

Meeting Date: 3/15/12

AGENDA REPORT

City of Santa Clara, California

Agenda Item # 3A-5



Date: March 12, 2012

To: City Manager for Council Action

From: Assistant City Manager

Subject: Adoption of a Resolution Authorizing the Execution of Amendment No. 3 to the Lease Agreement with Forty Niners Limited

EXECUTIVE SUMMARY:

In 1987 the City entered into a lease with Forty Niners Limited whereby the Forty Niners leased certain land located in the Bayshore North Redevelopment Project Area at Centennial Boulevard near Tasman for the purposes of constructing a training facility, which lease was amended by Amendment No. 1 ("Training Facility Lease"). On February 28, 2012 the City approved Amendment No. 2 to the Training Facility Lease which removed from the property leased to the Forty Niners certain property that is necessary for the construction of the Stadium adjacent to the Training Facility and conformed the property description for the property leased to the Forty Niners to the subdivision map approved by the City Council earlier in February. Amendment No. 3 to the Training Facility Lease is now before the Council to extend the term of the Training Facility Lease to be consistent with the term of the Stadium Lease, to make certain revisions to the provisions of the Training Facility Lease to reflect the current ownership of the Team, to add mortgagee protection provisions consistent with the Stadium Lease and to remove certain provisions that allowed the Forty Niners to change the use of the property and set the rent in the event of a change of use. The extension of the Training Facility Lease was a condition of the Term Sheet. A copy of Amendment No. 3 has been placed in Council Offices for reading.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

The Amendment to the Training Facility Lease extends the option term of the Training Facility Lease to be consistent with the Stadium Lease. Currently the Forty Niners could extend the term of the Training Facility Lease for a maximum term of 55 years expiring in 2042. Under Amendment No. 3, the Forty Niners could extend the Lease term to 2054 (assuming the Stadium opens in 2014) with additional options that would allow the term to extend to 2074. The Amendment also includes additional mortgagee protection provisions that would become effective if the Forty Niners placed a leasehold mortgage on their leasehold interest in the property. Currently the Forty Niners do not have any leasehold mortgages on their interest in the property and do not have plans to do so.

The original lease allowed the Forty Niners to change the use of the property anytime after year ten of the Lease and set a rent for the new use based on a valuation of the property at \$100,000 per acre. The Amendment removes these provisions and requires that the City approve any change of use from what is defined as "Football Use" and that the rent for the property at the time of any change of use be set based on appraised value. The definition of "Football Use" under the Training Facility Lease has been amended to include uses ancillary to the operation of the Stadium including parking uses.

City Manager for Council Action

Subject: Adoption of a Resolution Authorizing the Execution of Amendment No. 3 to the Lease Agreement with Forty Niners Limited

March 12, 2012

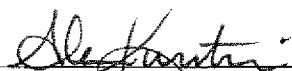
Page 2

ECONOMIC/FISCAL IMPACT:

During the extended term, the rent for the Training Facility Lease would increase at 4% each year as provided in the original lease. Rent currently paid by the Forty Niners is \$28,196 per year.

RECOMMENDATION:

That the City Council adopt the Resolution authorizing the execution of Amendment No. 3 to the Lease Agreement with Forty Niners Limited.



Alan Kurotori
Assistant City Manager

APPROVED:



Jennifer Sparacino
City Manager

Documents Related to this Report:

- 1) Resolution
- 2) Amendment No. 3 to Lease Agreement

RESOLUTION NO. _____

**RESOLUTION OF THE CITY OF SANTA CLARA
AUTHORIZING THE EXECUTION OF AMENDMENT NO.
3 TO LEASE AGREEMENT WITH FORTY NINERS
LIMITED**

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, the City of Santa Clara (the "City") owns that certain property located in the Bayshore North Redevelopment Plan (as amended, the "Redevelopment Plan") upon which is located the Forty Niners Training Facility;

WHEREAS, the City and Forty Niners Limited, are parties to that certain Lease Agreement dated as of February 12, 1987 as amended by Amendment No. 1 to Lease Agreement dated as of September 30, 1987 and amended by Amendment No. 2 to Lease Agreement dated as of February 28, 2012 ("Training Facility Lease");

WHEREAS, the City and Forty Niners Limited now desire to amend the Training Facility Lease in accordance with the terms of the certain Amendment No. 3 to Lease Agreement, a copy of which is on file with the City Clerk ("Amendment No. 3");

WHEREAS, the City has determined that Amendment No. 3 is in the City's best interest;

WHEREAS, the Stadium Project has previously undergone environmental review pursuant to the California Environmental Quality Act ("CEQA") and was considered as part of the project Environmental Impact Report certified for the proposed 49ers Santa Clara Stadium Project at 4900 Centennial Boulevard (the "Stadium EIR"); and

WHEREAS, the Staff Report has provided the Council with additional information upon which the actions set forth in this Resolution are based.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA
AS FOLLOWS:**

1. The City Council finds that the above recitals are accurate.
2. The City Council hereby finds, for the following reasons, and based on the provision of CEQA (with particular reference to 14 California Code of Regulations, Section 15162), that the Stadium EIR has served as the environmental documentation pursuant to CEQA for approval of the Amendment No. 3 and the Reservation Amendment. The City Council further specifically finds that there have not been any of the following occurrences since the approval of the Stadium EIR that would require subsequent or supplemental environmental documents in connection with approval of Amendment No. 3 and the Reservation Amendment:

A.. There have not been substantial changes in the project analyzed in the Stadium EIR which would require major revisions in the Stadium EIR and the Mitigation Monitoring Program;

B. There have not been substantial changes with respect to the circumstances under which the project analyzed in the Stadium EIR will be undertaken which would require major revisions in the Stadium EIR and the Mitigation Monitoring Program; and

C. There has not been the appearance of new information which was not known and could not have been known as of the date of approval of the Stadium EIR and the Mitigation Monitoring Program which is relevant to the approval of the Stadium EIR and the Mitigation Monitoring Program as it relates to Amendment No. 3 and the Reservation Amendment.

3. The City Manager is hereby authorized and directed to file a Notice of Determination with respect to Amendment No. 3 in accordance with the applicable provisions of CEQA.

4. The City Council hereby approves Amendment No. 3; approves execution of the Amendment No. 3 by the City Manager, approves the execution by the City Manager of all

ancillary documents in substantially the form on file with the City Clerk, with such changes as are approved by the City signatory (such approval to be conclusively evidenced by the execution of Amendment No. 3).

5. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

6. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A SPECIAL MEETING THEREOF HELD ON THE ___ DAY OF _____, 2012, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST:

ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments Incorporated by Reference: None

I:\Agenda Reports\2012\2012.03.15 Cc Training Facility Lease Amendment No. 3 Resolution.Doc

AMENDMENT NO. 3 TO LEASE AGREEMENT

This Amendment No. 3 to Lease Agreement ("Amendment") is made and entered into on this _____ day of _____, 2012 (the "Effective Date"), by and between the FORTY NINERS FOOTBALL COMPANY LLC, a Delaware limited liability company ("Lessee"), and the CITY OF SANTA CLARA, a California municipal corporation ("City"). Lessee and City collectively are sometimes referred to herein as the "Parties," and each of Lessee and City individually is sometimes referred to as a "Party."

R E C I T A L S:

A. Lessee is the successor-in-interest to the San Francisco Forty Niners Limited, a California limited partnership, which as the San Francisco Forty-Niners, LTD., acquired from City a leasehold interest in unimproved real property pursuant to that certain Lease Agreement dated as of February 12, 1987 ("Original Lease"), which agreement was amended by that certain Amendment No. 1 to Lease Agreement dated as of September 30, 1987 ("Amendment No. 1"), and further amended by that certain Amendment No. 2 to Lease Agreement dated as of March _____, 2012 ("Amendment No. 2", and together with Amendment No. 1 and the Original Lease, collectively, the "Lease"). Capitalized terms used, but not defined in this Amendment shall have the meanings ascribed to them in the Lease.

B. Concurrently with the execution of this Amendment, the Ground Lease and Stadium Lease have been executed, and Lessee and StadCo have entered into a sublease of the Stadium in order for Lessee to play its home National Football League games at the Stadium ("Team Sublease"). The Stadium Lease and Team Sublease have the same lease term.

C. Pursuant to the terms of the Lease, Lessee has been deemed to have irrevocably exercised its (i) first renewal option under the Lease for a period of five (5) years expiring on September 30, 2012; and (ii) its second renewal option under the Lease for a period of five (5) years commencing on October 1, 2012 and ending on September 30, 2017.

D. The Term is currently scheduled to expire prior to the expiration of the Stadium Lease. The parties desire to amend the Lease to make the Term co-terminus with the Stadium Lease term in order to ensure that the Team has the right to occupy the Land for the duration of the Stadium Lease term, and to otherwise conform certain provisions of the Lease to corresponding provisions in the Stadium Lease, as set forth below.

NOW, THEREFORE, for good and valuable consideration, City and Lessee hereby agree as follows:

1. Change in Use. The second paragraph of Section 2.1 is hereby deleted in its entirety, of no more use or effect and replaced with the following new second paragraph:

Lessee is permitted to use the premises for Football Uses during the Term. Upon prior written approval from City, which approval shall not be unreasonably withheld, conditioned or delayed, Lessee may change the use of any portion or all portions of the Property to any lawful use that is not a Football Use (each such area of the

Property, a "Non-Football Uses Area", and each such use, a "Non-Football Use") and alter or replace the Improvements and/or construct new Improvements on the Land in connection with such Non-Football Use. City shall approve or disapprove Lessee's written request to operate or permit the operation of a Non-Football Uses Area (each such request, a "Non-Football Use Request") within twenty (20) days of receipt, provided, however, City's approval or disapproval of any such use pursuant to this Lease shall not impact the City's exercise of its police power with regards to the issuance of any permits or approvals required to allow any such Non-Football Use. If City conditionally approves a Non-Football Use Request, the conditions shall be stated in writing and a time shall be stated therein for satisfying the conditions. Any disapproval of a Non-Football Use Request shall be in writing and shall contain a detailed explanation of (i) the reason(s) for such disapproval, and (ii) the additional information Lessee would need to submit to obtain approval. Promptly following any disapproval of the Non-Football Use Request, the City and Lessee shall meet and confer to attempt to resolve the dispute. In connection with such disputes, both City and Lessee agree to use their best efforts to reach a solution expeditiously that is mutually satisfactory to both Parties. Any such Non-Football Use shall comply with all then existing land use restrictions and requirements and the General Plan of the City, as such General Plan may be amended from time to time, and Lessee shall obtain all required permits and approvals and pay applicable fees required by the City pursuant to the City's generally applicable fee schedule for all Improvements altered, replaced or constructed in connection with any such Non-Football Use. Provided that Lessee obtains the permit approvals required by City and pays the applicable fees, City shall, upon Lessee's obtaining such approvals, assist Lessee in obtaining all such approvals and permits from other Governmental Authorities, as may be required for such Non-Football Uses and construction of the related Improvements. Notwithstanding any provision of this Lease to the contrary, all of City's rights to recapture any portion of the premises based on a Non-Football Use Request or the use of the Property for a Non-Football Use is hereby terminated and of no more force or effect.

