claim or action; *provided, however*, that the Indemnifying Party shall not conclude any settlement which requires any action or forbearance from action or payment or admission by the Indemnified Party or any of its Affiliates, agents, employees, sublicensees or contractors without the prior approval of the Indemnified Party. The obligations of an Indemnifying Party shall not extend to any loss, damage and expense of whatever kind and nature (including all related costs and expenses) to the extent the same results from the taking by the Indemnified Party of any action (unless required by law or applicable legal process) after the assertion of any claim which gave rise to the obligation to indemnify which prejudices the successful defense of the action or claim, without, in any such case, the prior written consent of the Indemnifying Party (such consent not to be required in a case where the Indemnifying Party has not assumed the defense of the action or claim). The Indemnified Party agrees to afford the Indemnifying Party and its counsel the opportunity to be present at, and to participate in, conferences with all Persons, including Governmental Authorities, asserting any claim or action against the Indemnified Party covered by the indemnity contained in this Section 2.5 or conferences with representatives of or counsel for such Person.

(f) Survival. The indemnities contained in this Section 2.5 shall survive the expiration or earlier termination of this Agreement, but only insofar as such indemnities relate to any liabilities, damages, suits, claims or judgments that arose prior to the expiration or earlier termination of this Agreement.

Section 2.6 Licensee's Affiliates. Licensee reserves the right to assign all or any portion of the rights granted to it hereunder, including, without limitation, the Intangible Property Licenses, to an Affiliate of Licensee, or to the Team or any Second Team or any of their respective Affiliates. On behalf of each such assignee, Licensee reserves the right for such assignee (or if not so assigned,



for itself) to form a joint venture or other entity wholly owned, directly or indirectly, by Licensee, the Team or any Second Team or their Affiliates to pursue and enjoy all such rights. Any such assignment shall be subject to the terms of the Stadium Lease Documents and shall not relieve Licensee from its liabilities and obligations hereunder. Except as provided in this Paragraph or pursuant to Licensee's rights with respect to Transfers as set forth in Article 5 below, Licensee shall not assign any rights granted to it hereunder to any Person who is not an Affiliate of Licensee, the Team or any Second Team or any of their respective Affiliates or that is not a joint venture or other entity wholly owned, directly or indirectly, by Licensee, the Team or any Second Team.

### ARTICLE 3 TERM

Section 3.1 License Term. The term of this Agreement (the "Term") shall commence at 12:01 a.m. on the Effective Date and shall end, unless sooner terminated in accordance with the provisions of this Agreement or any of the other Stadium Lease Documents, on the Lease Expiration Date. Upon conclusion of the Term (whether termination occurs pursuant to Article 7 below or any other provision in the Stadium Lease Documents), this Agreement shall terminate with respect to all future rights and obligations of performance hereunder by the Parties (except for the rights and obligations herein that expressly are to survive termination hereof). Except as otherwise provided herein, termination or expiration of the Term of this Agreement shall not alter the then-existing claims, if any, of either Party for breaches of this Agreement occurring prior to such termination or expiration and the obligations of the Parties hereto with respect thereto shall survive termination or expiration.

#### Section 3.2 Reversion and Reassignment of Licensed Rights.

(a) Reversions to Licensor. Effective as of the expiration or earlier termination of this Agreement, all of the Intangible Property Licenses granted to Licensee hereunder shall expire and terminate of their own accord and all rights and interest of Licensee in the Intellectual Property comprising the Intangible Property Licenses shall automatically revert to Licensor. In connection with such reversion, Licensee represents, warrants and covenants to Licensor as of the expiration or earlier termination of this Agreement that (i) Licensee has not granted or licensed to any Person (other than Licensor and any other Person permitted under the terms of this Agreement in accordance with the terms hereof) any right, title or interest in or to the Intellectual Property comprising the Intangible Property Licenses, (ii) Licensee's right, title and interest in and to the Intangible Property Licenses are free and clear of any and all Liens of any kind or nature whatsoever arising by, through or under Licensee, (iii) Licensee has full right, power and authority to re-grant to Licensor all of Licensee's right, title and interest in and to Intangible Property Licenses as granted to Licensor hereunder and (iv) to the best of Licensee's knowledge and belief, the re-grant to Licensor of Licensee's right, title and interest in and to the Intangible Property Licenses pursuant to the terms and conditions stated herein do not infringe on the rights of any Person.

(b) Additional Instruments. Upon such expiration and termination of the Intangible Property Licenses and Licensee's interest in the Intellectual Property comprising the Intangible Property Licenses, upon the request of Licensor, Licensee shall execute and deliver to Licensor such documentation as is reasonably necessary to evidence the aforesaid

expiration, termination and reversion of the Intangible Property Licenses to Licensor. The foregoing obligations shall survive the expiration or earlier termination of this Agreement.

**ARTICLE 4**  
**ROYALTY ON INTANGIBLE PROPERTY LICENSES**

In consideration for the licenses, disclaimers, representations and other provisions herein, Licensee and Licensor have entered into the Stadium Lease and exchanged the considerations set forth therein and in the other Stadium Lease Documents, which are also consideration under this Agreement, and, in addition, Licensee shall, not later than the Commencement Date, pay to Licensor the sum of Two Million Dollars (\$2,000,000.00) ("Royalty Payments").

