

# SINGLE/MULTI-EVENT PENTHOUSE LOUNGE SEAT LICENSE AGREEMENT TERMS AND CONDITIONS

Revised February 2024

These Single/Multi-Event Penthouse Lounge Seat License Agreement Terms and Conditions (also referred to as these Terms and Conditions) are fully incorporated into the Single/Multi-Event Penthouse Lounge Seat License Agreement (the "Agreement"). Unless otherwise defined herein, all capitalized terms used in these Terms and Conditions are defined in the Agreement. To the extent that any provision of these Terms and Conditions conflicts with any provision of the Agreement or any other exhibits thereto, the applicable provision of the Agreement or other exhibit shall govern and control.

**1. Definitions.** The following terms shall have the corresponding meanings as set forth below.

a. "City" means the municipal government of the City of San Jose, Santa Clara County, California, including, without limitation, the City Council, City Manager, and Arena Authority;

b. "Game" means any Preseason, Regular Season, or Postseason game designated as a Team Home Game and scheduled by the NHL to be played at the Venue, as defined herein;

c. "Event" means any non-Game presentation including, but not limited to, concerts, athletic events, theatrical productions, shows, public gatherings, or any other scheduled presentation open to the public and taking place at the Venue. Events do not include: (i) non-commercial presentations sponsored or controlled by the City; (ii) non-commercial presentations for which an admission fee is not charged; (iii) presentations not open to the general public or for which admission is by invitation only; (iv) conventions, trade shows or other similar programs; and (v) sporting events regulated by a governing body such as USA Gymnastics, other Olympic sport governing bodies, or the NCAA;

d. "League Rules" means the Constitution and Bylaws, resolutions, rules and regulations, policies, limitations and interpretations of the NHL, as determined by the NHL, each as they presently exist and as they may, from time to time, be entered into, created and amended;

e. "Licensee Guest(s)" or "Guest(s)" means any person(s) the Licensee invites or permits to enter or use the Penthouse Lounge Seats, any person(s) to whom Licensee provides Tickets, and/or any person(s) who rightfully enters the Venue using a Ticket conferred upon Licensee under this Agreement;

h. "NHL" or "League" means the National Hockey League;

i. "NHL Season" or "Season" means the time period corresponding to the Regular Season and the Postseason as determined by the NHL;

j. "Postseason" or "NHL Playoffs" means the time period comprising of the schedule of Games conducted by the NHL following the conclusion of the Regular Season which leads to the determination of the winner of the Stanley Cup Championship;

k. "Preseason" means the time period prior to the Regular Season, including the period comprising of any exhibition Games taking place during training camp;

l. "Regular Season" means the time period during any Contract Year comprising the League schedule as determined by the NHL;

m. "SJAM" means San Jose Arena Management, LLC, Club's affiliate entity, which manages and operates the Venue pursuant to a separate management agreement with the City (the "Management Agreement");

n. "Tickets" means the standard tickets for admission and seating granted to Licensee under this Agreement, the maximum number of which is specified in the Agreement;

o. "Ticket Value" means the U.S. dollar (\$) value of the Tickets, as determined by Club;

p. "Venue" means, the event facility known as SAP Center at San Jose located at 525 West Santa Clara Street, San Jose, California, owned by the City and managed and operated by SJAM; and

q. "Venue Rules" means all: (i) rules, regulations, policies and limitations related to admission, behavior and use of the Venue as determined on an on-going basis by Club, SJAM and/or any sponsor or promoter of any relevant Game and/or Event, and (ii) all applicable laws, statutes, rules, regulations, decisions and orders of any applicable federal, state or local governments, administrative agencies and commissions.

## **2. Possession and Use.**

a. License to Use. Subject to the terms and conditions of this Agreement, Licensee shall receive a license to use the Penthouse Lounge Seats during the Term for all applicable Games and those certain Events for which Licensee is provided Tickets for admission to the Penthouse Lounge under this Agreement.