2. Term. If and when the Stadium Commencement Date occurs, then as of the Stadium Commencement Date, Section 3.2 of the Original Lease shall be terminated in its entirety, of no more force or effect, and replaced by the following new Section 3.2:

3.2 Extended Term. Term of this Lease shall expire on the day immediately preceding the fortieth (40th) anniversary of the Stadium Lease Commencement Date (the "Term Expiration Date"). For purposes of this Lease, the "Stadium Lease Commencement Date" is the Commencement Date defined in the Stadium Lease, and shall be evidenced by a notice or memorandum executed by the parties to the Stadium Lease, or by Lessee and City, confirming such date. Subject to the provisions of this Section 3.2, Lessee shall have the option to extend the Term for five (5) additional successive periods of four (4) years each (each, an "Extension Term"); provided, however, that if the Term Expiration Date is any date other than June 30, then Lessee shall have an additional option to extend the Term for an interim period (the "Interim Extension Term"), which shall commence on the day immediately following the Term Expiration Date and end on the last day of the NFL Season (as defined in the Stadium Lease) during which the Interim Extension Term commenced or, if the first four

(4)-year Extension Option is exercised hereunder, the Interim Extension Term shall end on June 30 of the calendar year immediately following the commencement of the Interim Extension Term. If the Term Expiration Date is June 30, there will be no Interim Extension Term. Lessee may exercise such options to extend (each, an "Extension Option" and, collectively, the "Extension Options") by giving written notice to City of the exercise of the Extension Option ("Option Notice") not later than one (1) year prior to the Term Expiration Date (as the same may have previously been extended). The Option Notice must include reasonable evidence that the Team Sublease shall be concurrently extended for the applicable Extension Term. No Extension Term may commence unless at the time of the commencement of the Extension Term the Team Sublease has been concurrently extended for the applicable Extension Term. Subject to the restrictions and limitations on assignment set forth in Section 8 of this Lease, Lessee may transfer the remaining Extension Options to an assignee of its entire interest in this Lease. In addition, Lessee may at any time, or from time to time, assign the Extension Options, or any of them, as additional security for any Leasehold Mortgage permitted under this Lease, and City shall recognize any Extension Option exercised by a Leasehold Mortgagee in accordance with the provisions of this Lease. Time is of the essence with respect to the date of delivery for each and every Option Notice. The Term in effect as of the Effective Date of that certain Amendment No. 3 to Lease Agreement between Lessee and City dated as of _____, 2012 ("Amendment No. 3"), and any Extension Terms are herein, collectively, referred to as the "Term". Upon the exercise of any Extension Option, each Party shall at the request of the other, execute and deliver a memorandum, in recordable form, acknowledging the fact that such Extension Option has been exercised, and otherwise complying with the requirements of law for an effective memorandum of lease. Lessee shall not have the right to exercise any Extension Options while it is in a material default beyond any applicable cure period hereunder of which it has been notified in writing by City.

3. Deletion of Maximum Term. Section 3.3 of the Original Lease is hereby deleted in its entirety and of no more force or effect.

4. Rent Following a Change in Use. Section 4.2 of the Original Lease is hereby deleted in its entirety, of no more force or effect, and replaced with the following new Section 4.2:

4.2 Rent Following a Change in Use. Notwithstanding any contrary provisions in Section 4.1 of this Lease, if, with the approval of the City pursuant to Section 2.1, any Non-Football Uses Area is established, then commencing on the Change in Use Date, and thereafter, during the period that such portion of the Property is a Non-Football Uses Area, the annual Rent applicable to such Non-Football Uses Area shall be Market Rent (as defined, and in accordance with the appraisal process described, in Exhibit A attached hereto and made a part hereof, and entitled (the "Appraisal Process"); provided, however, that no increase in Rent shall apply to any short-term sublease of up to 10,000 square feet of space in an existing building for Non-Football Uses.

5. Assignment. Section 8 of the Original Lease is hereby renamed Section 8.1.

(a) The first sentence of the renamed Section 8.1 of the Original Lease is

hereby deleted in its entirety, of no more force or effect, and replaced by the following new provisions:

Lessee shall have the right, in its sole discretion and without obtaining the consent of City, to transfer or assign Lessee's interest in this Lease to (i) any succeeding owner of the San Francisco Forty Niners Franchise if the transfer of the Franchise is accomplished in accordance with then-applicable NFL Rules and Regulations and otherwise in compliance with all the provisions of this Lease; (ii) or the owner of the leasehold interest under the Stadium Lease. Any such permitted transferee or assignee shall assume unconditionally in writing all then-unperformed obligations of Lessee under this Lease whether accrued or due before or after the effective date of such transfer and shall agree to be bound hereby and thereby in a form reasonably approved by City, which approval shall not be unreasonably withheld, delayed or conditioned.

(b) The second paragraph of Section 8.1 of the Original Lease is hereby deleted in its entirety, of no more force or effect, and replaced by the following new second paragraph:

Except as otherwise provided in Section 30.2 of this Lease, this Lease shall not be otherwise assignable without the written consent of City, which consent shall be requested at least ninety (90) days prior to the effective date of any assignment hereof and shall not be unreasonably withheld or delayed.

6. Estoppel Certificate. The following new Section 8.2 is hereby included in the Lease:

8.1 Estoppel Certificate. The parties hereby agree that in connection with any transfer of interest in this Lease or financing by City or Lessee, City and Lessee agree to execute and deliver to each other an estoppel certificate intended to be relied upon by City, Lessee and any transferee or assignee, as the case may be, or any third-party lender stating:

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

(b) To the knowledge of City or Lessee, as the case may be, whether there are any defaults (and specifying each such default or potential default as to which City or Lessee, as the case may be, has knowledge); and

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

7. Recognition, Non-Disturbance and Attornment Agreements. The following new Section 8.2 is hereby included in this Lease:

8.2 Recognition, Non-Disturbance and Attornment Agreements.

8.2.1 Generally. From time to time upon the request of Lessee, City shall provide and shall cause each Fee Mortgagee to join in, a Non-Disturbance Agreement to any subtenant if all of the following conditions are satisfied: (i) the subtenant agrees that in the event this Lease expires, terminates or is canceled during the term of the sublease, the subtenant shall attorn to City (provided City agrees not to disturb the occupancy or other rights of the subtenant and to be bound by the terms of the sublease), and the sublease shall be deemed a direct lease or license agreement between the subtenant and City, except that City shall not be liable to the subtenant for any security deposit or prepaid rent or license fees previously paid by such subtenant to Lessee, except for rent or license fees for the current month, if previously paid; and (ii) if Lessee is then in default of any of its obligations under this Lease, City may condition its agreement to provide a Non-Disturbance Agreement on the cure of such defaults as City may specify in a Notice conditionally approving Lessee's request for such Non-Disturbance Agreement (and if an Event of Default on the part of Lessee then exists, then City may withhold or condition the giving of a Non-Disturbance Agreement.

8.2.2 Form of Non-Disturbance Agreement. Each Non-Disturbance Agreement shall be in form and substance reasonably satisfactory to City and Lessee.

8. Bankruptcy. The following new Section 8.3 is hereby included in the Lease:

8.3 Bankruptcy.

8.3.1 Bankruptcy Affecting Lessee. Notwithstanding any term to the contrary in this Lease, if Lessee (as debtor in possession) or a trustee in bankruptcy, or any other similar officer or representative for Lessee rejects this Lease in any Bankruptcy Proceeding, then if a Leasehold Mortgage exists, such rejection shall be deemed to be an assignment of this Lease and Leasehold Estate to a Post-Foreclosure Lessee, together with all right, title and interest of Lessee in any sublease agreements, designated by the senior Leasehold Mortgagee within a reasonable period after request, in the nature of an assignment in lieu of foreclosure, subject to all Leasehold Mortgages. Such deemed assignment shall not terminate this Lease, but after such assignment the liability of the assignor under this Lease shall not exceed the liability that would have existed had such assignor rejected this Lease, with such rejection resulting in a termination hereof. Each Leasehold Mortgagee shall continue to have all the rights of a Leasehold Mortgagee as if the Bankruptcy Proceeding had not occurred, unless such Leasehold Mortgagee shall disapprove such deemed assignment by Notice to City within thirty (30) days after such Leasehold Mortgagee receives Notice of the rejection of this Lease in a Bankruptcy Proceeding. If any court determines that this Lease has been terminated notwithstanding the foregoing deemed assignment, then, if applicable, the Leasehold Mortgagee(s) shall remain entitled to a New Lease pursuant to the provisions of this Lease, if any Leasehold Mortgagee timely requests such New Lease during the New Lease Option Period.

8.3.2 Bankruptcy Affecting City. If City (as debtor in possession) or a trustee in bankruptcy for City, or any similar officer or representative for City, rejects this Lease in any Bankruptcy Proceeding affecting City, then:

(a) Bankruptcy Sales. In the event of a proposed Bankruptcy Sale affecting the Fee Estate: (i) City shall notify each Leasehold Mortgagee (of whose Mortgage City receives Notice) of such proposed Bankruptcy Sale, and shall give each such Leasehold Mortgagee copies of all pleadings, motions, and notices relating to such proposed Bankruptcy Sale; (ii) Lessee hereby irrevocably objects, and agrees not to consent, to any such Bankruptcy Sale, and to file a request for adequate protection of its interests in connection therewith; (iii) no purported consent by Lessee to, and no acquiescence of Lessee in or with respect to, any such proposed Bankruptcy Sale shall be effective without the written consent of each Leasehold Mortgagee; and (iv) each such Leasehold Mortgagee shall have standing to object to, or to require adequate protection of its interest in connection with, any such Bankruptcy Sale. City further acknowledges that under no circumstance shall City have the right to require Lessee to accept a money payment in lieu of Lessee's interest in this Lease or the premises.

(b) Assignment. City and Lessee acknowledge that to the extent specified in any Leasehold Mortgage, a Leasehold Mortgagee's collateral includes all of Lessee's rights under 11 U.S.C. §365(h), and that such rights can be, and have been, validly and effectively assigned to such Leasehold Mortgagee.

(c) Lessee's Election under 11 U.S.C. §365(h). City and Lessee hereby agree that for purposes of 11 U.S.C. §365(h), the term of this Lease commenced as of February 12, 1987. Lessee hereby elects pursuant to 11 U.S.C. §365(h)(1)(A)(ii) to retain all of its rights under this Lease, and not to treat this Lease as terminated pursuant to 11 U.S.C. §365(h)(1)(A)(i) by virtue of any rejection of this Lease by City, unless it has obtained each Leasehold Mortgagee's Consent to elect to treat this Lease as terminated. Lessee shall have no right, power, or authority to change such election, or to elect to treat this Lease as terminated, except with each Leasehold Mortgagee's Consent. Provided that a Leasehold Mortgagee shall have received Notice of City's Bankruptcy Proceeding simultaneously with Notice to Lessee, such Leasehold Mortgagee's rights under the preceding sentence must be exercised, if at all, subject to such time limits and requirements as would apply to Lessee, but as against Leasehold Mortgagee every such time period shall be extended by thirty (30) days, subject to any NFL Standstill Period.

(d) Continuation of Leasehold Mortgages. The lien of any Leasehold Mortgage that existed before rejection of this Lease shall extend to Lessee's continuing possessory and other rights under 11 U.S.C. §365(h) in the premises and this Lease following such rejection, with the same priority as such lien would have enjoyed with respect to the Leasehold Estate had such rejection not taken place.

(e) Continuation of Lease. If Lessee purports, without all such necessary consents, to elect to treat this Lease as terminated, then any such purported election and purported termination shall be null, void, and of no force or effect,

and notwithstanding such purported election, Lessee shall be deemed to have elected to continue this Lease without termination pursuant to 11 U.S.C. §365(h)(1)(A)(ii), and to have assigned Lessee's interest in this Lease (and in all sublease agreements), with the same effect as if such assignment was a transfer in lieu of foreclosure, to a person (who shall have all of the rights of a Post-Foreclosure Lessee hereunder) designated by the senior Leasehold Mortgagee within a reasonable period after request, subject to all Leasehold Mortgages. Lessee agrees to execute such instruments as may be necessary or appropriate, or as may reasonably be requested by such Leasehold Mortgagee to effect any such assignment. Lessee hereby grants to the Leasehold Mortgagee having priority of record at any relevant time a power of attorney, which shall be deemed coupled with an interest, to execute any documents that Lessee may be requested to execute to carry out the provisions of this Section. Any person to whom this Lease is assigned pursuant to the provisions of this Section shall have all of the rights of Lessee hereunder, including, but not limited to, the right to exercise all of the rights that Lessee would have had under 11 U.S.C. §365(h) had Lessee not purported to terminate this Lease.