**ARTICLE 5**  
**SUBLICENSING; ASSIGNMENT; MORTGAGES**

Section 5.1 Sublicenses by Licensee. Licensee shall have the right during the Term to sublicense all or a part of the rights licensed by Licensee pursuant to the Intangible Property Licenses. No such sublicense will release Licensee of any of Licensee's obligations hereunder.

Section 5.2 Assignments by Licensee. Except as otherwise permitted or allowed under this Agreement, the Stadium Lease or any of the other Stadium Lease Documents, Licensee may not voluntarily, involuntarily, by operation of law or otherwise (including by way of merger or consolidation), sell, assign, transfer, pledge, mortgage or encumber this Agreement or the Intangible Property Licenses (each, a "Transfer"), without (a) first obtaining the consent of Licensor, which consent will not be unreasonably withheld, delayed or conditioned; and (b) unless such Transfer is a Permitted Transfer, a concurrent transfer of all of Licensee's rights and obligations under all of the Stadium Lease Documents in accordance with the terms of the Stadium Lease Documents. Licensor shall be deemed to have consented to any such Transfer (i) to a "Licensee Transferee" (herein so called) that is a Tenant Transferee pursuant to a Permitted Transfer, (ii) pursuant to Paragraphs 16.2.2, 16.2.4 or 16.2.5 of the Stadium Lease, or (iii) as collateral for a Tenant Mortgage as permitted pursuant to Article 29 of the Stadium Lease.

Section 5.3 Release of Licensee. No Transfer shall relieve Licensee from any of its obligations under this Agreement, except that Licensee shall be relieved from any obligations arising under this Agreement after the date of a Transfer if, and only if, all of the following occur:

(a) Licensee has notified Licensor of the name and address of the Licensee Transferee and the Controlling Person, if any, of such Licensee Transferee by the time of the Transfer;

(b) Such Transfer is a Permitted Transfer described in Section 16.2 of the Stadium Lease or such Transfer has been approved in accordance with Section 16.1 of the Stadium Lease; and

(c) The Licensee Transferee shall have assumed responsibility for performance of all of the obligations of Licensee under the Stadium Lease Documents arising on and after the date of the Transfer pursuant to an instrument of assignment and assumption agreement approved by the Licensor which approval shall not be unreasonably withheld and shall be

limited to the question of whether such instrument, when duly executed, will accomplish its intended purposes under this Agreement (the "Assignment and Assumption Agreement").

Section 5.4 Transfers by Licensor. Except with respect to a Licensor Transfer to the City or a City Affiliate and Landlord Mortgages permitted pursuant to the terms of Article 6, Licensor shall not (and Licensor agrees that it will not) voluntarily, involuntarily, by operation of law or otherwise, sell, assign or otherwise transfer this Agreement, or its residual Intangible Property Licenses rights, or any of its rights, obligations or duties under this Agreement with respect to the Intangible Property Rights (a "Licensor Transfer") without first obtaining the prior written consent of Licensee, which consent may be withheld, delayed, or conditioned in Licensee's sole discretion. The following conditions must be complied with prior to, or simultaneously with, any Licensor Transfer, (a) Licensor must notify Licensee of the name and address of the Person who Licensor desires to succeed to the rights and obligations of Licensor under this Agreement (a "Licensor Transferee") and (b) Licensee's consent must be obtained with regard to any Licensor Transfer other than a Licensor Transfer to the City or a City Affiliate or Landlord Mortgages permitted pursuant to the terms of Article 6, (c) Licensor Transferee shall have assumed all of the obligations of Licensor under this Agreement and the Intangible Property Licenses and the other Stadium Lease Documents arising on and after such Licensor Transfer and agreed to be bound by all of the terms, conditions and provisions of the Stadium Lease Documents, all pursuant to an instrument in form and substance approved by Licensee, which approval shall not be unreasonably withheld, delayed or conditioned and shall be limited to the question of whether such instrument, when duly executed, will be legally adequate to accomplish its intended purpose under this Agreement if the Licensor Transferee is a governmental entity, but otherwise may be withheld, delayed or conditioned in Licensee's discretion, (d) with respect to any Licensor Transfer that occurs prior to the Commencement Date of the Stadium Lease, Licensor shall have provided Licensee with evidence, reasonably acceptable to Licensee, that the Licensor Transferee has the financial wherewithal to perform all of Licensor's obligations under this Agreement and the other Stadium Lease Documents and that such Licensor Transfer complies with all Applicable Laws and (e) following the Licensor Transfer, the Licensor Transferee must own, lease or otherwise control all of the Stadium Complex in a manner that permits such Licensor Transferee to fulfill all of Licensor's obligations under the Stadium Lease Documents.

Section 5.5 Release of Licensor. No Licensor Transfer shall relieve Licensor from any of its obligations under this Agreement except that Licensor shall be relieved from any obligations arising under this Agreement on and after the date of a Licensor Transfer if, and only if, (a) Licensee consents to such Licensor Transfer or (b) Licensee's consent to such Licensor Transfer is not required pursuant to Section 5.4.