### **b. Limitations and Conditions to Use.**

#### **i. Penthouse Lounge Seat Access.**

a. Access Time. Licensee's right to use and possess the PHL Seats is not continuous and, except as otherwise provided in writing by Club, will be limited to the time periods before, during and after such Games and Events for which the Venue is open to the public, as determined in Club's sole discretion and for which Licensee has access to the PHL Seats in accordance with this Agreement.

b. Security and Control. Club may control access to the PHL Seats through the use of security personnel and/or security devices, and may access the PHL Seats at any time and to such extent as Club deems necessary. Each person in the PHL Seats must have a valid Ticket for the specific Game or Event occurring at that time. Notwithstanding anything herein to the contrary, Club will have no duty to provide security protection or to monitor access to the PHL Seats. Licensee assumes full responsibility at all times for protecting all personal effects of Licensee from theft, robbery and trespass.

ii. Food and Beverage. Club, through the Venue concessionaire, will provide access to food and beverage at each Game and/or Event, as applicable, in the Penthouse Lounge, at no additional charge to Licensee (excluding top shelf alcohol which may be purchased for an additional fee) as set forth in the Agreement. Licensee will not permit any food preparation or service of outside food or beverages in the PHL Seats and will not charge any person for food or beverages consumed in the Penthouse Lounge or PHL Seats.

iv. Venue Rules. Licensee will observe and abide by the Venue Rules at all times. Club reserves the right to refuse admission, eject, and/or revoke the right to enter or remain in the Venue and/or the PHL Seats, without refund, for Licensee or any of its Guests failing to comply with the Venue Rules or engaging in any misconduct, as determined by Club. In addition to complying with the Venue Rules, Licensee will maintain a high level of decorum at all times while using the PHL Seats, and will discontinue the use of and access to the PHL Seats by anyone exhibiting disruptive, indecent, offensive, or illegal behavior.

a. Cleaning and Repair. Licensee will maintain the PHL Seats in good repair, order, and condition, ordinary wear and tear excepted. Licensee is responsible for any damage to the PHL Seats, beyond ordinary wear and tear, directly or indirectly caused by Licensee or its invitees or Guests. If any additional cleaning, repair, or maintenance beyond Club's ordinary course of maintenance is required as a result of Licensee's use of the PHL Seats, Licensee will reimburse Club for the cost of such additional cleaning, repair, or maintenance, or such damage or loss within thirty (30) days of Licensee's receipt of invoice for such services.

b. Personal Property. Club is not responsible for the loss of any personal property brought into the Penthouse Lounge by a Licensee and/or its Guests.

ii. Licensee Guests. Licensee is solely responsible for the acts of Licensee and its Guests. All terms and conditions related to

Licensee's use of the PHL Seats will apply equally to its Guests. Licensee will inform its Guests of the Venue Rules and other applicable obligations of Licensee, and any violations by Licensee's Guests will constitute a Default of this Agreement. Minors under the age of eighteen (18) accessing the PHL Seats must be accompanied and supervised at all times by a designated custodian over the age of twenty-one (21).

c. Games and Events.

i. Tickets. Subject to the terms of this Agreement, Licensee will receive the number of Tickets for admission and seating in the Penthouse Lounge as specified in the Agreement for the Games and/or Events in the Venue as applicable and as set forth in the Agreement. Licensee and its Guests will be bound by all terms and conditions upon which Tickets to the Venue are issued, and will observe all Venue Rules. Licensee will have no right to renew or repurchase the Tickets following the expiration or earlier termination of this Agreement. If this Agreement is terminated prior to the end of the Term, Tickets for any remaining Games and/or Events will not be valid or honored by Club.

a. Resale. The resale or attempted resale of Tickets in a manner or at a price in violation of the Agreement or any federal, state or local law or regulation is grounds for cancellation without refund (in addition to any penalties and/or fines imposed by applicable authorities).

ii. Parking Passes. Licensee will receive the number of parking passes as specified in the Agreement (the "Parking Passes"). Any such Parking Passes will be for single-vehicle parking in the locations designated by Club. Licensee agrees that Licensee and any persons to whom Licensee provides the Parking Passes will be bound by all terms and conditions upon which Parking Passes are issued by Club and will observe all rules and regulations relating to their use. Licensee will have no right to renew or repurchase the Parking Passes following the expiration or earlier termination of this Agreement. If this Agreement is terminated prior to the expiration of the Term, any Parking Passes will no longer be valid and must be returned immediately by Licensee.