(f) Post-Rejection Offset Amounts. If, following rejection of this Lease in a Bankruptcy Proceeding in which City is the debtor, Lessee wishes to offset against Rent and other sums due and payable to City by Lessee hereunder ("Additional Charges") due hereunder the amount of any claim that Lessee may have against City, on or within ten (10) Business Days after the date when any payment of Rent and Additional Charges due hereunder against which Lessee wishes to exercise a right of offset becomes due, then Lessee shall deliver Notice to City setting forth the amount of such claim (the "Post-Rejection Offset Amount"), the reason for it, an itemization in reasonable detail of Lessee's damages and costs arising from City's nonperformance of the covenant(s) in this Lease that gave rise to such Post-Rejection Offset Amount, and the balance, if any, of the Rent and Additional Charges then due (i.e., the amount by which the Rent and Additional Charges then due exceeds the Post-Rejection Offset Amount claimed in such Notice). Such Notice shall not be effective unless joined in by the senior Leasehold Mortgagee. City shall be deemed to have irrevocably accepted and agreed to such Post-Rejection Offset Amount unless, within ten (10) Business Days after Lessee shall have given such Notice, City shall give Notice to Lessee and each Leasehold Mortgagee stating that: (i) City disputes the Post-Rejection Offset Amount; (ii) the reasonable basis for such dispute; and (iii) the Post-Rejection Offset Amount, if any, with which City would agree. If within ten (10) Business Days after receipt of such Notice, Lessee has not paid City an amount equal to the difference between the Post-Rejection Offset Amount as determined by Lessee and the Post-Rejection Offset Amount as determined by City (or if City shall not have proposed such an amount, then if Lessee shall not have paid City the Rent and Additional Charges, if any, then due, after deducting the entire Post-Rejection Offset Amount determined by Lessee), then City may commence a proceeding in the United States Bankruptcy Court in which City's case under the United States Bankruptcy Code is then pending, or if such case has been closed then in any court of competent jurisdiction in the State of California, to determine the proper Post-Rejection Offset Amount and, to the extent necessary, the proper amount of Rent and Additional Charges then due. City shall give each Leasehold Mortgagee simultaneous copies of all pleadings, motions, and other papers City files in any such action. A Leasehold Mortgagee shall have the right to intervene in any such

action and, at such Leasehold Mortgagee's option, the right to control any such action to the exclusion of Lessee. If, as of the date thirty (30) days after such court enters a final and nonappealable order or judgment declaring that Lessee must pay City any amount previously offset, Lessee has not paid such amount to City, then City shall have all the rights and remedies available to it under this Lease or otherwise at law in respect of a monetary default, subject in each case to the rights of any Leasehold Mortgagee to cure such monetary default. Except as described in this Section, Lessee's failure to pay Rent and Additional Charges, to the extent of any amount for which Lessee has given Notice of asserting a claim of a Post-Rejection Offset Amount shall not constitute a default on the part of Lessee.

8.4 Miscellaneous.

8.4.1 Appointment of Receiver. In case of default under any Leasehold Mortgage, the Leasehold Mortgagee (or a Leasehold Mortgagee's Representative acting on behalf of such Leasehold Mortgagee) shall be entitled to have a receiver appointed, irrespective of whether such Leasehold Mortgagee has accelerated the maturity of the indebtedness secured by its Leasehold Mortgage, and to have such receiver enter and take possession of the premises, and manage and operate the same.

8.4.2 Notices. No Notice shall be effective unless and until a copy of such Notice has been delivered to all Mortgagees (of which the sender has previously been given Notice) of the intended recipient.

8.4.3 Third-Party Beneficiaries. Any present or future Leasehold Mortgagee, Leasehold Mortgagee's Representative, Post-Foreclosure Lessee or New Lessee may enforce any Mortgagee Protections directly in its own name as an intended third-party beneficiary hereof. Such third-party beneficiary rights are intended to and shall survive any termination of this Lease. Except for these intended third-party beneficiaries, there are no third-party beneficiaries of this Lease. Nothing in this Lease is intended or shall be deemed to confer upon any Person (except City, Lessee, any New Lessee or Post-Foreclosure Lessee, any Leasehold Mortgagee, and any Leasehold Mortgagee's Representative) any right to enforce this Lease.

8.4.4 Conflicts. In the event of any conflict between the provisions of this Section 8 and the other provisions of this Lease, the provisions of this Section 8 shall govern and control.

9. Notices. The provisions in Section 11 of the Original Lease prior to and after the list of addresses are hereby deleted in their entirety, of no more force of effect and replaced by the following new Section 11:

11. Notices. All notices, consents, requests, approvals, directions, instructions, and other communications given to City or Lessee (whether by another Party to this Lease or by a mortgagee of Lessee, a subtenant, mortgagee of a subtenant or other person or entity to a Party pursuant to the provisions of this Lease) shall be given in writing to the addressee Party at the address set forth below or at such other address as

such Party shall designate by written notice given in accordance with the provisions of this Section to the other Party (or to such subtenant, Leasehold Mortgagee or other Person at the last address designated by such Person in a Notice given to such Party hereunder), and may be (a) sent by registered or certified U.S. Mail, postage prepaid, return receipt requested, (b) delivered personally, or (c) sent by overnight courier service, with charges prepaid for next business day delivery, using a courier service that maintains records of delivery (any such notice, a "Notice"). Notices shall be deemed duly given or made (i) three (3) Business Days (defined below) after posting if mailed as provided above, (ii) when delivered by hand unless such day is not a Business Day (or unless delivery is made after 5:00 p.m. on a Business Day), in which case such delivery shall be deemed to be made as of the next succeeding Business Day, or (iii) one (1) Business Day following deposit with an overnight courier service as provided above. A Party may also give Notice by fax, email, or other electronic means, but such Notice shall be deemed duly given hereunder only upon acknowledgment of receipt by the addressee thereof. Each Party hereto shall have the right at any time and from time to time to specify additional parties ("Additional Addressees") to whom notice hereunder must be given, by delivering to the other Party five (5) days' notice thereof setting forth the address(es) for each such Additional Addressee. For purposes of this Lease, "Business Day" means any day on which City's administrative offices are open for business, not including Saturdays, Sundays or legal holidays.

10. Mortgages. Section 30 of the Original Lease is hereby deleted in its entirety, of no more force or effect and replaced with the following new Section 30.

30. Mortgages.

30.1 Fee Mortgages.

30.1.1 Right to Encumber. If City executes and delivers Mortgage(s) encumbering its interest, at any time and from time to time during the Term, such Mortgage shall comply with the provisions of Section 30.8 below and the terms of any Fee Mortgage and related financing documentation, including the promissory note, loan agreement and such other documents effectuating any such financing shall be subject to Lessee's reasonable approval. Any Fee Mortgage that violates the provisions of Section 30.8 shall be null and void and shall violate this Lease. Lessee need not join in, or subordinate this Lease to, any Fee Mortgage, and no such joinder or subordination by Lessee shall be effective without the prior written consent of all Leasehold Mortgagees.

30.1.2 Estates Encumbered. A Fee Mortgage shall attach solely to City's interest in the premises subject to Lessee's interest in this Lease ("Fee Estate"). Every Fee Mortgage shall be, and shall state that it is, subject to all of the Mortgagee Protection provisions of this Lease, and the like provisions of any New Lease. No Fee Mortgage may encumber or attach to, or otherwise affect (by way of Foreclosure or otherwise) this Lease or Lessee's Leasehold Estate, any sublease, any New Lease, any Mortgage that encumbers any of the foregoing, or any other estate or interest arising out of this Lease or any New Lease, including any amendment or modification of any of the

foregoing. City shall not grant a Mortgage unless the proposed Fee Mortgagee executes a Non-Disturbance Agreement satisfying the requirements of Section 8.2.2. Upon Foreclosure of a Fee Mortgage, the transferee shall succeed only to the Fee Estate, subject to, and as encumbered by, this Lease and such other interests. The foregoing provisions shall not preclude a Person from owning interests in both a Fee Mortgage and a Leasehold Mortgage.

30.1.3 Foreclosure. No Foreclosure of a Fee Mortgage shall terminate or otherwise, the Leasehold Estate of Lessee hereunder, or the interest of any Leasehold Mortgagee. Upon any Foreclosure of a Fee Mortgage, this Lease shall not terminate, but shall continue in full force and effect between the transferee of the Fee Estate and Lessee, as if such transferee had been the original landlord hereunder, and Lessee shall attorn to the transferee of the Fee Estate, provided that such transferee has assumed in writing all obligations of City under this Lease. Such attornment shall in no way diminish or impair Lessee's rights and remedies against City (all of which Lessee may continue to assert against the successor landlord), or require Lessee to waive any default by City.

30.1.4 Cure Rights of Fee Mortgagees. If Lessee gives Notice to City of any alleged breach or default by City, then Lessee shall simultaneously give a copy of such Notice to all Fee Mortgagee(s). Such Fee Mortgagee(s) shall have the right to cure City's alleged breach or default within the cure period allowed to City under this Lease, and with like effect as if City had done so. Lessee's failure to give Fee Mortgagee(s) the Notice required by this Section shall not constitute a default by Lessee hereunder, but no Notice by Lessee of any alleged breach or default by City (or any resulting exercise of rights and remedies by Lessee) shall be effective against such Fee Mortgagee(s) unless and until Lessee shall have given to such Fee Mortgagee(s) such Notice and opportunity to cure.

30.1.5 Casualty and Condemnation; Use of Proceeds. A Fee Mortgagee shall have the right to receive, in trust, the proceeds of insurance or condemnation awards to which City would be entitled and apply the same in the manner that City would be required to apply such proceeds under this Lease.

30.2 Lessee's Right to Mortgage Leasehold and Pledge Revenues.

30.2.1 Leasehold Mortgages. Notwithstanding any provision of this Lease, including Section 8, Lessee shall have the right, without obtaining consent or approval from City, to assign, mortgage or encumber this Lease and Lessee's Leasehold Estate pursuant to one or more Leasehold Mortgages, to assign this Lease and the Leasehold Estate, either absolutely or as collateral security, and to assign (absolutely or collaterally) any or all of Lessee's rights under this Lease. A Leasehold Mortgage may attach to and encumber any of the following, or any interest in any of the following: (i) this Lease, (ii) Lessee's Leasehold Estate, (iii) any of Lessee's rights under this Lease (including all Extension Options), (iv) any of Lessee's Personal Property, (v) any sublease, and (vi) any other property rights and interests of Lessee arising under this

Lease, or appurtenant to Lessee's interest in or use of the foregoing interests, including Lessee's right to receive rents and other revenues under any sublease.

30.2.2 No Encumbrance of Fee Estate. Under no circumstance shall Leasehold Mortgage or other Lien or encumbrance placed by Lessee on its Leasehold Estate attach to or encumber the Fee Estate, or any reversionary interest thereunder. No Foreclosure of a Leasehold Mortgage shall adversely affect the estate or interest of City or of any Fee Mortgage, or the rights or remedies of a Fee Mortgagee as against City.

30.2.3 Leasehold Mortgages Subject to Lease. With the exception of the rights specifically granted to Leasehold Mortgagees hereunder, the grant of a Leasehold Mortgage shall not give or be deemed to give a Leasehold Mortgagee any greater rights than those granted to Lessee hereunder.