Section 5.6 Estoppel Certificate. In connection with any Permitted Transfer, Transfer to which Licensor has given its consent, permitted Licensor Transfer or financing by Licensee or Licensor, Licensor and Licensee agree to execute and deliver to each other an estoppel certificate intended to be relied upon by Licensee, Licensor and any transferee or assignee pursuant to a Permitted Transfer, Transfer to which Licensor has given its consent, or a permitted Licensor Transfer, as the case may be, or any third party lender stating:

(a) Whether this Agreement is unmodified and is in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect as modified and stating the modifications);

(b) To the knowledge of Licensor or Licensee, as the case maybe, whether there are any Licensee Defaults or any Licensor Defaults (and specifying each such default or potential Licensee Default or Licensor Default as to which Licensor or Licensee, as the case may be, has knowledge); and

(c) Licensor's or Licensee's current address, as the case may be, for purposes of giving notice.

## **ARTICLE 6** **FACILITY MORTGAGES**

Licensor may grant Liens against or with respect to its reversionary interest in any of the Intangible Property Licenses to secure a Permitted Landlord Financing and no other debt, provided, however, that any judicial or non-judicial foreclosure sales under any such Liens and any conveyances in lieu of foreclosure under any such Liens shall constitute a Licensor Transfer that is subject to the terms and conditions of Section 5.4 (other than those requiring Licensee's consent). In the event that, by virtue of the Landlord Mortgagee's exercise of such rights, any Person other than Licensor succeeds to Licensor's rights under this Agreement, (a) such event of succession shall constitute a Licensor Transfer subject to the terms and conditions of Section 5.4 (other than those requiring Licensee's consent) and (b) such Person shall become bound to Licensee to perform all of Licensor's obligations under this Agreement.

## **ARTICLE 7** **DEFAULTS AND REMEDIES**

### Section 7.1 Events of Default.

(a) Licensee Default. The occurrence of any of the following shall be an "Event of Default" by Licensee or a "Licensee Default":

(i) Any material representation or warranty confirmed or made in this Agreement by Licensee shall be found to have been incorrect in any material respect when made or deemed to have been made if such failure is not remedied within thirty (30) days after Licensor gives notice to Licensee of such failure;

(ii) If any "Tenant Default" occurs under the Stadium Lease and remains uncured after the lapse of the applicable notice and cure period, if any, provided for under the terms of the Stadium Lease;

(iii) If any "Event of Default" of "StadCo" occurs under the Stadium Lease and remains uncured after the lapse of the applicable notice and cure period, if any, provided for under the terms of the Stadium Lease; or

(iv) The failure of Licensee to keep, observe or perform any of the terms, covenants or agreements contained in this Agreement on the Licensee's part to be kept, performed or observed (other than those referred to in clauses (i) through (iii) above) if: (A) such failure is not remedied by Licensee within thirty (30) days after notice from Licensor of such default or (B) in the case of any such default which

cannot with due diligence and good faith be cured within thirty (30) days, Licensee fails to commence to cure such default within thirty (30) days after notice from Licensor of such default or Licensee fails to prosecute diligently the cure of such default to completion within such additional period as may be reasonably required to cure such default with diligence and in good faith; it being intended that, in connection with any such default which is not susceptible of being cured with due diligence and in good faith within thirty (30) days, the time within which Licensee is required to cure such default shall be extended for such additional period as may be necessary for the curing thereof with due diligence and in good faith; provided however, that if such default is not cured within ninety (90) days after notice from Licensor of such default, (notwithstanding Licensee's diligent prosecution of curative efforts), then such failure shall constitute an Event of Default under this Agreement; or

(v) The (A) filing by Licensee of a voluntary petition in bankruptcy; or (B) adjudication of Licensee as a bankrupt; or (C) the filing of any petition or other pleading in any action seeking reorganization, rearrangement, adjustment, or composition of, or in respect of Licensee under the United States Bankruptcy Code or any other similar state or federal law dealing with creditors' rights generally, unless within sixty (60) days after such filing such proceeding is discharged; or (D) appointment of a receiver, trustee or other similar official of Licensee or its Property.

(b) Licensor Default. The occurrence of the following shall be an "Event of Default" by Licensor or a "Licensor Default":

(i) Any material representation or warranty confirmed or made in this Agreement by Licensor shall be found to have been incorrect in any material respect when made or deemed to have been made if such failure is not remedied within thirty (30) days after Licensee gives notice to Licensor of such failure;

(ii) If any "Landlord Default" occurs under the Stadium Lease and remains uncured after the lapse of the applicable notice and cure period, if any, provided for under the Stadium Lease;

(iii) If any "Event of Default" of "Stadium Authority" occurs under the Stadium Lease and remains uncured after the lapse of the applicable notice and cure period, if any, provided for under the terms of the Stadium Lease; or

(iv) The failure of Licensor to keep, observe or perform any of the terms, covenants or agreements contained in this Agreement on the Licensor's part to be kept, performed or observed (other than those referred to in clauses (i) through (iii) above) if: (A) such failure is not remedied by Licensor within thirty (30) days after notice from Licensee of such default or (B) in the case of any such default which cannot with due diligence and good faith be cured within thirty (30) days, Licensor fails to commence to cure such default within thirty (30) days after notice from Licensee of such default or Licensor fails to prosecute diligently the cure of such

default to completion within such additional period as may be reasonably required to cure such default with diligence and in good faith; it being intended that, in connection with any such default which is not susceptible of being cured with due diligence and in good faith within thirty (30) days, the time within which Licensor is required to cure such default shall be extended for such additional period as may be necessary for the curing thereof with due diligence and in good faith; provided however, that if such default is not cured within ninety (90) days after notice from Licensee of such default, (notwithstanding Licensor's diligent prosecution of curative efforts), then such failure shall constitute an Event of Default under this Agreement.