iii. Common Area. Subject to the Venue Rules and the other rights reserved by Club hereunder, Licensee will be entitled to the nonexclusive use in common with Club and other users of the Venue, of the Penthouse Lounge, the walkways, stairways, toilets, elevators, and other portions of the Venue as Club may at any time designate for exclusive use by Licensee or for shared use with other users of the Penthouse Lounge and the Venue. Licensee has no other rights of any kind to the light, air, or any other area in, about, or over any portion of the Venue or any other property, whether belonging to Club, the City, or others.

iv. Excluded Events. Licensee acknowledges and agrees that the license being purchased hereunder is solely for the applicable Games and/or Events at the Venue as described in this Agreement, and for the avoidance of doubt, shall not include Tickets, to any other League event or game that is not expressly referenced in the Agreement. For the avoidance of doubt, the license shall not include Tickets, or the right to purchase Tickets, to any other League event or game, including, but not limited to, any NHL European Global Series Games, NHL China Games, NHL Winter Classic, NHL Heritage Classic, NHL Stadium Series, NHL All Star, or NHL Draft event ("League Special Event") held in Club's market or hosted by the NHL at the Venue or otherwise in which Club participates. Licensee acknowledges and agrees that Club and/or NHL may cancel, postpone, reschedule, relocate Games or events for any reason (e.g., move a regular season Game of Club from Venue to an alternate venue for the purposes of playing a League Special Event), as determined in its/their sole discretion, as well as to modify or discontinue, temporarily or permanently, any aspect of the rules, operations and presentations of NHL games and events ("Preemption").

**3. Fees and Payment.**

a. License Fee. In consideration of the license to use the PHL Seats, Licensee will pay Club the License Fee as set forth in the Agreement, and pursuant to the payment schedule set forth therein.

b. Method of Payment. Club will send Licensee an invoice for the total amount due for any and all additional fees to be paid by Licensee under this Agreement as such costs and expenses are accrued by Club. Except as otherwise provided, all invoices will be payable to Club within thirty (30) days of each invoice date. Except as otherwise expressly provided in this Agreement, the License Fee will be paid irrespective of any cancellation or postponement of any Game or Event for any reason and will not be subject to any "setoff" by Licensee. If Licensee is paying by credit or debit card, Licensee expressly authorizes Club to automatically charge each installment to Licensee's credit or debit card on the dates specified in this Agreement. Licensee acknowledges and agrees that no further authorization shall be required for the collection of any payments under the Agreement. Any past due amounts, including processing fees, due under this Agreement shall be added to the immediately following payment to be charged to the card. **These Terms and Conditions constitute Licensee's preauthorization for Club to charge Licensee's Card in accordance with this Agreement and the terms herein. Licensee hereby consents to electronic receipt of disclosures from Club.**

c. Taxes and Expenses. Except as otherwise provided, all payments to be made to Club under this Agreement will be net of all costs, expenses, and taxes. If, as a result of actions taken pursuant to this Agreement, Club must pay any costs, expenses, or taxes directly related to Licensee's obligations under this Agreement and/or any such costs, expenses or taxes become due with respect to the License Fee or the PHL Seats during the Term, and are not specifically provided in this Agreement, including, without limitation, any entertainment, sales or other taxes, Licensee will reimburse Club for the payment of such taxes in full within thirty (30) days of Licensee's receipt of notice thereof by Club. Licensee will not be responsible for payment of taxes imposed on the income of Club or its related entities.

d. Credits and Refunds. Unless otherwise specifically provided in this Agreement, Licensee will not receive any credit or refund for any missed or canceled Games or Events.