30.2.4 Notice to City of Mortgage Default. Lessee agrees with respect to each Leasehold Mortgage, either to record a request under California Civil Code Section 2924b that notice of default and of sale under such Leasehold Mortgage be sent to City, or to have such Leasehold Mortgage provide:

(a) that the Leasehold Mortgagee shall by registered or certified mail give Notice to City of the occurrence of any event of default under the Leasehold Mortgage; and

(b) that City shall be given Notice at the time any Leasehold Mortgagee initiates any Foreclosure.

30.3 Leasehold Mortgages Generally.

30.3.1 Leasehold Mortgage not an Assignment. No grant by Lessee of a Leasehold Mortgage shall be deemed to constitute an assignment or transfer of the Leasehold Estate, nor shall any Leasehold Mortgagee, by exercising any of its rights under this Lease or under its Mortgage, be deemed to be an assignee, transferee, or mortgagee in possession of the Leasehold Estate so as to require such Leasehold Mortgagee, as such, to assume or otherwise be obligated to perform any of Lessee's obligations under this Lease.

30.3.2 City's Acknowledgment of Leasehold Mortgagee. City shall, upon written request, acknowledge receipt of the name and address of any Leasehold Mortgagee (or potential Leasehold Mortgagee), and confirm that such Leasehold Mortgagee is or will be, upon closing of its financing or its acquisition of an existing Leasehold Mortgage, entitled to all Mortgagee Protections (including after any premature termination of this Lease). Such acknowledgment shall, if requested, be in recordable form, and Lessee may record it at Lessee's expense. If City has received Notice of any Leasehold Mortgage, then such Notice shall automatically bind City's successors and assigns.

30.3.3 Future Modifications. If any Leasehold Mortgagee requires any modification of this Lease or of any Non-Disturbance Agreement or other document to be provided under this Lease, or if any such modification is necessary or appropriate to comply with rating agency requirements, then City shall, at Lessee's or any Leasehold Mortgagee's request, promptly execute and deliver to Lessee such instruments in recordable form effecting such modification as such Leasehold Mortgagee or rating agency shall require, provided that any such modification does not modify Rent or the Term, and does not otherwise materially adversely affect City's rights, materially increase City's or any Fee Mortgagee's obligations, or materially decrease Lessee's obligations under this Lease. If any prospective Leasehold Mortgagee requires any such modification, then City shall execute and deliver such modification, in accordance with and to the extent required by this Section, and place such modification in escrow for release to Lessee or such Leasehold Mortgagee upon the closing of such prospective Leasehold Mortgagee's loan to Lessee.

30.3.4 Further Assurances. Upon request by Lessee or any existing or prospective Leasehold Mortgagee, or if necessary to comply with any rating agency requirements, City shall, within ten (10) Business Days after request, deliver to the requesting party such documents and agreements as the requesting party shall reasonably request to further effectuate the intentions of the Parties as set forth in this Lease or to confirm any matter relevant to this Lease, including: (a) a recordable certificate signed and acknowledged by City setting forth and confirming (or incorporating by reference), directly for the benefit of specified Leasehold Mortgagee(s), any or all Mortgagee Protections; (b) acknowledgment of receipt of any Notice; (c) Estoppel Certificates; (d) an opinion of counsel regarding City's execution and delivery of this Lease, and matters related thereto (excluding "enforceability"); (e) all defaults of Lessee presently claimed by City and the scope, status, and remaining duration of Leasehold Mortgagee's cure rights for each such default; and (f) an enumeration of all Leasehold Mortgages of which City has received Notice. All documents this Section requires shall be in such form as Lessee or the other requesting party shall reasonably require.

30.3.5 Effect on City. No Leasehold Mortgage shall affect, limit, or restrict City's rights and remedies under this Lease except as this Lease expressly provides. Any Leasehold Mortgagee Protections may be exercised only by, and shall only benefit, Leasehold Mortgagees, New Lessees, and Post-Foreclosure Lessees. If a Leasehold Mortgage purports to encumber or attach to the Fee Estate, then to such extent, such Leasehold Mortgage shall be null, void, and of no force or effect. If this Lease terminates and the New Lease Option Period expires without any Leasehold Mortgagee timely requesting a New Lease, then Leasehold Mortgagee(s) shall no longer be entitled to any Leasehold Mortgagee's Cure Rights or other Mortgagee Protections. The priority of the Leasehold Estate and the consequences of a Foreclosure of a Leasehold Mortgage are as described in Section 30.3.7 below.

30.3.6 No Liability. No exercise by a Leasehold Mortgagee of any of its Mortgagee Protections shall mean that such Leasehold Mortgagee: (a) is a mortgagee in possession, unless it elects in writing to become one; (b) has Premises

Control or any other form of possession of the premises for any purpose; or (c) has incurred any liability to City or Lessee. No Leasehold Mortgagee shall have any liability under this Lease unless and until such Leasehold Mortgagee becomes a Post-Foreclosure Lessee. Notwithstanding anything to the contrary in this Lease, if a Leasehold Mortgagee or a Leasehold Mortgagee's Representative acquires the Leasehold Estate, then neither shall be obligated to assume this Lease and no such assumption shall be required as a condition to the validity of such acquisition.

30.3.7 Foreclosure. Notwithstanding anything to the contrary in this Lease, a default by Lessee under a Leasehold Mortgage shall not constitute a breach or Event of Default under this Lease; unless and to the extent the acts or omissions of Lessee giving rise to such Leasehold Mortgage default independently constitute an Event of Default hereunder. A Leasehold Mortgagee may initiate, prosecute and complete any Foreclosure, and notwithstanding anything to the contrary in this Lease, no Foreclosure under any Leasehold Mortgage, and no exercise by a Leasehold Mortgagee of any other rights or remedies under its Leasehold Mortgage, including recordation of a notice of default or the appointment of a receiver, shall require City's consent, or violate this Lease, or constitute a default hereunder, or affect City's obligations under this Lease, or entitle City to exercise any rights or remedies under this Lease. If a Leasehold Mortgagee erroneously purports to exercise any rights or remedies against the Fee Estate or against City's Estate, the same shall not constitute a default under this Lease, but the Leasehold Mortgagee, by accepting its Leasehold Mortgage, shall be deemed to have agreed to withdraw and rescind any such erroneous exercise of remedies against the Fee Estate promptly upon written request by City or Lessee.

30.3.8 Recognition; Certain Obligations. If any Post-Foreclosure Lessee acquires this Lease and the Leasehold Estate through a Foreclosure, or if any New Lessee obtains a New Lease, then: (a) City shall recognize such Post-Foreclosure Lessee as Lessee under this Lease, or the New Lessee as Lessee under a New Lease, as applicable; (b) all Lessee-Specific Defaults shall no longer be defaults; (c) no New Lessee or Post-Foreclosure Lessee shall be bound by any Lease Impairment made without Leasehold Mortgagee's Consent; and (d) a New Lessee or Post-Foreclosure Lessee shall have no obligation to comply with or perform any Excluded Obligations.

30.3.9 Limitation of Liability. Notwithstanding anything to the contrary in this Lease, no Leasehold Mortgagee, Leasehold Mortgagee's Representative, New Lessee, Post-Foreclosure Lessee, or any Person acting for any of them shall have any personal liability under this Lease (or a New Lease), even if such Person exercises any Leasehold Mortgagee's Cure Rights, except (a) during any period when such Person is Lessee under this Lease (or New Lessee under a New Lease); or (b) to the extent that such Person assumes in writing any of Lessee's obligations under this Lease or agrees in writing to cure any default (and any such liability shall be limited in accordance with the terms of such written assumption). Notwithstanding anything to the contrary in this Lease or in any document or instrument that such Person executed (for example, even if any such Person has "assumed" this Lease), any such Person's liability, past, present and future, including any then-accrued liability, shall in no event: (i) extend beyond the period of its ownership of an interest in this Lease or a New Lease; (ii) continue after

such Person has assigned or abandoned this Lease or the New Lease; or (iii) extend to any Lessee-Specific Default, or any default of any prior Lessee except to the extent that City gave Leasehold Mortgagee Notice of such default before such Person acquired its interest in the premises. Furthermore, in no event shall the liability of any New Lessee or any Post-Foreclosure Lessee referred to in this Section 30 extend beyond such Person's then interest, if any, in this Lease, and not to any other assets of such New Lessee or Post-Foreclosure Lessee.

30.3.10 Termination of Leasehold Mortgagee's Rights. If a Leasehold Mortgagee is entitled to Mortgagee Protections, then such entitlement shall not terminate unless and until such time, if any, as either (a) the Leasehold Mortgage shall have been satisfied and discharged of record, except through a Foreclosure (in which case such entitlement shall continue for 180 days after such Foreclosure); (b) such Leasehold Mortgagee has consented in writing to termination of its Mortgagee Protections; or (c) after City has complied with all Mortgagee Protections, City has validly terminated this Lease, no Leasehold Mortgagee has validly requested (and is entitled to) a New Lease, and the New Lease Option Period has expired. Upon the occurrence of all of the foregoing, the obligations formerly secured by the Leasehold Mortgage(s) shall no longer be secured by Leasehold Mortgages.

30.3.11 Transfers of Leasehold Mortgages. City hereby consents to the transfer or Encumbrance by any Leasehold Mortgagee, whether absolutely or as collateral security for performance of obligations, of any Leasehold Mortgage or interest therein, and in the event of any such transaction the transferee or encumbrancer shall have all the rights of its transferor hereunder (or such of the rights of the transferor as have been transferred) until such time as the Leasehold Mortgage or interest therein is further transferred (including by way of reconveyance to the transferor), or the Leasehold Mortgage is released from the Leasehold Estate.

30.4 Operational Protections for Leasehold Mortgagees.

30.4.1 Lease Impairments. Neither City nor Lessee shall make, and City and Lessee shall not agree to, any Lease Impairment without obtaining Leasehold Mortgagee's Consent from all Leasehold Mortgagees. Any Lease Impairment made or entered into without a Leasehold Mortgagee's Consent shall (at the option of any Leasehold Mortgagee whose consent was not obtained) not be effective, and not bind such Leasehold Mortgagee or any New Lessee or Post-Foreclosure Lessee. Nothing in this Section limits City's right to terminate this Lease after an Event of Default and the expiration of all Leasehold Mortgagee's Cure Rights without cure of such Event of Default, subject however to (a) provisions of this Lease that limit City's right to terminate this Lease because of Lessee-Specific Default(s) or certain Nonmonetary Defaults; and (b) the right of a Leasehold Mortgagee to obtain a New Lease.

30.4.2 Dispute Resolution Proceedings. In the event of any Action or Proceeding relating to this Lease or the premises:

(a) If City initiated such Action or Proceeding, and promptly after City becomes aware of any such Action or Proceeding not initiated by City, City shall give notice to each Leasehold Mortgagee of the commencement of such Action or Proceeding, accompanied by copies of all Dispute Resolution Documents relating to such Action or Proceeding, to the extent given or received by City. Thereafter, City shall give every Leasehold Mortgagee copies of all additional Dispute Resolution Documents for such Action or Proceeding as and when City gives or receives them.

(b) The senior Leasehold Mortgagee may participate in any such Action or Proceeding, and if (and to the extent) specified in the senior Leasehold Mortgage, such participation may be to the exclusion of (and in place of participation by) Lessee. Such participation shall, to the extent required by senior Leasehold Mortgagee, include: (i) receiving copies of all Dispute Resolution Documents at the same time they are served upon or delivered to City or Lessee; (ii) filing any Dispute Resolution Documents contemplated or permitted by such Action or Proceeding, including any that settle or agree to the outcome of such Action or Proceeding; (iii) receiving Notice of, attending, and participating in all hearings, meetings, and other sessions or proceedings; and (iv) agreeing to any settlement.

30.4.3 Extension Options. City shall give Notice to Lessee and each Leasehold Mortgagee of the last day by which any Extension Option must be exercised pursuant to this Lease, at least sixty (60) days and at most one hundred twenty (120) days before such last day.