Section 7.2 Remedies. Upon the occurrence of any Event of Default, the non-defaulting Party may, in its sole discretion, exercise any and all other remedies available to such Party at law or in equity, subject to any limitations thereon set forth in this Agreement, without any notice or demand whatsoever, other than any notice expressly provided in this Agreement.

Section 7.3 Termination. Upon the occurrence of any Event of Default, neither Party shall have the right to terminate this Agreement. This Agreement shall only terminate concurrently with any termination of the Stadium Lease.

Section 7.4 Cumulative Remedies. Subject to the provisions of this Article 7, each right or remedy of Licensor and Licensee provided for in this Agreement shall be cumulative of and shall be in addition to every other right or remedy of Licensor or Licensee provided for in this Agreement, and the exercise or the beginning of the exercise by Licensor or Licensee of any one or more of the rights or remedies provided for in this Agreement shall not preclude the simultaneous or later exercise by Licensor or Licensee of any or all other rights or remedies provided for in this Agreement or hereafter existing at law or in equity, by statute or otherwise.

Section 7.5 Declaratory or Injunctive Relief. In addition to the remedies set forth in this Article 7, the Parties shall be entitled, in any circumstances they may deem appropriate, without the necessity of proving irreparable harm, balance of claims, consideration of the public interest, establishing that monetary damages are inadequate or the posting of a bond, to seek (a) injunctive relief, whether prohibiting or mandating action by the other Party, for any Event of Default of the other Party or as expressly provided herein or (b) declaratory relief with respect to any matter under this Agreement or the other Stadium Lease Documents. Each of the Parties hereby agrees and irrevocably stipulates that the rights of each Party to injunctive relief pursuant to this Agreement, and the other Stadium Lease Documents shall not constitute a "claim" pursuant to Section 101(5) of United States Bankruptcy Code and shall not be subject to discharge or restraint of any nature in any bankruptcy proceeding involving the Party to which any such injunctive relief applies.

Section 7.6 Interest on Overdue Obligations and Post-Judgment Interest. If any sum due hereunder is not paid by the due date thereof, the Party hereto owing such obligation to the other Party shall pay to the other Party interest thereon at the Interest Rate concurrently with the payment of the amount, such interest to begin to accrue as of the date such amount was due. Any payment of such interest at the Interest Rate pursuant to this Agreement shall not excuse or cure any default or Event of Default hereunder. All payments shall first be applied to the payment of accrued but unpaid interest. The amount of any judgment or arbitration award obtained by one Party against the

other Party in any Action or Proceeding arising out of a default or Event of Default by such other Party under this Agreement shall bear interest thereafter until paid at the Interest Rate.

Section 7.7 No Waivers.

(a) General. No failure or delay of any Party, in any one or more instances, (i) in exercising any power, right or remedy under this Agreement or (ii) in insisting upon the strict performance by the other Party of such other Party's covenants, obligations or agreements under this Agreement, shall operate as a waiver, discharge or invalidation thereof, nor shall any single or partial exercise of any such right, power or remedy or insistence on strict performance, or any abandonment or discontinuance of steps to enforce such a right, power or remedy or to enforce strict performance, preclude any other or future exercise thereof or insistence thereupon or the exercise of any other right, power or remedy. The covenants, obligations, and agreements of a Party which breaches this Agreement, and the rights and remedies of the other Party upon any such breach shall continue and remain in full force and effect with respect to any subsequent breach, act, or omission.

(b) No Accord and Satisfaction. Without limiting the generality of Section 7.7(a), the receipt by Licensor of the Royalty Payments with knowledge of a breach by Licensee of any covenant, obligation or agreement under this Agreement shall not be deemed or construed to be a waiver of such breach (other than as to the Royalty Payments received). The payment by Licensee of the Royalty Payments with knowledge of a breach by Licensor of any covenant, obligation or agreement under this Agreement shall not be deemed or construed to be a waiver of such breach. No acceptance by Licensor or Licensee of a lesser sum than then due shall be deemed to be other than on account of the earliest installment of the amounts due under this Agreement, nor shall any endorsement or statement on any check, or any letter accompanying any check, wire transfer or other payment, be deemed an accord and satisfaction. Licensor and Licensee may accept a check, wire transfer or other payment without prejudice to its right to recover the balance of such installment or pursue any other remedy provided in this Agreement.

Section 7.8 Effect of Termination. If Licensor or Licensee elects to terminate this Agreement as permitted under the Stadium Lease Documents, this Agreement shall, on the effective date of such termination, terminate with respect to all future rights and obligations of performance hereunder by the Parties (except for the rights and obligations herein that expressly are to survive termination hereof). Termination of this Agreement shall not alter the then-existing claims, if any, of either Party for breaches of this Agreement occurring prior to such termination and the obligations of the Parties hereto with respect thereto shall survive termination.