e. Late Payment. If any amount payable by Licensee to Club under this Agreement is not paid as and when due, such amount shall bear interest until paid at a rate equal to the lesser of (i) 1.5% per month and (ii) the maximum rate permitted by law, and Club shall have the right to withhold any or all of the benefits granted pursuant to this Agreement, including Game Tickets, during the period in which such amount remains unpaid. Club shall have no obligation to provide benefits withheld pursuant to the foregoing sentence at a later date, nor any obligation to provide any substitutions or any refund of or reduction in the License Fees. Licensee shall pay Club all reasonable attorneys' fees and other costs and expenses incurred by Club to collect any payment due to Club under the Agreement following Licensee's failure to make such payment as and when due. This Section 3(e) in no way relieves Licensee of the obligation to pay the License Fee, or any installment thereof, on or before the date due, nor do these Terms and Conditions in any way affect Club's remedies pursuant to this Agreement in the event the License Fee is unpaid after the date due.

**4. Intellectual Property.**

a. Marks. The parties will each retain all ownership, right, and title in their respective copyrights, patents, trademarks, service marks, trade names, insignia, symbols, logos, designs, artwork, and all other intellectual property rights (the "Marks"). Except as expressly provided herein, neither party will have any rights or interest in the other party's Marks without prior written consent.

b. Recording and Broadcast Rights. Club, its broadcast partners, and/or Event promoters are the sole holders of all rights in and to all television, radio, internet, or any other broadcast of the Games and/or Events. Licensee will not use any broadcast or make any video or audio recording of a Game, Event, or other activity in or about the Venue

without prior written consent which may be withheld for any or no reason.

#### **5. Indemnification; Liability; Assumption of Risk.**

a. Indemnification. Licensee will indemnify, defend and hold harmless Club, Sharks Minor Holdings, LLC, SJAM, the City, and each of their respective members, officers, directors, employees, agents and representatives (the "Indemnified Parties") from and against any and all actions, damages, liabilities, losses, claims, costs and expenses of any kind, including reasonable attorneys' fees and litigation expenses (the "Claims"), related to or arising from Licensee's performance or breach of this Agreement, including, without limitation: (i) the actual or alleged negligent, intentional or wrongful acts or omissions of Licensee, its Guests, or those acting with Licensee's authority; (ii) the content of any materials or articles provided, displayed and/or used by Licensee; and (iii) Licensee's breach or threatened breach of any provision of this Agreement. Licensee is not responsible for the gross negligence or willful misconduct of the Indemnified Parties. The obligations set forth in this Section 5(a) shall survive expiration or termination of the Agreement.

b. Limitation of Liability. Club shall not be liable or responsible for any loss, damage, or injury to any person or any property of Licensee or Licensee's Guests in or upon the PHL Seats, the Venue, the parking areas or elsewhere, resulting from any cause whatsoever, including but not limited to, theft or vandalism, except to the extent the same is attributable to Club's gross negligence or willful misconduct. Licensee hereby assumes, and shall cause its Guests to assume, all risks and dangers incidental to Games and Events at the Venue, whenever or however they occur, including without limitation, the danger of being injured by flying objects, including hockey pucks, other spectators or player interaction, Venue conditions, and other hazards associated with attending Games and Events in a public forum and/or using the PHL Seats (the "Risks") and agrees that Club shall not be liable for injuries resulting from such Risks. Licensee is responsible for alerting its Guests of the Risks. Under no circumstances will either party be liable to the other for any consequential, special, indirect, incidental, punitive or exemplary loss, damage, cost or expense.

c. COVID-19 Advisory. Licensee understands and voluntarily assumes all risks associated with attending Team Home Games and Events in the PHL Seats and with interacting with others given the current status of the COVID-19 pandemic. **Licensee acknowledges and agrees that COVID-19 is extremely contagious and that there is an inherent danger and risk of exposure to COVID-19 in any place where people are present. No precautions, including the protocols Club has put in place, can eliminate the risk of exposure to or contraction or transmission of COVID-19, and the risk applies to everyone. No claim shall be made to Club related to COVID-19.**

d. Insurance. Licensee shall maintain, at its own expense during the Term of this Agreement, insurance coverage in limits sufficient to cover Licensee's obligations, acts and omissions under this Agreement. Licensee shall remain solely liable for the satisfaction of any deductibles. If Licensee fails to obtain the required insurance or fails to deliver to Club evidence of the required insurance upon request by Club, then Club shall be entitled, but shall not be obligated, to obtain the policy at the Licensee's expense. The insurance requirements set forth will in no way modify, reduce, or limit the indemnification herein made by Licensee.