(a) Any Leasehold Mortgagee may exercise an Extension Option, with the same effect as if Lessee had done so. If the time for Lessee to exercise any Extension Option has expired and Lessee has not validly exercised it, then City shall give Notice of such failure to each Leasehold Mortgagee. Each Leasehold Mortgagee may, until the date ten (10) Business Days after receipt of such Notice, exercise such Extension Option, either in Lessee's name or in such Leasehold Mortgagee's name. If a Leasehold Mortgagee exercises an Extension Option, then such Leasehold Mortgagee need not satisfy (and such Leasehold Mortgagee's exercise of any Extension Option shall be fully effective even if Leasehold Mortgagee has not satisfied) any condition(s) that applied to Lessee's exercise of such Extension Option, except conditions requiring: (i) the Leasehold Mortgagee's exercise must include reasonable evidence that the Team Sublease shall be concurrently extended for the applicable Extension Term; (ii) Notice within a specified period, as extended or modified by this Section; or (iii) payment.

(b) All Extension Options shall remain in effect notwithstanding the occurrence of any default or Event of Default, or any exercise of Leasehold Mortgagee's Cure Rights, unless and until the New Lease Option Period has expired and no Leasehold Mortgagee has timely requested a New Lease.

30.4.4 Copies of Notices. If City gives any Notice to Lessee, then City shall at the same time give a copy of such Notice to all Leasehold Mortgagees. No Notice to Lessee shall be effective unless and until such Notice has been duly given to all

Leasehold Mortgagees. No default, Event of Default, termination of this Lease, or other exercise of City's rights or remedies predicated upon giving of Notice to Lessee shall be deemed to have occurred or arisen or be effective unless City has given like Notice to each Leasehold Mortgagee as this Section requires. Any such Notice shall describe in reasonable detail the alleged default or other event allegedly entitling City to exercise such rights or remedies.

30.4.5 Governmental and Other Notices. If City receives any notice from any other governmental agency or any insurance carrier relating to the premises, including any notice asserting any noncompliance with Applicable Laws, or otherwise indicating the possible need for any action relating to the premises, then City shall promptly give a copy of such notice to each Leasehold Mortgagee.

30.4.6 Exercise of Lessee's Rights. Any Leasehold Mortgagee may at any time exercise, and shall at all times have standing to exercise and assert, any or all rights or remedies of Lessee under this Lease, including Lessee's rights to give Notices under this Lease and to object to any Bankruptcy Sale of the Fee Estate. Any exercise of such rights, and any giving of such notice, by any Leasehold Mortgagee, shall be as effective as if done by Lessee. So long as such Leasehold Mortgagee's cure rights (and right to obtain a New Lease) under this Lease have not expired, a Leasehold Mortgagee may exercise any rights of Lessee even if Lessee is in Default under this Lease; and wherever this Lease conditions Lessee's exercise of any right upon the nonexistence of a default, such condition shall not apply to the exercise of such right by a Leasehold Mortgagee.

30.5 Leasehold Mortgagee's Right to Notice, Opportunity to Cure.

30.5.1 Cure Period Expiration Notice; Right to Cure. If a default or alleged default occurs and Lessee fails to cure it within the cure period specified in this Lease, then City shall promptly give a Cure Period Expiration Notice to each Leasehold Mortgagee. If City fails to give a Cure Period Expiration Notice to one or more Leasehold Mortgagees, such failure shall not result in liability on the part of City to Lessee or any Leasehold Mortgagee, but City may not exercise any rights or remedies it might otherwise have on account of such default or alleged default (whether pursuant to this Lease or otherwise) until such time as: (a) City has given all Leasehold Mortgagees a Cure Period Expiration Notice; (b) all Leasehold Mortgagee's Cure Rights have expired without exercise; and (c) any NFL Standstill Period has expired (and for a period of thirty (30) days thereafter). Any Leasehold Mortgagee shall have the right, but not the obligation, to perform any obligation of Lessee under this Lease and to cure any default. City shall accept performance by or at the instigation of a Leasehold Mortgagee in fulfillment of Lessee's obligations, for the account of Lessee and with the same force and effect as if performed by Lessee, provided that such performance is rendered within the cure period that applies to a Leasehold Mortgagee under this Lease.

30.5.2 Additional Time. If a default occurs, then any Leasehold Mortgagee may cure such default (if such Leasehold Mortgagee so elects; it being agreed that no Leasehold Mortgagee shall have any duty to undertake a Leasehold Mortgagee's

Cure) within the cure period, if any, available to Lessee under this Lease, plus the additional time specified below (regardless of the original time fixed for performance by Lessee):

(a) Monetary Defaults. A Leasehold Mortgagee may cure a Monetary Default at any time within the cure period, if any, afforded to Lessee, plus an additional period ending thirty (30) days after such Leasehold Mortgagee receives a Cure Period Expiration Notice with respect to such Monetary Default.

(b) Nonmonetary Defaults Curable Without Possession. In the case of any Nonmonetary Default that is reasonably susceptible of cure by a Leasehold Mortgagee without obtaining possession of the premises (but excluding any Lessee-Specific Default), then a Leasehold Mortgagee may (provided that any Monetary Defaults have been cured), at its option: (i) within the cure period, if any, afforded to Lessee, plus an additional period ending ninety (90) days after such Leasehold Mortgagee receives a Cure Period Expiration Notice with respect to such default, advise City of such Leasehold Mortgagee's intention to take all reasonable steps necessary to cure such Nonmonetary Default; (ii) commence the cure of such Nonmonetary Default within the period described in clause (i) above, and thereafter, during and after the end of such period, diligently prosecute to completion the cure of such Nonmonetary Default, subject to force majeure and delays caused by bankruptcy or insolvency proceedings; and (iii) complete such remedy within a reasonable time under the circumstances, subject to force majeure and delays caused by bankruptcy or insolvency proceedings.

(c) Defaults Requiring Possession to Cure, Lessee-Specific Defaults. In the case of (1) any Nonmonetary Default that is not reasonably susceptible of cure by a Leasehold Mortgagee without obtaining possession of the premises, or (2) any Lessee-Specific Default, Leasehold Mortgagee shall be entitled (but not required) to do the following (provided, however, that if any Monetary Defaults or Nonmonetary Defaults not requiring possession are also the subject of a Cure Period Expiration Notice, then only if one or more Leasehold Mortgagee has exercised or is exercising Leasehold Mortgagee's Cure Rights with respect thereto):

(i) During Cure Period. At any time within the cure period (if any) afforded to Lessee, plus an additional period ending ninety (90) days after such Leasehold Mortgagee receives a Cure Period Expiration Notice with respect to such default, or if no cure period is afforded to Lessee, then within ninety (90) days after such Leasehold Mortgagee receives a Cure Period Expiration Notice with respect to such default, Leasehold Mortgagee may initiate proceedings to obtain Premises Control, and thereafter, during and after the end of such period, diligently prosecute such proceedings to completion, subject to force majeure and delays caused by bankruptcy or insolvency proceedings.

(ii) Further Cure After Premises Control. Upon obtaining Premises Control (whether before or after the expiration of any cure period that might otherwise applies), Leasehold Mortgagee or a Post-Foreclosure Lessee shall then be entitled (but not required) to proceed with reasonable diligence to cure such

Nonmonetary Defaults as are then reasonably susceptible of being cured by such Leasehold Mortgagee or Post-Foreclosure Lessee (but excluding Lessee-Specific Defaults, which neither Leasehold Mortgagee nor a Post-Foreclosure Lessee need cure at any time), within (A) thirty (30) days after such Leasehold Mortgagee or Post-Foreclosure Lessee shall have obtained Premises Control (subject to force majeure and delays caused by bankruptcy or insolvency proceedings); or (B) if such Nonmonetary Default is not reasonably susceptible of cure within such period, then within such longer time as may be reasonable under the circumstances. A Leasehold Mortgagee, Leasehold Mortgagee's Representative, or Post-Foreclosure Lessee having Premises Control shall not be bound by any deadline to complete any performance required of Lessee under this Lease, provided that such Leasehold Mortgagee or Post-Foreclosure Lessee shall with reasonable diligence prosecute its completion and cure all Monetary Defaults within the cure period this Lease allows.

30.5.3 Multiple Defaults. If, at any time, multiple defaults exist, then Leasehold Mortgagee's Cure Rights, and City's rights and remedies, shall apply separately for each such default. If a default of any type occurs, and all Leasehold Mortgagee's Cure Rights for such default have expired without exercise, then except where this Lease expressly provides otherwise, City may exercise its rights and remedies for such default even if a Leasehold Mortgagee is endeavoring to cure some other default.

30.5.4 Effect of Cure. A Leasehold Mortgagee need not continue to exercise Leasehold Mortgagee's Cure Rights or otherwise proceed to obtain or to exercise Premises Control if and when the default that such Leasehold Mortgagee was attempting to cure shall have been cured. Upon such cure and the cure of any other defaults in accordance with this Lease, this Lease shall continue in full force and effect as if no default(s) had occurred. Even if a Leasehold Mortgagee has commenced Leasehold Mortgagee's Cure, such Leasehold Mortgagee may abandon or discontinue Leasehold Mortgagee's Cure at any time, without liability to City or otherwise. Mortgagee's exercise of Leasehold Mortgagee's Cure Rights shall not be deemed an assumption of this Lease in whole or in part.

30.5.5 Quiet Enjoyment. So long as the period for a Leasehold Mortgagee to exercise Leasehold Mortgagee's Cure Rights for any default or alleged default has not expired, City shall not, without limiting any other restrictions or limitations on City's rights under this Lease: (a) give any Notice terminating or electing to terminate this Lease; or (b) re-enter the premises and take possession thereof on account of such default (but the foregoing shall not otherwise limit City's rights of entry with respect to the premises); (c) bring a proceeding on account of such default to: (i) dispossess Lessee or any subtenant or other occupants of the premises, (ii) re-enter or obtain possession of the premises or the appointment of a receiver to take possession of the premises, (iii) terminate this Lease, the Leasehold Estate or Lessee's rights of possession, or (iv) otherwise (except as this Section expressly permits) exercise any other right or remedy because of such default. Nothing in the Mortgagee Protections, however, shall be construed either to extend the Term beyond the Term Expiration Date (including Extension Terms) that would have applied in the absence of any default; or to require any Leasehold Mortgagee to cure any Lessee-Specific Default as a condition to preserving

this Lease or to obtaining a New Lease (but this shall not limit the requirement that a Leasehold Mortgagee's seek to obtain Premises Control, and thereafter commence and complete a Foreclosure, by way of exercise of Leasehold Mortgagee's Cure Rights, if Leasehold Mortgagee wishes to preclude City from terminating this Lease on account of a Lessee-Specific Default).

30.5.6 Leasehold Mortgagee's Right to Enter. City and Lessee hereby authorize any Leasehold Mortgagee to enter the premises, and take any actions as may be reasonably necessary, in the good faith determination of such Leasehold Mortgagee, to affect Leasehold Mortgagee's Cure. In entering the premises to exercise Leasehold Mortgagee's Cure Rights, a Leasehold Mortgagee shall not unreasonably interfere with lawful activities on the premises on the part of any Person.

30.5.7 Payments by Leasehold Mortgagee. Any payment made, or performance rendered, by a Leasehold Mortgagee to City to cure any claimed default shall be deemed to have been made or rendered "under protest" and without prejudice to the rights and remedies of Lessee and Leasehold Mortgagees, if City's claim of default is determined to have been erroneous.