Section 7.9 Court Proceedings. Subject to the agreement of the Parties contained in this Agreement regarding arbitration and other alternative procedures for dispute resolution, any suit, action or proceeding against any Party arising out of or relating to this Agreement or any transaction contemplated hereby or any judgment entered by any court in respect thereof may be brought in any federal or state court located in the County of Santa Clara, California, and each Party hereby submits to the nonexclusive jurisdiction of such courts for the purpose of any such suit, action or proceeding. To the extent that service of process by mail is permitted by applicable law, each Party irrevocably consents to the service of process in any such suit, action or proceeding in such courts by the mailing

of such process by registered or certified mail, postage prepaid, at its address for notice provided for above. Each Party irrevocably agrees not to assert any objection that it may ever have to the laying of venue of any such suit, action or proceeding in any federal or state court located in the County of Santa Clara, California, and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Each Party agrees not to bring any action, suit or proceeding against the other Party arising out of or relating to this Agreement or any transaction contemplated hereby except in a federal or state court located in the County of Santa Clara, California.

Section 7.10 Attorneys' Fees. If any Party places the enforcement of this Agreement, or any part thereof, or the exercise of any other remedy herein provided for any breach, in the hands of an attorney who institutes an Action or Proceeding upon the same (either by direct action or counterclaim), the non-prevailing Party shall pay to the prevailing Party its reasonable attorneys' fees and costs related thereto. In addition to the foregoing award of attorneys' fees to the prevailing Party, the prevailing Party shall be entitled to its attorneys' fees incurred in any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the expiration or earlier termination of this Agreement or the merger of this Agreement into any judgment on such instrument.

## **ARTICLE 8**

### **DISPUTE RESOLUTION**

Section 8.1 Settlement By Mutual Agreement. In the event any dispute, controversy or claim between the Parties arises under this Agreement or is connected with or related in any way to this Agreement or any right, duty or obligation arising herefrom or the relationship of the Parties hereunder (a "Dispute or Controversy"), including, but not limited to a Dispute or Controversy relating to the effectiveness, validity, interpretation, implementation, termination, cancellation or enforcement of this Agreement, the Parties shall first attempt in good faith to settle and resolve such Dispute or Controversy by mutual agreement in accordance with the terms of this Section 8.1. In the event a Dispute or Controversy arises, either Party shall have the right to notify the other that it has elected to implement the procedures set forth in this Section 8.1. Within fifteen (15) days after delivery of any such notice by one Party to the other regarding a Dispute or Controversy, the Licensor Representative and Licensee Representative shall meet at a mutually agreed time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy. Should a mutual resolution and settlement not be obtained at the meeting of the Licensor Representative and Licensee Representative for such purpose or should no such meeting take place within such fifteen (15)-day period, then either Party may by notice to the other Party submit the Dispute or Controversy to arbitration in accordance with the provisions of Section 8.2 of this Agreement and Exhibit L to the Stadium Lease. Upon the receipt of notice of referral to arbitration hereunder, the receiving Party shall be compelled to arbitrate the Dispute or Controversy in accordance with the terms of this Article 8 and Exhibit L to the Stadium Lease without regard to the justiciable character or executory nature of such Dispute or Controversy.

Section 8.2 Arbitration. Each Party hereby agrees that any Dispute or Controversy which is not resolved pursuant to the provisions of Section 8.1 may be submitted to binding arbitration hereunder and if submitted shall be resolved exclusively and finally through such binding arbitration in accordance with the arbitration procedures set forth in Exhibit L of the Stadium Lease (the



"Arbitration Procedures"); provided, however, that no decision or ruling of an arbitration shall impose a requirement for a Party to give notice or a cure period where no such requirement or cure period is established by this Agreement. This Article 8 and Exhibit L to the Stadium Lease constitute a written agreement by the Parties to submit to arbitration any Dispute or Controversy arising after the Effective Date.

Section 8.3 Emergency Relief. Notwithstanding any provision of this Agreement to the contrary, any Party may seek injunctive relief or other form of ancillary relief at any time from any court of competent jurisdiction in the County of Santa Clara, California. In the event that a Dispute or Controversy requires emergency relief before the matter may be resolved under the Arbitration Procedures, notwithstanding the fact that any court of competent jurisdiction may enter an order providing for injunctive or other form of ancillary relief, the Parties expressly agree that the Arbitration Procedures will still govern the ultimate resolution of that portion of the Dispute or Controversy not resolved pursuant to said court order.

## **ARTICLE 9**

### **TIME, APPROVALS AND CONSENTS**

Section 9.1 Time. Times set forth in this Agreement for the performance of obligations shall be strictly construed, time being of the essence of such instrument. All provisions in this Agreement which specify or provide a method to compute a number of days for the performance, delivery, completion or observance by a Party hereto of any action, covenant, agreement, obligation or notice hereunder shall mean and refer to calendar days, unless otherwise expressly provided. However, in the event the date specified or computed under this Agreement for the performance, delivery, completion or observance of a covenant, agreement, obligation or notice by either Party hereto, or for the occurrence of any event provided for herein, shall be a Saturday, Sunday or Legal Holiday, then the date for such performance, delivery, completion, observance or occurrence shall automatically be extended to the next calendar day that is not a Saturday, Sunday or Legal Holiday.

Section 9.2 Approvals and Consents; Standards for Review.