#### **6. Default and Termination.**

a. Default. The occurrence of any one or more of the following events or actions will constitute a breach of this Agreement (each, a "Default"):

v. Failure to Pay. Licensee's failure to pay as and when due any amounts to be paid by Licensee pursuant to this Agreement, including, without limitation, any installment of the License Fee;

vi. Misrepresentation. Any representation or warranty made by Licensee to Club that it knows or should have known was materially false as of the Effective Date;

vii. Other Material Breach. The breach of or failure to perform any other duty, obligation, representation, or warranty under this Agreement, if such breach or failure has not been waived in writing and has not been cured by the breaching party within thirty (30) days following receipt of written notice specifying the nature of such breach, or, is not capable of being cured within such thirty (30) day period;

viii. Sponsorship Termination. Licensee's default or breach of any Sponsorship Agreement made by and between Club and Licensee, if applicable, resulting in the rightful termination thereof will constitute an incurable Default under this Agreement; and

ix. PHL Seat License Agreement Termination. Licensee's termination of this Agreement prior to the end of the Term in the absence of any Default by Club.

b. Remedies. Without limiting any of Club's rights under this Agreement, in the event of a Default by Licensee, Club may: (i) withhold distribution of any Tickets to Licensee that Licensee otherwise would have the right to receive and/or purchase under this Agreement, without refund, credit, or other obligation, and/or (ii) terminate the rights of Licensee under this Agreement immediately upon written notice to Licensee: (a) if the Default is not capable of being cured, including, without limitation, violation of Venue Rules, or (b) if such Default is capable of being cured, and the Defaulting party fails to remedy the Default within thirty (30) days of written notice specifying the nature of the Default.

c. Effect of Termination. Upon termination pursuant to this Section 6, Licensee will forfeit all rights to use and possess the PHL Seats. Furthermore, Licensee's obligation to pay the outstanding balance of the License Fee (the "Outstanding Balance") and any other amounts due to Club under this Agreement, if any, will be accelerated and become immediately due and payable. Upon such termination, Club will have no further liability or obligation to Licensee, may recover possession of the PHL Seats by any lawful means, and may recover any damages to which it is entitled at law or in equity. Club will use reasonable efforts to relicense the PHL Seats; provided however, if any other Venue penthouse lounge seats are available to be licensed, Club may give priority to licensing such other seats. If Club relicenses the PHL Seats to a third party prior to the end of the Term, Licensee will be entitled to a credit or refund of the Outstanding Balance attributable to the period of time remaining in the intended Term of this Agreement for which the PHL Seats is relicensed, less an amount equal to any and all costs and expenses incurred by Club in the relicensing of the Agreement, as reasonably determined by Club, including, without limitation: (i) attorneys' fees, arbitrator fees, collections fees, court costs and other administrative expenses related to the enforcement and termination of this Agreement; (ii) the cost and expense incurred in returning the PHL Seats to substantially the same condition as existed prior to this Agreement; and (iii) any and all remarketing, personnel, and other overhead costs related to relicensing the PHL Seats.

d. Additional Remedies. Termination of this Agreement will not affect Licensee's obligations under this Agreement for amounts due and owing to Club, or otherwise limit the rights and remedies available to Club. Furthermore, Club's receipt and acceptance of any amounts owing to Club by Licensee will not constitute a forfeiture or waiver of any additional amounts owed by Licensee or of any other right or remedy available to Club at law or in equity. In the event this Agreement is terminated by Licensee due to a breach or Default of Club, Licensee agrees that its sole remedy will be a credit or pro rata refund of the License Fee already paid to Club, excluding any amount allocable to rights already exercised by Licensee under this Agreement and/or any other Club obligations already performed hereunder.