30.6 New Lease. If this Lease terminates before the Term Expiration Date for any reason (including, but not limited to, the occurrence of a default, the rejection of this Lease in a Bankruptcy Proceeding, or the failure by all Leasehold Mortgagees to timely exercise Leasehold Mortgagee's Cure Rights), excepting only a termination, with Leasehold Mortgagee's Consent, because of a Casualty or a Condemnation Action affecting the premises, then (in addition to any other or previous Notice that this Lease requires City to give to a Leasehold Mortgagee) City shall, within ten (10) Business Days following the occurrence of such termination, give Notice to all Leasehold Mortgagees of such termination. Such Notice shall describe the factual circumstances and legal basis for such termination of this Lease and list all uncured defaults in reasonable detail, including the amount(s) of any Monetary Default(s). Upon the written request of any Leasehold Mortgagee made within the New Lease Option Period, City shall enter into a New Lease with, and shall, upon request, quitclaim any ownership interest in Lessee's Exclusive Facilities (except for City's reversionary rights under this Lease) to, the most senior Leasehold Mortgagee giving notice within the New Lease Option Period, or the New Lessee designated by such Leasehold Mortgagee, unless a junior Leasehold Mortgagee has also given notice requesting a New Lease and agreeing that its New Lease will be subject to and encumbered by the lien of each senior Leasehold Mortgage, in which event City shall enter into a New Lease with (and upon request, deliver a quitclaim as described above to) the most junior Leasehold Mortgagee agreeing to take subject to all senior Leasehold Mortgages (or the New Lessee designated by such Leasehold Mortgagee); provided that upon execution and delivery of the New Lease, the New Lessee shall: (a) pay City all sums then due under this Lease as if this Lease had not terminated; and (b) agree to cure with reasonable diligence all then-uncured Nonmonetary Defaults (except Lessee-Specific Defaults), within a reasonable period thereafter. City shall allow credit for all sums previously paid by Lessee or Leasehold Mortgagee. If City fails to enter into a New Lease when and as required to do so, then City shall nevertheless be deemed to have done so as this Lease requires, but this

shall not limit City's obligations. In no event shall any Leasehold Mortgagee or New Lessee be required to cure any Lessee-Specific Default as a condition to obtaining or retaining a New Lease or otherwise. Nothing in this Lease shall prevent City from terminating this Lease in accordance with its terms (after compliance with all Leasehold Mortgagee's Cure Rights), but any such termination shall thereafter be subject to Leasehold Mortgagees' and New Lessee's rights to obtain a New Lease (even if any Leasehold Mortgagee could have prevented such termination by exercising its Leasehold Mortgagee's Cure Rights). The following additional provisions shall apply to any New Lease:

30.6.1 Documentation and Priority. Any New Lease, any memorandum of a New Lease, the Leasehold Estate under any New Lease, and New Lessee's estate in any improvements shall be subject to no prior right, Lien, Encumbrance, or other interest in or encumbering the Fee Estate or City's Estate except as this Subsection permits. The immediately preceding sentence shall be self-executing. On the New Lease Delivery Date (or promptly after request), City shall, if requested, at New Lessee's expense, execute and deliver such documents (including a new memorandum of Lease and affidavits) as New Lessee shall reasonably request to enable New Lessee to obtain title insurance for the New Lease (including ownership of the improvements demised under the New Lease), subject only to a lien to secure payment of non-delinquent real estate taxes, and matters approved in writing by or created by or with written consent ("Permitted Encumbrances"). Any New Lease and New Lessee's Leasehold Estate, and City's obligation to deliver possession, under any New Lease shall be subject to: (a) the rights of all Persons in possession, except to the extent resulting from City's violations of this Lease; (b) any matters that encumbered the Leasehold Estate and were senior and prior to the Leasehold Mortgage held by the Leasehold Mortgagee that requested the New Lease; and (c) the Permitted Encumbrances. New Lessee shall own and hold any New Lease (and the Leasehold Estate under the New Lease) free and clear of any claims of: (i) any previous Lessee, including the Lessee originally named in this Lease; and (ii) except to the extent that New Lessee gives Notice to City otherwise, any holder of any Lien that encumbered the Leasehold Estate before this Lease was terminated, but whose Lien was junior and subordinate to that of the Leasehold Mortgagee that requested the New Lease.

30.6.2 Transfer of Certain Items. On the New Lease Delivery Date, City shall assign and convey without recourse to New Lessee, all of the right, title, and interest of City in and to all: (a) moneys (including Loss Proceeds), if any, then held by, or payable to, City that Lessee (or Leasehold Mortgagee) would have been entitled to receive but for Lessee's default and City's termination of this Lease; (b) leases (including any leases that were formerly subleases arising from the terminated Lease, except to the extent that they expired or were terminated in compliance with this Lease) affecting any portion of the premises (which leases, upon such assignment by City to New Lessee, shall become subleases arising from the Leasehold Estate under the New Lease); and (c) security deposits of subtenants, except in each case to the extent New Lessee directs otherwise in writing.

30.6.3 Preservation of Former Subleases. Between the Term Expiration Date and the New Lease Delivery Date (or the expiration of the New Lease Option Period, if no Leasehold Mortgagee requests a New Lease): (a) any subleases shall temporarily be in the nature of direct leases between City and the former subtenant, but this shall not be deemed to impose any obligation on City, except to the extent City agrees otherwise in a Non-Disturbance Agreement; (b) City shall not, except with Leasehold Mortgagee's written consent, cancel any such direct lease or sublease or accept any cancellation, termination, or surrender of such a direct lease or sublease without consent by New Lessee, unless (i) Leasehold Mortgagee consents to any such termination in writing, such consent not to be unreasonably withheld, (ii) such termination shall be effected as a matter of law upon the termination of this Lease, in which case such direct lease shall be reinstated as such sublease arising from the New Lease on the New Lease Delivery Date, or (iii) the subtenant is in default beyond applicable cure periods; and (c) City shall not enter into any new lease of the premises or any portion thereof, except with Leasehold Mortgagee's Consent. At the request of New Lessee, on the New Lease Delivery Date, City shall (and shall cause each Fee Mortgagee or Fee Mortgagee to) enter into a Non-Disturbance Agreement with any subtenant with whom City had previously entered into a Non-Disturbance Agreement under this Lease, or with whom this Lease would require City to enter into a Non-Disturbance Agreement. On the New Lease Delivery Date, the reinstatement or assignment of the subleases (or direct leases with former subtenants) from City to New Lessee shall be without warranty or recourse of any kind whatsoever, other than City's liability for not complying with this Lease.

30.6.4 City's Costs and Expenses. If a Leasehold Mortgagee requires City to enter into a New Lease, then as a condition to City's delivery of the New Lease, then Leasehold Mortgagee agrees to pay (or to cause New Lessee to pay) all reasonable expenses incurred or payable by City in connection with any default and termination of this Lease, the recovery of possession of the premises, and the preparation, execution, and delivery of the New Lease, any memorandum of the New Lease requested by New Lessee, and any other documents that New Lessee reasonably requests to enable New Lessee to obtain title insurance for the New Lease.

30.6.5 Survival. All rights of any Leasehold Mortgagee, and all obligations of City, with respect to a New Lease shall survive termination of this Lease.

30.6.6 Consent Not Required for Transfer Resulting from Foreclosure. The written consent of City shall not be required in the case of a transfer of this Lease at a judicial foreclosure or a voluntary conveyance (whether by deed or assignment in lieu of foreclosure or otherwise) to a Leasehold Mortgagee or an affiliate or successor or assignee of a Leasehold Mortgagee (including, but not limited to, a purchaser of the leasehold estate created hereunder upon or following a foreclosure of a Leasehold Mortgage or delivery of a deed or assignment of this Lease in lieu of foreclosure).

30.6.7 Further Assignment. If a Leasehold Mortgagee acquires Lessee's Leasehold Estate by Foreclosure, or if a Leasehold Mortgagee becomes the

Lessee under a New Lease, such Leasehold Mortgagee may thereafter assign or transfer this Lease or such New Lease without City's consent; provided the assignee or transferee expressly agrees in writing to assume and to perform all of the obligations under this Lease or such New Lease, as the case may be, from and after the effective date of such assignment or transfer.

30.7 Casualty and Condemnation Proceeds.

30.7.1 Prompt Notice. If either City or Lessee becomes aware of any Casualty, or any actual, contemplated, or threatened Condemnation Action, then such party shall promptly so Notify the other party and its Mortgagees.

30.7.2 Casualty and Condemnation; Use of Proceeds. A Leasehold Mortgagee shall have the right to receive, in trust, the proceeds of insurance or condemnation awards to which Lessee would be entitled and apply the same in the manner that Lessee would be required to apply such proceeds under this Lease. City understands that if required by any Leasehold Mortgagee(s), Lessee shall irrevocably appoint Leasehold Mortgagee as its representative to participate in any settlement regarding, and with regard to the disposition and application of, insurance proceeds or awards. City will recognize and deal with Leasehold Mortgagee for such purposes. City hereby acknowledges that no election by Lessee not to restore in the event of a Casualty or Condemnation Action shall be effective unless Leasehold Mortgagee's Consent has been granted to such elections.

30.8 Relationship of Leasehold Mortgages and Fee Mortgages. The following provisions shall apply to all Mortgages, as more particularly specified below, and shall control over any contrary provision of any particular Mortgage (and by accepting its Mortgage, each Fee Mortgagee and each Leasehold Mortgagee unconditionally and irrevocably agrees to the following provisions), unless in each such instance, Lessee, City and each existing Leasehold Mortgagee and Fee Mortgagee has given its prior written consent:

30.8.1 Loss Proceeds. Notwithstanding any contrary provisions of a Mortgage (whether a Fee Mortgage or a Leasehold Mortgage), no Mortgagee may receive Loss Proceeds, except on the conditions and otherwise to the extent provided in this Lease. Upon any Foreclosure, all Loss Proceeds shall be paid to the senior Leasehold Mortgagee, to be administered in accordance with the provisions of Section 30.7 above.

30.8.2 Provisions applicable to Fee Mortgages. A Fee Mortgage may attach solely to the Fee Estate of City and to City's reversionary interest. No Fee Mortgage shall encumber or attach to or otherwise affect, by Foreclosure or otherwise, any of the following: (a) this Lease, any New Lease, or the Leasehold Estate created under either of them (whether held by Lessee, a Post-Foreclosure Lessee, or a New Lessee); (b) any judgment against City arising from City's breach of this Lease or any New Lease; (c) any estate (including a subleasehold and Leasehold Mortgagee estate) directly or indirectly arising from this Lease or any New Lease; (d) the rights and

remedies of Lessee, any Post-Foreclosure Lessee, New Lessee, and any Leasehold Mortgagee under this Lease (or a New Lease, as applicable), whether accruing before or after any Foreclosure Event under a Fee Mortgage; and (e) any Modification of any of the foregoing items (a) through (d) whether or not Fee Mortgagee joins in or consents to it. Upon any Foreclosure under a Fee Mortgage or a Leasehold Mortgage, the resulting owner shall succeed only to the Fee Estate or the Leasehold Estate, as applicable, subject to items (a) through (e) above and, if this Lease terminates, any sublease for which City or a Fee Mortgagee has executed and delivered (or was required by this Lease to execute and deliver), a Non-Disturbance Agreement, but subject to the terms of any such Non-Disturbance Agreement. Any Fee Mortgagee shall, upon Lessee's request, join in any Non-Disturbance Agreement that this Lease requires City to execute and deliver.

30.8.3 Provisions Applicable to Leasehold Mortgages. A Leasehold Mortgage may attach solely to the Leasehold Estate and interests appurtenant thereto. No Leasehold Mortgage will encumber the Fee Estate or City's Estate, or any reversionary interest of either City or City. A Foreclosure under a Leasehold Mortgage shall not adversely affect the Fee Estate or City's Estate (in either case, subject to this Lease), or any Fee Mortgage or City Mortgage, or the rights or remedies of any Fee Mortgagee as against City or the Fee Estate, or the rights or remedies of any Fee Mortgagee as against City or City's Estate.