(a) Review and Approvals or Consent Rights. The provisions of this Section 9.2 shall be applicable with respect to all instances in which it is provided under this Agreement that Licensor or Licensee exercises Review and Approval or Consent Rights. As used herein, the term "Review and Approval or Consent Rights" shall include, without limiting the generality of that term, all instances in which one Party (the "Submitting Party") is permitted or required to submit to the other Party or to the representative of that other Party any document, notice or determination of the Submitting Party and with respect to which the other Party or its representative (the "Reviewing Party") has a right or duty hereunder to review, comment, consent, approve, disapprove, dispute or challenge the submission or determination of the Submitting Party. Unless this Agreement specifically provides that the Review and Approval or Consent Rights may be exercised in the sole and absolute discretion (or a similar standard) of the Reviewing Party, in connection with exercising its Review and Approval or Consent Rights under any provision of this Agreement and whether or not specifically provided in any such provision, the Reviewing Party covenants and agrees to act in good faith, with due diligence, and in a commercially reasonable manner with regard to each and all of such Review and Approval or Consent Rights, unless otherwise provided for

elsewhere herein, and to not unreasonably withhold, condition or delay its approval of or consent to any submission.

(b) No Implied Approval or Consent. Except as provided in Section 2.4(b), whenever used in this Agreement, "approval," "approve," "approved," "consent" or "consented" shall not include any implied or imputed approval or consent.

## ARTICLE 10 MISCELLANEOUS PROVISIONS

Section 10.1 No Broker's Fees or Commissions. Each Party hereto hereby represents to the other Party hereto that such Party has not created any liability for any broker's fee, broker's or agent's commission, finder's fee or other fee or commission in connection with this Agreement.

Section 10.2 Relationship of the Parties. The relationship of Licensee and Licensor under this Agreement is that of independent parties, each acting in its own best interests, and notwithstanding anything in this Agreement or any of the other Stadium Lease Documents to the contrary, no partnership, joint venture or other business relationship is established or intended hereby between Licensee and Licensor.

Section 10.3 Representations.

(a) Power and Authority. Each individual executing and delivering this Agreement on behalf of a Party hereby represents to the other Party that such individual has all requisite power and authority to execute and deliver the same and to bind such Party hereunder.

(b) Licensee's Representations. As an inducement to Licensor to enter into this Agreement, Licensee hereby represents and warrants to Licensor, as of the Effective Date, as follows:

(i) Licensee is a limited liability company, duly organized and validly existing under the laws of the State of Delaware, with all necessary power and authority to enter into this Lease and to consummate the transactions herein contemplated. Licensee is qualified to do business in the State of California.

(ii) Neither the execution and delivery of this Agreement by Licensee nor the performance by Licensee of its obligations hereunder will (A) violate any statute, regulation, rule, judgment, order, decree, stipulation, injunction, charge, or other restriction of any Governmental Authority, or court to which Licensee is subject or any provision of the operating agreement of Licensee or (B) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any contract, lease, sublease, license, sublicense, franchise, permit, indenture, agreement or mortgage for borrowed money, instrument of indebtedness, security interest, or other agreement to which Licensee is a party or by which Licensee or its assets are bound.

(iii) All proceedings required to be taken by or on behalf of Licensee to authorize Licensee to execute and deliver this Agreement and to perform the covenants, obligations and agreements of Licensee hereunder have been duly taken. No consent to the execution and delivery of this Agreement by Licensee or the performance by Licensee of its covenants, obligations and agreements hereunder is required from any partner, board of directors, shareholder, creditor, investor, judicial, legislative or administrative body, Governmental Authority or other Person, other than any such consent which already has been given.

(iv) This Agreement constitutes the valid and legally binding obligation of Licensee, enforceable in accordance with its terms and conditions, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws presently or hereafter in effect, affecting the enforcement of creditors' rights generally and by general principles of equity whether applied in a proceeding at law or in equity.

(v) To the best knowledge of Licensee, there is no action, suit, claim, proceeding or investigation pending or currently threatened against Licensee that questions the validity of this Agreement or the transactions contemplated herein or that could either individually or in the aggregate have a material adverse effect on the assets, conditions, affairs, or prospects of Licensee, financially or otherwise.

(c) Licensor's Representations. As an inducement to Licensee to enter into this Agreement, Licensor represents and warrants to Licensee, as of the Effective Date, as follows:

(i) Licensor is a joint exercise of powers entity, created through California Government Code sections 6500 *et seq.*, duly formed and validly existing under the laws of the State of California, with all necessary power and authority to enter into this Agreement and to consummate the transactions herein contemplated.

(ii) The execution, delivery, and performance of this Agreement by Licensor does not and will not conflict with or constitute a violation or breach of, or constitute a default under (i) the Joint Powers Agreement or any other formation documents of the Stadium Authority, (ii) any Applicable Law binding upon or applicable to the Stadium Authority, or (iii) any material agreements to which the Stadium Authority is a party, that are materially related to the development or operation of the Stadium, including this Agreement.

(iii) All proceedings required to be taken by or on behalf of Licensor to authorize Licensor to execute and deliver this Agreement and to perform the covenants, obligations and agreements of Licensor hereunder have been duly taken. No consent to the execution or delivery of this Agreement by Licensor or the performance by Licensor of its covenants, obligations and agreements hereunder is required from any partner, board of directors, shareholder, creditor, investor, judicial, legislative or administrative body, Governmental Authority or other Person, other than any such consent which already has been given.

(iv) This Agreement constitutes the valid and legally binding obligation of the Licensor, enforceable in accordance with its terms and conditions, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws presently or hereafter in effect, affecting the enforcement of creditors' rights generally and by general principles of equity whether applied in a proceeding at law or in equity.