e. Early Termination. Notwithstanding anything herein to the contrary, Club may terminate this Agreement at any time if: (i) the Management Agreement between SJAM and the City terminates, whether or not such termination occurs prior to the anticipated expiration date thereof, or (ii) Club no longer holds an NHL franchise for any reason. Upon such early termination, Licensee will be entitled to a

credit or pro rata refund of the License Fee already paid by Licensee to Club for the remaining portion of the Term as of the date of termination.

f. Surrender. Upon the expiration or earlier termination of this Agreement, Licensee will immediately surrender possession of the PHL Seats to Club in substantially the same condition as existed on the Effective Date, except for normal wear and tear. No act or conduct of Club will constitute an acceptance of the surrender of the PHL Seats prior to the expiration of the Term unless and until Club provides Licensee with a written acknowledgment of such acceptance. Unless otherwise agreed by Club in writing, Licensee's possession of the PHL Seats or any part thereof after the expiration or termination of the Term will constitute a license "at sufferance", terminable by Club at any time without notice, for a monthly fee in an amount equal to ten percent (10%) of the License Fee designated for the final Contract Year of this Agreement, plus all other amounts payable hereunder.

#### **7. Force Majeure; Unavailability of PHL Seats.**

a. Force Majeure. Unless otherwise provided in this Agreement, if performance under this Agreement is prevented, restricted, or interfered with by reason of any event beyond the parties' reasonable control, including but not limited to, fire, flood, epidemic, pandemic, earthquake, explosion, act of God or public enemy, riot or civil disturbance, strike, lockout, labor dispute, war, terrorist threat or activity, any government law, order or regulation, or order of any court or jurisdiction (each, a "Force Majeure Event"), the restricted party will not be in breach hereof and the performance or obligation of such party will be excused for a period of time equal to the period during which the Force Majeure Event prevents such performance. In such event, the parties will make reasonable efforts to determine sufficient "make goods" allowing the restricted party to satisfy its obligations hereunder. Licensee's sole remedy for a Force Majeure Event forcing the closure of the Penthouse Lounge and/or Venue, will be the extension of the Term at no additional cost for a period of time to encompass the number of Games and/or Events that were scheduled and subsequently canceled due to any such Force Majeure Event. The financial condition, default, breach, or intentional or negligent act or omission of this Agreement by the party seeking excuse from performance will not constitute a Force Majeure Event.

c. COVID-19. COVID-19 related restrictions or other COVID-19 related impacts on Club's operations shall be a Force Majeure Event to the extent Club's delivery of any benefits set forth herein is prevented, in which case Club will deliver substitute benefits equal to the aggregate value of the missed benefit(s) as a result of the Force Majeure Event. Any closure of the Venue or limitation on attendance at Games and/or Events related to the ongoing COVID-19 pandemic due to the spread of the SARS-CoV-2 virus, prohibiting use of the PHL Seats shall be a Force Majeure Event and Licensee's sole remedy will be the extension of the Term in accordance with this Agreement.

#### **8. Miscellaneous.**

a. Notices. Any notice, request, approval, or consent under this Agreement must be given in writing and delivered in person, mailed (certified or first class), or electronically transmitted to the address provided in this Agreement, or to such other address as the recipient may furnish in writing to the sender, and will be effective upon the earlier of actual delivery or three (3) days following mailing.

b. Waiver and Amendment. No modification, amendment, or waiver of any provision of this Agreement will be binding or valid unless in writing and executed by both parties. Failure to enforce any provision of this Agreement will not be construed as a waiver or thereafter prevent either party from enforcing the same, or any other provision, of this Agreement. The waiver by any party of any breach of the Agreement shall not be deemed a waiver of any prior or subsequent breach. All remedies of either party shall be cumulative and the pursuit of one remedy shall not be deemed a waiver of any other remedy.

c. No Interest. The rights granted under this Agreement do not create in Licensee or any third person any interest or estate in real property or any leasehold interest in the Penthouse Lounge, the PHL

Seats and/or the Venue beyond the limited license to use and possess the PHL Seats as set forth herein. Except as provided under this Agreement, Licensee will not have any greater rights or privileges with respect to admission to the Venue than those afforded to ticketholders for general admission to the Venue.