30.8.4 Provisions Applicable to All Mortgages. All Mortgages are subject to the terms and conditions of this Lease. Notwithstanding anything to the contrary in any Mortgage, no Mortgagee may receive any Loss Proceeds except to the extent (and under the conditions) payable to such Mortgagee (or its mortgagor) under this Lease. Upon any Foreclosure under any Mortgage, the resulting owner of the estate or interest that is the subject of such Foreclosure shall have no rights, whether as a successor to City or as a Post-Foreclosure Lessee, or otherwise, under or with respect to this Lease, unless and until such resulting owner has executed, acknowledged, and delivered to the other party to this Lease an instrument, in recordable form, by which such resulting owner assumes all obligations under this Lease, subject to the terms of this Lease. Such instrument of assumption shall be delivered (a) promptly upon consummation of the Foreclosure; and (b) in any event before taking possession of the premises or exercising any rights under this Lease.

30.9 Interaction of Multiple Estates.

30.9.1 Statement of Priorities. Notwithstanding any provisions to the contrary in any Mortgage, the relative priorities, rights, and interactions of Fee Mortgages and Leasehold Mortgages, and the consequences of a Foreclosure under any Mortgage, shall be governed by the provisions of Section 30.3, whether or not any Mortgage contains or incorporates by reference such provisions.

30.9.2 Interactions Between Lease and Leasehold Mortgage. If a Leasehold Mortgage expressly limits the Leasehold Mortgagee's exercise of any Mortgage Protections, then as between Lessee and such Leasehold Mortgagee, such Leasehold Mortgage shall govern. A Leasehold Mortgagee may, by Notice to City,

temporarily or permanently waive any Mortgagee Protections, as such Notice specifies. Any such waiver shall bind such Leasehold Mortgagee and its successors and assigns, but not the Leasehold Mortgagee under any Leasehold Mortgage subsequently granted by Lessee.

30.9.3 Leasehold Mortgagee's Representative. Any Leasehold Mortgagee may exercise its rights (including all Mortgagee Protections and the benefit thereof) under this Lease, or perform any action permitted to be taken by a Leasehold Mortgagee, through a Leasehold Mortgagee's Representative. Any such Leasehold Mortgagee's Representative shall be subject to, and shall comply with, all provisions of this Lease that apply to Leasehold Mortgagees, and shall be entitled to all benefits and protections that apply to Leasehold Mortgagees.

30.9.4 Priorities of Multiple Mortgagees. If more than one Leasehold Mortgagee wishes to exercise any Mortgagee Protection, then the party against whom such Mortgagee Protection is to be exercised shall be required to recognize either: (a) only that Leasehold Mortgagee wishing to exercise such Mortgagee Protection whose Mortgage is most senior (subject to the provisions of Section 30.6); or (b) such other Leasehold Mortgagee as all Leasehold Mortgagees have designated in writing to exercise such Mortgagee Protection. Relative priority among Leasehold Mortgagees shall be conclusively evidenced by (i) written agreement (or joint written instructions) by all Leasehold Mortgagees; or (ii) in the absence of an agreement by all Leasehold Mortgagees, a report or guarantee issued by a title insurance company licensed to do business in the State of California. A Leasehold Mortgagee that is solely a Mezzanine Lender shall be deemed subordinate in priority to any Leasehold Mortgagee that holds a recorded Leasehold Mortgage. For any Mortgagee Protection that by its nature or under this Lease may be exercised by only one Leasehold Mortgagee (such as the right to a New Lease), any time period that applies to Leasehold Mortgagees' collective exercise of such Mortgagee Protection shall be tolled, for not more than one hundred eighty (180) days, pending the determination of priority.

30.9.5 No Merger. Without the written consent of City, Lessee, and all Mortgagees, the Fee Estate and the Leasehold Estate shall at all times remain distinct and separate estates. They shall not merge, notwithstanding any acquisition by any means of more than one such Estate by City, Lessee, any Post-Foreclosure Lessee, a New Lessee, any Mortgagee, or a third party.

30.9.6 No City's Lien. City has no Lien in any of Lessee's Personal Property. No such Lessee's Personal Property shall secure payment of any Rent. City hereby waives the benefit of any statute or principle of law, and or any Lien arising under such statute or principle of law, whether now existing or hereinafter adopted or created, that would grant to City any such Lien. City shall, at no cost to either, execute such documentation, in recordable form, as Lessee, any other subtenant or any Leasehold Mortgagee (or other lender or any equipment lessor) shall require, to confirm the foregoing waiver.

11. The following new Sections are hereby included in the Lease:

38. Prohibited Use of Lessee's Intellectual Property. Except as expressly authorized in writing by Lessee or the NFL, City shall not use any trademark, service mark, logo, trade name, copyrighted or copyrightable material, artwork or symbols related to the foregoing, or other intellectual property which is owned from time to time by Lessee or the NFL, respectively.

39. No Broker's Fees or Commissions. Each Party hereby represents to the other Party 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 Lease.

12. Definitions. For the purpose of this Lease, the following terms have the following meanings:

"Action or Proceeding" means any proceeding, arbitration or other alternative resolution process, Governmental Authority investigation, hearing, audit, appeal, administrative proceeding or judicial proceeding, including (a) litigation (including trial and appellate litigation, bankruptcy litigation, administrative proceedings, and hearings at all levels); (b) action by any Party to enforce any rights and remedies under, or to terminate, this Lease; or (c) appraisal, arbitration, or mediation process or proceeding, whether or not identified as adversarial.

"Affiliate" of any Person means any Person which directly or indirectly through one or more intermediaries, (a) Controls, or (b) is Controlled by, or (c) is under Common Control with, another Person.

"Applicable Laws" means any statute, law, treaty, rule, code, ordinance, regulation, permit, interpretation, certificate or order, whether now or hereafter existing, of any Governmental Authority, or any judgment, decision, decree, injunction, writ, order or like action of any court, arbitrator or other Governmental Authority, whether now or hereafter existing.

"Bankruptcy Proceeding" means any bankruptcy, composition, insolvency, reorganization, or similar proceeding, whether voluntary or involuntary, under Title 11, United States Code, or any other or successor federal or state bankruptcy, insolvency, reorganization, moratorium, or similar law for the relief of debtors, including any assignment for the benefit of creditors and any adversary proceeding, proceedings for the appointment of a receiver or trustee, or similar proceeding.

"Bankruptcy Sale" means a sale of property, or any interest in property, under 11 U.S.C. § 363 or otherwise, in any bankruptcy, insolvency, or similar proceeding.

"Business Day" means any day of the year on which the City's administrative offices are open for business, not including Saturdays, Sundays or Legal Holidays.

"Casualty" means any damage, destruction or other property casualty resulting from any fire or any force majeure or other sudden, unexpected or unusual cause.

"Change in Use Date" means, the date that is the earlier of the (i) date of the initial use of the applicable portion of the Property as a Non-Football Use as approved by City pursuant to Section 2.1, or (ii) commencement of construction of the Improvements for such Non-Football

Use as approved by City pursuant to Section 2.1, as each such date may be adjusted by mutual agreement of the Parties.

"Common Control" means that two or more Persons are Controlled by the same other Person.

"Condemnation Action" means the temporary or permanent taking or damaging, including severance damage, of all or any part of any property, or the right of possession thereof, by eminent domain, inverse condemnation, or for any public or quasi-public use under Applicable Laws. A Condemnation Action may occur pursuant to the recording of a final order of condemnation, or by a voluntary sale of all or any part of any property to any Person having the power of eminent domain (or to a designee of any such Person), provided that the property or such part thereof is then under the threat of condemnation or such sale occurs by way of settlement of a condemnation action.

"Control" means (i) direct or indirect management or control of the managing member or members in the case of a limited liability company; (ii) direct or indirect management or control of the managing general partner or general partners in the case of a partnership and (iii) (a) boards of directors that overlap by more than fifty percent (50%) of their directors, or (b) direct or indirect control of a majority of the directors in the case of a corporation. Controlled has a correlative meaning.

"Cure Period Expiration Notice" means a Notice, from City to all Leasehold Mortgagees, with respect to all Lessee defaults alleged to exist at the time such Notice is given, that: (a) states that Lessee's cure period has expired; (b) describes the alleged Lessee defaults in reasonable detail; (c) cites the provision or provisions of this Lease under which such alleged Lessee default (s) arose; and (d) specifies the duration of the relevant Leasehold Mortgagee's Cure Rights. A Cure Period Expiration Notice shall become effective as to any Leasehold Mortgagee only when City has delivered it to all Leasehold Mortgagees.

"Dispute Resolution Documents" means all demands, determinations, judgments, motions, notices, papers, pleadings, stipulations, and other documents and other written communications relating to or arising from any Action or Proceeding.

"Encumbrance(s)" means any defects in, easements, covenants, conditions or restrictions affecting, or Liens or other encumbrances on, the title to the premises or otherwise affecting Lessee's rights hereunder.

"Excluded Obligation" means any of the following, to the extent (if any) contained in this Lease or any New Lease: (a) for a period of six (6) months after a Foreclosure of any Leasehold Mortgage, any and all nonmonetary obligations or covenants, except the obligation to comply with Applicable Laws; (b) all Lessee-Specific Obligations; and (c) any obligations that have been fully performed or no longer apply.

"Fee Mortgage" means a mortgage that encumbers the Fee Estate.

"Fee Mortgagee" means the holders of a Fee Mortgage and its successors and assigns, provided that Lessee has received Notice of its name and address and a copy of its Fee Mortgage.

"Football Uses" means use as a training and/or office facility in connection with the operation of a professional football team, and/or other uses ancillary either to the operation of a professional football team or to the operation of the Stadium, including parking for Stadium uses.

"Foreclosure" means any transfer of title to an estate by way of (a) a sale pursuant to a judgment of foreclosure of, or a power of sale contained in, a Mortgage, including a trustee's sale under a deed of trust; (b) a deed, assignment, conveyance or other transfer in lieu of foreclosure; (c) a sale or other transfer occurring in any Bankruptcy Proceeding affecting the owner of such estate (including an auction or a plan of reorganization in any Bankruptcy Proceeding, or a transfer of Lessee's Leasehold Estate or City's Fee Estate deemed to occur hereunder by virtue of the rejection of this Lease by Lessee in a Bankruptcy Proceeding), or (d) any exercise by a Mortgagee of any other right or remedy under a Mortgage (or Applicable Law) that divests the owner of an interest in property of its estate, in each instance (clauses (a) through (d)) whether the transferee is a Mortgagee, a party claiming through a Mortgagee, or a third party. For a Mezzanine Lender, a "Foreclosure" means any exercise of rights and remedies upon an event of default under such Mezzanine Lender's documents, including any such exercise that effectuates a change in the identity of the Persons in Control of Lessee.

"Governmental Authority" means any federal, state, local or foreign governmental entity, authority or agency, court, tribunal, regulatory commission or other body, whether legislative, judicial or executive (or a combination or permutation thereof), and any arbitrator to whom a dispute has been presented under Applicable Laws or by agreement of the Parties with an interest in such dispute.

"Leasehold Estate" means the leasehold estate in the premises and all other rights, title and interest granted to Lessee under this Lease.

"Leasehold Mortgagee's Consent" means the prior written consent of a Leasehold Mortgagee (or at Leasehold Mortgagee's option, simultaneous or subsequent consent) to a matter for which such consent is expressly required by this Lease. Where this Lease requires a Leasehold Mortgagee's Consent as to a particular matter, then Leasehold Mortgagee may withhold consent for any reason or no reason (*i.e.*, in its sole, absolute, and unreviewable discretion) except to the extent this Lease or the Leasehold Mortgage (or any loan document secured by the lien of the Leasehold Mortgage) provides otherwise. Nothing in this definition shall require City to obtain (or to confirm that Lessee obtained) consent from any Leasehold Mortgagee except where this Lease expressly requires "Leasehold Mortgagee's Consent."