(v) To the actual knowledge of the Licensor, there is no action, suit, claim, proceeding or investigation pending or currently threatened against the Licensor that questions the validity of this Agreement or the transactions contemplated herein or that could either individually or in the aggregate have a material adverse effect on the assets, conditions, affairs, or prospects of the Licensor, financially or otherwise. For the purpose of this clause (v), the Licensor's actual knowledge means the actual knowledge of the Executive Director.

Section 10.4 Waiver of Immunity. Licensor unconditionally and irrevocably (a) agrees that the execution, delivery and performance by it of this Agreement constitute private, proprietary, and commercial acts rather than public or governmental acts; (b) agrees that should any Actions or Proceedings be brought against it or its assets in relation to this Agreement or any transaction contemplated thereunder, no immunity (sovereign or otherwise) from such Actions or Proceedings (which shall be deemed to include suit, attachment prior to judgment, other attachment, the obtaining of judgment, execution or other enforcement) shall be claimed by or on behalf of itself or with respect to its assets; (c) waives any such right of immunity (sovereign or otherwise) which it or its assets now has or may acquire in the future; and (d) consents to the enforcement of any arbitral award or judgment against it in any such proceedings and to the giving of any relief or the issue of any process in connection with any such proceedings.

Section 10.5 Notices. Subject to Section 7.9, all notices, consents, directions, approvals, instructions, requests and other communications given to a Party under this Agreement shall be given in accordance with Paragraph 33.9 of the Stadium Lease.

Section 10.6 Severability. If any term or provision of this Agreement, or the application thereof to any Person or circumstances, shall to any extent be invalid or unenforceable in any jurisdiction, as to such jurisdiction, the remainder of this Agreement, or the application of such term or provision to the Persons or circumstances other than those as to which such term or provision is held invalid or unenforceable in such jurisdiction, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable law and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 10.7 Entire Agreement, Amendment and Waiver. Except for the Stadium Naming Rights Agreement, this Agreement, together with the other applicable Stadium Lease Documents, constitutes the entire agreement of the Parties hereto and thereto with respect to the subject matter hereof and supersedes all prior written and oral agreements and understandings with respect to such subject matter. Neither this Agreement nor any of the terms hereof, including this Section 10.7, may be amended, supplemented, waived or modified orally, but only by an instrument in writing signed

by the Party against which the enforcement of amendment, supplement, waiver, or modification shall be sought.

Section 10.8 Incorporation of Exhibits. All Exhibits attached to this Agreement are incorporated herein by this reference in their entirety and made a part hereof for all purposes.

Section 10.9 Table of Contents; Headings. The table of contents, if any, and headings, if any, of the various articles, sections and other subdivisions of this Agreement are for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

Section 10.10 Parties in Interest; Limitation on Rights of Others. The terms of this Agreement shall be binding upon, and inure to the benefit of, the Parties and their permitted successors and assigns. Nothing in this Agreement, whether express or implied, shall be construed to give any Person (other than the Parties and their permitted successors and assigns and as expressly provided herein) any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained therein or any standing or authority to enforce the terms and provisions of this Agreement.

Section 10.11 Method and Timing of Payment. All amounts required to be paid by any Party to the other Party under this Agreement shall be paid in such freely transferable coin or currency of the United States as at the time of payment shall be legal tender for the payment of public and private debts, by wire transfer, or other acceptable method of payment, of immediately available federal funds in accordance with the terms of the Stadium Lease. If any payment under this Agreement is required to be made on a day other than a Business Day, the date of payment shall be extended to the next Business Day.

Section 10.12 Counterparts. This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same Agreement. All signatures need not be on the same counterpart.

Section 10.13 Governing Law. This Agreement, and the actions of the Parties hereunder shall in all respects be governed by, and construed in accordance with, the laws of the State of California (excluding principles of conflict of laws).

Section 10.14 Interpretation and Reliance. No presumption will apply in favor of any Party in the interpretation of this Agreement or any of the other Stadium Lease Documents or in the resolution of any ambiguity of any provisions thereof.

Section 10.15 Conflicting Provisions. In the event of any conflict between the provisions of this Agreement and the provisions of the Stadium Lease, the provisions of the Stadium Lease shall apply and control with respect to such conflict.

Section 10.16 Permitted Encumbrances. The grant by Licensor to Licensee of the Intangible Property Licenses shall be subject to the Permitted Encumbrances to the extent such Permitted Encumbrances are valid, subsisting and enforceable.

Section 10.17 Licensor Approval. Whenever this Agreement calls for Licensor approval, consent, or waiver, the written approval, consent, or waiver of the Executive Director, or his or her designee, shall constitute the approval, consent, or waiver of Licensor, without further authorization required from the Board. Licensor shall authorize the Executive Director, or his or her designee, in this Lease to deliver such approvals or consents as are required by this Agreement, or to waive requirements under this Agreement, on behalf of Licensor.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the Parties have caused this Amended and Restated Intangible Property License Agreement to be executed by their duly appointed representatives.