d. Relationship of the Parties. The parties are independent contractors of one another, and nothing contained in this Agreement will be interpreted, construed, or applied in practice, in any way, as creating or establishing a partnership, agency, joint venture, or employment relationship among the parties. Each party is solely responsible for the payment of all applicable state, federal, and local taxes and complying with all laws, regulations, and/or requirements related to its business.

e. Right to Manage. Club reserves the sole and exclusive right and authority to handle, decide, supervise, manage, and control the financial, business, administrative, and other matters with respect to its business, including, without limitation, the operation of the Venue and any other businesses in which it or its corporate affiliates has an interest or which is under its control, including the scheduling of all Games and Events, the hiring and firing of personnel, and any other administrative matters.

f. No Warranty. Other than full performance of the Seasons comprising the Term of this Agreement, as determined in the sole discretion of the League, Club does not make any representation, warranty, covenant, or guarantee that any particular Games or Events, or any specific number of Games or Events, will take place at the Venue during the Term of this Agreement.

g. Confidentiality. This Agreement, including all of its terms and conditions, along with all negotiations and discussions between the parties regarding this Agreement are confidential and may not be disclosed by either party without the prior written consent of the other party. Notwithstanding the foregoing, either party may disclose such matters to its corporate directors, attorneys and/or auditors, the NHL, and as required by law, provided such fiduciaries commit in writing to abide by the confidentiality provisions set forth in this Agreement. If either party is required to disclose any term or provision of this Agreement, such party shall promptly notify the other party to permit it to take what appropriate action it deems necessary to protect its interests hereunder. The provisions of this Section 8(g) shall survive the expiration or termination of this Agreement.

h. Compliance. This Agreement is subject to the terms of, and each party warrants and certifies that it will comply with, all Venue Rules and applicable laws. The parties agree to cooperate in the performance of each of their obligations under this Agreement, including, but not limited to, obtaining, agreeing to, distributing and/or enforcing any waivers, rules and regulations, licenses and permits, and other required certifications related to performance hereunder. Licensee will act with due regard to public conventions and morals, and agrees that it will not do or commit any act or thing that will tend to shock, insult, or offend the community or ridicule public morals or decency, or prejudice Club in general.

i. Governing Law; Dispute Resolution. This Agreement shall be governed by and construed in accordance with the internal laws of the State of California without regard to its conflict of law principles that may cause the application of laws of another jurisdiction. Subject to the Dispute Resolution provision set forth herein, any Dispute arising under or related to this Agreement will be subject to the exclusive jurisdiction of state court in the County of Santa Clara, California, or the United States District Court for the Northern District of California in San Jose, California. The parties voluntarily agree that any dispute, claim, question, or controversy between the parties arising from or relating to this Agreement (the "Disputes") will be finally resolved exclusively by binding arbitration administered by a single arbitrator of the American Arbitration Association in accordance with its Commercial Arbitration Rules taking place in San Jose, California. Any judgment upon the award rendered by the arbitrator may be entered in any court having

jurisdiction. Except as required by law, neither party nor the arbitrator may disclose the existence, content, results, or award of any arbitration without the prior written consent of all parties. The arbitrator will have no authority to award punitive or other damages not measured by the prevailing party's actual damages. The prevailing party will be entitled to recover from the losing party reasonable attorneys' fees, arbitrators' fees and any other fees incurred in connection with the arbitration. The parties expressly waive the right to resolve any Dispute through any other means, including by a jury trial. **LICENSEE AND CLUB EACH HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, RULES AND LEGAL REQUIREMENTS, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT.** This Section 8(i) will survive the expiration or termination of the Agreement.

j. Attorney's Fees. If either party commences or engages in an action or other proceeding by or against the other party arising out of or related to this Agreement, the prevailing party will be entitled to have and recover from the losing party reasonable attorneys' fees and other costs incurred in connection with the action, preparation for such action or proceeding, any related appeals, and enforcing any associated judgments.