"Leasehold Mortgagee's Cure" means the cure of a Lessee default or alleged Lessee default by a Leasehold Mortgagee, and includes any and all actions taken by a Leasehold Mortgagee to cure a Lessee default or alleged Lessee default, whether or not successful.

"Leasehold Mortgagee's Cure Rights" means all any and all rights of a Leasehold Mortgagee to effectuate a Leasehold Mortgagee's Cure.

"Leasehold Mortgagee's Representative" means any agent, assignee, nominee, designee or representative from time to time designated by a Leasehold Mortgagee, but only if (a) such Person is an Affiliate, employee, legal counsel, bona-fide loan servicer, custodian or

collateral agent of such Leasehold Mortgagee, is another Leasehold Mortgagee, or acquired the Leasehold Estate at a Foreclosure, and (b) Notice of the name, notice address and status of such Person as a Leasehold Mortgagee's Representative has been given to City by the Leasehold Mortgagee making such designation.

"Lease Impairment" means any of the following, whether occurring pursuant to a provision of this Lease, or resulting from a future agreement between City and Lessee, or resulting from the unilateral action of either:

- (a) any amendment, modification, restatement, cancellation, termination, acceptance of termination, surrender, acceptance of surrender, abandonment or rejection of this Lease, in whole or in part;
- (b) subordination of this Lease to any Fee Mortgage or other Encumbrance on the Fee Estate;
- (c) the execution or modification by City of any Encumbrance affecting the Fee Estate that has or purports to have priority over this Lease and the Leasehold Estate;
- (e) Any Bankruptcy Sale of the Fee Estate;
- (f) the delivery of any notice that impairs or may impair, or purports to limit the exercise of, any Leasehold Mortgagee's rights and remedies under its Leasehold Mortgage or this Lease;
- (g) Lessee's exercise of any right to treat this Lease as terminated under 11 U.S.C. §365(h).

"Legal Holiday" means any day other than a Saturday or a Sunday on which the City's administrative offices are closed for business.

"Lessee-Specific Default" means any default under this Lease by Lessee that: (a) is not reasonably susceptible of cure by a Leasehold Mortgagee, such as (in each case, to the extent, if any, that such action or failure to act actually constitutes a default by Lessee under this Lease) any default by Lessee resulting from a Bankruptcy Proceeding affecting any Person; a prohibited transfer or change of management; a failure to deliver required financial information within Lessee's control; or a failure to comply with requirements or restrictions relating to real property other than the premises; (b) by its nature relates only to, or can reasonably be performed only by, Lessee or its Affiliates; or (c) consists of Lessee's failure to satisfy or discharge any Lien, charge, or Encumbrance that (i) attaches to the Leasehold Estate but not the Fee Estate; (ii) is junior to the Leasehold Mortgage; and (iii) this Lease prohibits.

"Lessee-Specific Obligation" means any obligation, the breach of which would constitute a Lessee-Specific Default.

"Lien" means, with respect to any property, any mortgage, lien, pledge, charge or security interest, and with respect to the premises, the term Lien shall also include any liens for

taxes or assessments, builder, mechanic, warehouseman, materialman, contractor, workman, or repairman lien or other similar liens, including, but not limited to Mechanic's Liens.

"Loss" means a Casualty or a Condemnation Action affecting the Premises.

"Loss Proceeds" means Insurance Proceeds and Condemnation Awards paid or payable in connection with a Loss.

"Mezzanine Lender" means a lender or preferred equity investor that provides bona fide financing, or a bona fide preferred equity investment, to Lessee or Lessee's principals or constituent entity(ies), and receives: (a) a pledge of equity or other ownership interests of Lessee; or (b) a preferred equity or other ownership interest in Lessee. The successors and assigns of any such Person shall also be a "Mezzanine Lender."

"Monetary Default" means any failure by Lessee to pay, when and as this Lease requires, any Rent, including Additional Charges, whether to City or to a third party, subject in all applicable cases to Lessee's right to contest the validity, calculation or amount thereof. Notwithstanding the foregoing, however, if a bona fide dispute exists between City and Lessee regarding the amount, calculation, or validity of any Rent, then Lessee's failure to pay such Rent shall not constitute a Monetary Default, provided that Lessee has deposited the disputed amount with a Leasehold Mortgagee that is an Acceptable Bank.

"Mortgage" means any mortgage, deed of trust, security deed, contract for deed, deed to secure debt, or other voluntary real property (including leasehold) security instrument(s) or agreement(s) intended to grant a Lien or otherwise encumber or create an interest in real property as security for any obligation, as the same may be increased, decreased, amended, modified, renewed, extended, restated, assigned (wholly or partially), collaterally assigned, or supplemented from time to time, unless and until paid, satisfied, and discharged of record. A participation interest in a Mortgage (or partial assignment of the secured loan) does not itself constitute a Mortgage. The term "Mortgage" includes Fee Mortgages and Leasehold Mortgages.

"Mortgagee" means the holder of a Mortgage. If interests in a Mortgage are held concurrently by more than one person, they shall appoint one of their number as their representative for purposes of servicing and administering such Mortgage on their collective behalf, and give notice to City and Lessee listing the names and interests of all persons holding interests in such Mortgage, together with the name and address for notices of their designated representative, who shall be deemed the agent for all holders of such Mortgage and the Mortgagee of such Mortgage for purposes of this Lease.

"Mortgagee Protections" means, with respect to any Fee Mortgagee or Leasehold Mortgagee, all of the rights, protections, and privileges afforded such Mortgagee hereunder, including: (a) rights to receive Notices or cure defaults; (b) in the case of a Leasehold Mortgagee, the right to give or withhold such Leasehold Mortgagee's Consent, where required hereby; (c) in the case of a Leasehold Mortgagee, the right to a New Lease on the terms specified herein; and (d) all other rights, remedies, protections, privileges, and powers of such Mortgagee and any Person claiming through or under such Mortgagee, including, in the case of a Leasehold Mortgagee, a New Lessee or any Post-Foreclosure Lessee.

"New Lease" means a new lease of the Premises, including such related documents (such as a memorandum of such new lease) as a New Lessee may reasonably request. Any New Lease shall: (a) commence immediately (or retroactively, as the case may be) following the date this Lease terminates; (b) continue for the entire remaining Term of this Lease (taking into account any renewal options that may have already been exercised), as if no termination had occurred; (c) have the same terms, including all rights, privileges and Lessee Options granted Lessee under this Lease, except for Excluded Obligations, and (d) have the same Mortgagee Protections as are contained in this Lease for the benefit of the New Lessee's Leasehold Mortgagee.

"New Lease Delivery Date" means the date when City and New Lessee enter into and deliver a New Lease.

"New Lease Option Period" means, if this Lease terminates for any reason (except by expiration of the Term, or following damage or destruction of the pursuant to Section 23; or as the result of a Total Taking or Substantial Taking (or if the foregoing are conveyed in lieu of any such eminent domain action)), a period that begins on the date of such termination and ends ninety (90) days after City has given Notice to all Leasehold Mortgagee(s) of such termination. The New Lease Option Period shall be tolled and extended: (i) during the pendency of any Bankruptcy Proceeding affecting City, and for thirty (30) days thereafter; (ii) whenever a Leasehold Mortgagee's right to require City to enter into a New Lease is otherwise materially restricted or impaired, other than because of the Leasehold Mortgagee's acts or omissions (and for a period of thirty (30) days thereafter); and (iii) during any NFL Standstill Period (and for a period of thirty (30) days thereafter). All Leasehold Mortgagees, considered as a group, shall have only a single New Lease Option Period.

"New Lessee" means a Person designated by a Leasehold Mortgagee to be the Lessee under a New Lease.

"NFL Rules and Regulations" means the Constitution and Bylaws of the NFL, the Articles of Association and Bylaws of the NFL Management Council, any amendments to any such document, any interpretations of any such document issued from time to time by the NFL Commissioner, and all other applicable rules, resolutions or policies as the NFL, the NFL Management Council, or the NFL Commissioner may issue from time to time.

"NFL Standstill Period" means any standstill period provided for in any NFL consent to any debt incurred by Lessee limiting the exercise of remedies of a Leasehold Mortgagee under a Leasehold Mortgage.

"Non-Disturbance Agreement" means an agreement addressing rights and obligations of the parties thereunder regarding recognition and nondisturbance of the Leasehold Estate or any applicable subleasehold interest thereunder by Fee Mortgagee or City, as applicable.

"Nonmonetary Default" means any Lessee Default that is not a Monetary Default.

"Parties" or **"Party"** has the meaning set forth in the introductory paragraph of this Amendment.

"Person" means any individual (including an individual acting as a trustee of a trust), partnership, corporation, limited liability company, unincorporated association, joint venture or other entity or association, the United States, any State or political subdivision thereof, any municipal government, or any agency or subdivision of any one or more of the foregoing.

"Post-Foreclosure Lessor" means: (a) any purchaser or other transferee of the Fee Estate through Foreclosure (including rejection in a Bankruptcy Proceeding), including a Fee Mortgagee; and (b) the direct and indirect successors and assigns of any such Person.

"Post-Foreclosure Lessee" means: (a) any purchaser or other transferee of the Leasehold Estate through Foreclosure, including a Leasehold Mortgagee or a Leasehold Mortgagee's Representative; and (b) the direct and indirect successors and assigns of any such Person.

"Post-Rejection Offset Amount" means, after rejection of this Lease in a Bankruptcy Proceeding affecting City, the amount of any offset that Lessee may claim under 11 U.S.C. §365(h)(1)(B) or any similar statute.

"Premises Control" means: (a) possession of the premises by a receiver, trustee, or similar officer appointed in a judicial proceeding commenced by such Leasehold Mortgagee; or (b) possession as a mortgagee-in-possession pursuant to an affirmative written election to become a mortgagee-in-possession; or (c) acquisition of the Leasehold Estate or Fee Estate by a Post-Foreclosure Lessee or Post-Foreclosure Lessor, as applicable, through a Foreclosure initiated by such respective Leasehold Mortgagee or Fee Mortgagee. For a Mezzanine Lender, "Premises Control" means such Mezzanine Lender's taking Control of Lessee by exercising rights and remedies after default under such Mezzanine Lender's loan documents.

"Property" means the Land together with the Improvements.

"Stadium" means a stadium suitable for the exhibition of professional football games and other events.

13. Miscellaneous.

(a) Effect of Amendments. Except to the extent the Lease is modified by this Amendment, the remaining terms and provisions of the Lease shall remain unmodified and in full force and effect. In the event of conflict between the terms of the Lease and the terms of this Amendment, the terms of this Amendment shall prevail.

(b) Entire Agreement. This Amendment embodies the entire understanding between City and Lessee with respect to its subject matter and can be changed only by an instrument in writing signed by City and Lessee.

(c) Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same Amendment.

(d) Authority. Lessee represents that the individual executing this Amendment is duly authorized to execute and deliver this Amendment for Lessee. Each individual executing this Amendment for City represents that he or she is duly authorized to execute and deliver this Amendment for City.

[Signatures on next page]

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly appointed representatives, effective as of the date first written above.

CITY OF SANTA CLARA,
a municipal corporation

APPROVED AS TO FORM:

RICHARD E. NOSKY, JR.
City Attorney

JENNIFER SPARACINO
City Manager

ATTEST:

1500 Warburton Avenue
Santa Clara, CA 95050

ROD DIRIDON, JR.
City Clerk

"CITY"

FORTY NINERS FOOTBALL COMPANY LLC,
a Delaware limited liability company

By: Forty Niners Holding LP,
a Delaware limited partnership
its sole member

By: San Francisco Forty-Niners, LLC,
an Ohio limited liability company
its General Partner

By: _____
Larry MacNeil, Vice President
4949 Centennial Boulevard
Santa Clara, CA 95054

"LESSEE"