LICENSOR:

**SANTA CLARA STADIUM AUTHORITY,  
a joint exercise of powers entity,  
created through Government Code Sections 6500 *et seq.***

APPROVED AS TO FORM:

\_\_\_\_\_  
RICHARD E. NOSKY, JR.  
Authority Counsel

\_\_\_\_\_  
JULIO J. FUENTES  
Executive Director

ATTEST:

1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Facsimile: (408) 241-6771

\_\_\_\_\_  
ROD DIRIDON, JR.  
Authority Secretary

*[Signatures continued on next page]*

*[Signatures to Amended and Restated Intangible Property License Agreement  
continued from previous page]*

LICENSEE:

**FORTY NINERS SC STADIUM COMPANY LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Cipora Herman  
Title: Chief Financial Officer

4949 Marie P. DeBartolo Way  
Santa Clara, CA 95054  
Telephone: (408) 562-4949  
Fax Number: (408) 727-4937



EXHIBIT A  
TO  
Agreement

DEFINITIONS

"Agreement" means this Agreement, as the same may be amended, supplemented, modified, renewed or extended from time to time.

"Arbitration Procedures" is defined in Section 8.2 of this Agreement.

"Assignment and Assumption Agreement" is defined in Section 5.3 of this Agreement.

"Broadcast Rights" is defined in Section 2.1(b)(ii) of this Agreement.

"Dispute or Controversy" is defined in Section 8.1 of this Agreement.

"Domain Name Rights" is defined in Section 2.1 (b)(v) of this Agreement.

"Event of Default" is defined in Sections 7.1(a) and 7.1(b) of this Agreement.

"Existing Intangible Property Rights" is defined in Section 2.1(b) of this Agreement.

"Existing Intellectual Property Rights" is defined in Section 2.1(b)(iii) of this Agreement.

"Indemnified Party" is defined in Section 2.5(e) of this Agreement.

"Indemnifying Party" is defined in Section 2.5(e) of this Agreement.

"Intangible Property Licenses" is defined in Section 2.1(a) of this Agreement.

"Intangible Property Rights" means, collectively, the Stadium Rights, the Naming Rights, the Advertising and Sponsorship Rights, the Stadium Components Sponsorship Rights, the Licensed Intellectual Property Rights, the Branding Rights, the Pourage Rights, the Concession Rights, the Service Rights, the Exclusivity Rights, and the Existing Intangible Property Rights.

"Intellectual Property" means copyrights, trademarks, service marks, Marks, design patents, and other intellectual property now existing or hereafter created, invested or developed.

"Landlord Mortgage" means a "Landlord Mortgage", as such term is defined in the Stadium Lease, that also covers and encumbers all or part of Licensor's reversionary interest in the Intangible Property Rights granted by Licensor in the Intangible Property License to secure a Permitted Landlord Financing.

"Licensed Intellectual Property Rights" is defined in Section 2.1(a)(iv) of this Agreement.

"Licensee" is defined in the first paragraph of this Agreement or any successor owner of the Intangible Property Licenses pursuant to the requirements of Article 5 of this Agreement.

"Licensee Default" is defined in Section 7.1(a) of this Agreement.

"Licensee Representative" is defined in Section 1.4 of this Agreement.

"Licensee Transferee" is defined in Section 5.2 of this Agreement.

"Licensor" is defined in the first paragraph of this Agreement and, after a Licensor Transfer of this Agreement and the Licensor Transferee's assumption of the obligations of Licensor under this Agreement in accordance with Section 5.4, such Licensor Transferee.

"Licensor Default" is defined in Section 7.1(b) of this Agreement.

"Licensor Representative" is defined in Section 1.3 of this Agreement.

"Licensor Transfer" is defined in Section 5.4 of this Agreement.

"Licensor Transferee" is defined in Section 5.4 of this Agreement.

"Marks" means any and all trademarks, service marks, names, symbols, words, logos, designs, slogans, emblems, mottos, and brand or team designations (and any combination thereof) in any tangible medium used or hereafter developed.

"Other Rights" is defined in Section 2.3(b) of this Agreement.

"Parties" is defined in the first paragraph of this Agreement.

"Regular Arbitration" is defined in Exhibit L to the Stadium Lease.

"Revenues" is defined in Section 2.3(c) of this Agreement.

"Review and Approval or Consent Rights" is defined in Section 9.2(a) of this Agreement.

"Reviewing Party" is defined in Section 9.2(a) of this Agreement.

"Royalty Payments" is defined in Article 4 of this Agreement.

"Stadium Lease" means the Stadium Lease Agreement dated as of March 28, 2012, as amended and restated in accordance with the Amended and Restated Stadium Lease Agreement dated as of even date herewith, by and between Licensor, as landlord, and Licensee, as tenant, as the same may be further amended, supplemented, modified, renewed or extended from time to time.

"Stadium License" is defined in Section 2.1(a)(i) of this Agreement.

"Stadium Name" has the meaning set forth in the Stadium Lease.

"Stadium Rights" is defined in Section 2.1(a)(i) of this Agreement.

"Sublicense" means a license, sublicense, concession or other agreement between Licensee or a Sublicensee and any Person for the use of all or any part of any one or more of the Intangible

Property Licenses or exercise of all or any part of the Intangible Property Rights, but excluding any license, sublicense, concession or other agreement for the use of all of the Intangible Property Rights by the same person.

"Sublicensee" means a sublicensee, user or concessionaire under or pursuant to a Sublicense.

"Submitting Party" is defined in Section 9.2(a) of this Agreement.

"Symbolic Representation" means any two-dimensional or three-dimensional replica, model, artistic or photographic rendering or other visual representation of the Stadium or any portion thereof.

"Term" is defined in Section 3.1 of this Agreement.

"Transfer" is defined in Section 5.2 of this Agreement.