k. Severability. If any portion of this Agreement is judged to be illegal, invalid, or unenforceable for any reason by a court or arbitrator of competent jurisdiction, such portion shall be severed from the remainder of the Agreement, which shall remain in full force and effect, and the Agreement shall be construed as if such invalid or unenforceable provision had not been part of the Agreement, and the court or arbitrator making such determination shall have the power to reduce the scope or applicability of such provision in a manner that makes such provision valid and enforceable and comes closest to expressing the intention of the invalid or unenforceable provision.

m. Assignment. Licensee may not assign or transfer any of its rights and obligations under this Agreement without Club's prior written consent. Any attempt by Licensee to assign or transfer its rights or obligations in violation of this provision will constitute a Default under this Agreement.

n. No Third Party Beneficiaries. Nothing in the Agreement is intended or shall be construed to give any other person or entity any legal or equitable right, remedy or claim under or in respect of the Agreement or any provision contained herein, other than the Indemnitees and permitted assignees, if applicable.

o. Representations and Warranties. Licensee represents and warrants to Club that (i) Licensee has the full power and legal authority to enter into and fully perform the Agreement in accordance with its terms; (ii) Licensee has obtained all approvals for the execution, delivery and performance of the Agreement; (iii) Licensee has duly executed and delivered the Agreement; (iv) the Agreement constitutes a legal, valid and binding obligation of Licensee enforceable in accordance with its terms (subject to applicable bankruptcy and insolvency laws and general principles of equity); (v) Licensee's execution, delivery and performance of the Agreement does not and will not violate, conflict with or cause a breach of or default under any other agreements or obligations to which

Licensee is a party or by which it is bound; (vi) Licensee's execution, delivery and performance of the Agreement do not and will not contravene or conflict with or constitute a violation of any provision of any applicable law, rule or legal requirement; and (vii) Licensee maintains and will maintain during the Term, a net worth that is sufficient to perform its financial obligations and liabilities under the Agreement.

p. Entire Understanding. This Agreement, including all Exhibits referred to herein, constitutes the entire understanding between the parties and supersedes all prior or contemporaneous written or verbal agreements, negotiations, discussions and understandings relating to the subject matter hereof.

q. Return of PHL Seats. Upon expiration or termination of the Agreement, Licensee shall surrender the PHL Seats to Club in the condition in which they were originally delivered to Licensee (normal wear and tear excepted). If Licensee fails to do so, Club may undertake the work required to return the PHL Seats to such condition, and Licensee shall reimburse Club on demand for the cost of such work.

r. Relocation of PHL Seats. Club expressly reserves the right, at its sole cost and expense, to relocate Licensee to any other penthouse lounge seats (or other seats) of Club's choosing at the Venue, of the same approximate size, if Club determines that such relocation is reasonably necessary or advisable in connection with any construction or renovation project at the Venue or if reasonably necessary upon the request of any promoter of any Event.

s. Grant of Right to Use Image and Likeness. Licensee understands that the image, likeness and/or name of Licensee or Licensee's Guests may be used as part of any live or recorded motion picture display or other transmission in any media whether now known or hereafter developed of all or any part of any event at the Venue as well as any dissemination by Club or its affiliates or sponsors or third parties authorized by Club.

t. League Rules. THIS AGREEMENT AND ALL RIGHTS GRANTED HEREIN BY CLUB ARE SUBJECT TO AND LIMITED BY LEAGUE RULES AND ANY OTHER REQUIREMENTS, POLICIES AND LIMITATIONS AS MAY BE IMPOSED BY THE NHL. IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THIS AGREEMENT AND NHL RULES, NHL RULES SHALL GOVERN. League Preemption during any Team Home Game will constitute a Force Majeure under this Agreement. Team Games are subject to cancellation, rescheduling, or postponement for any reason, and Club does not make any representation, warranty, covenant or guarantee that any particular number of Team Home Games will take place at the Venue during the Term. The cancellation, rescheduling, relocation, or postponement of any Team Home Games will not constitute a default under this Agreement and Licensee will not be entitled to any credit or refund with respect to any such cancelled, rescheduled, relocated, or postponed Team Home Game.

u. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which taken together shall constitute one single agreement. This Agreement may be delivered by electronic transmission of an executed counterpart by any signatory hereto, and electronic transmission shall be the same as delivery of an original ink signed counterpart.