

When recorded, return to:

City of Mesa
Attention: City Attorney
20 East Main Street
Mesa, Arizona 85211

=====

**CITY OF MESA, ARIZONA – ATHLETICS INVESTMENT GROUP LLC
FACILITIES USE AGREEMENT**

=====

This Facilities Use Agreement (“**Agreement**”), effective as of the date of its full execution (“**Effective Date**”), is by and between the City of Mesa, Arizona (the “**City**”), a municipal corporation of the State of Arizona, and Athletics Investment Group LLC (“**AIG**”), a California limited liability company (each a “**Party**,” and collectively, the “**Parties**”). All Exhibits to this Agreement are fully incorporated herein by this reference.

RECITALS

A. AIG is the sole owner of the Oakland Athletics franchise of Major League Baseball (“**Team**”) and holds all rights, including franchise rights, in connection therewith necessary for AIG to enter into and perform under this Agreement.

B. The City owns and controls the real property and facilities known as “**Hohokam Park**” and “**Fitch Park**” and otherwise as described and depicted on Exhibit A (collectively, the “**Facilities**”). The Facilities, as of the Effective Date, are being used by the Chicago Cubs baseball team as that team’s Spring Training headquarters. The Chicago Cubs are intended to vacate the Facilities on or before December 31, 2013. The City Council has determined, in its legislative discretion, that the Facilities, once the Chicago Cubs vacate the Facilities at the end of 2013, will be under-utilized.

C. AIG previously communicated to the City that it would consider causing the Team to conduct its Spring Training and player development activities at the Facilities if the City were able to renovate the Facilities to bring them to a standard similar to the facilities being provided to Cactus League teams for Spring Training by other municipalities in the metropolitan Phoenix area.

D. The City, acting through its City Council, has found and determined in the exercise of its legislative discretion that the Cactus League and the Team’s Spring Training and player development operations are and will be important community assets providing significant direct and derivative economic benefits and community amenities for the City’s residents,

businesses and visitors, as well as significant regional and state economic benefits. The City is committed to maintaining and enhancing these important community benefits.

E. The City acknowledges that the Facilities may be sufficient in size and scope for many purposes but do not presently have the capacity or amenities to maximize the benefits of the Team to the City's economy. The City desires to provide AIG with a renovated Facilities, in order for AIG to cause the Team to conduct its Spring Training and player development activities at the Facilities, while concurrently attracting greater direct (for example sales taxes) and indirect (for example tourism and related hospitality) revenues to the City.

F. AIG desires to have Team conduct its Spring Training and player development activities at the Facilities, subject to and in accordance with the terms and conditions of this Agreement, if the Facilities Improvements contemplated by this Agreement are provided in timely fashion, and if certain operational and use rights are granted to AIG in accordance with the terms and conditions of this Agreement.

G. The entering into this Agreement by the City does not, and in no way is intended to, interfere with any existing contractual relations existing between (i) AIG and the City of Phoenix with respect to Spring Training facilities in the City of Phoenix that are being used by AIG under an agreement to expire December 31, 2014, or (ii) the City and the Chicago Cubs with respect to the use of the Facilities by the Chicago Cubs under an existing agreement that will terminate upon the relocation of the Cubs to other facilities within the City.

H. In addition to AIG's use as described herein, the renovated Facilities will provide significant use and enjoyment for the residents of the City and new fans who will come to the City to watch baseball each year at Spring Training, and for other entertainment and cultural events (whether baseball-related, or otherwise) proposed to be held at the Facilities throughout the year.

I. The City will realize increased direct, pecuniary benefits (as well as certain indirect and intangible benefits) as a consequence of renovating the Facilities as contemplated by this Agreement, thus enhancing the quality of life of the City's residents and conferring significant economic and non-economic benefits upon the City. The development, redevelopment, operation and expansion of uses of the Facilities are of such value and significance to the City, that the City desires to undertake and facilitate renovation of the Facilities contemplated by this Agreement, subject to and in accordance with the terms and conditions of this Agreement.

J. The City Council has determined, in the exercise of its legislative discretion, and based upon analysis by the City, that AIG's contractual commitment to occupy and use the Facilities for the Term of this Agreement and other benefits accruing to the City, exceed the benefits conferred on AIG by the City under this Agreement.

K. Pursuant to the Agreement, AIG will assume significant operation and maintenance responsibilities at the Facilities, presently being undertaken and paid for by the City. The City has estimated that operating and maintaining the Facilities to a level of service

{00071390.1}

necessary to attract an MLB team, requires an operating and maintenance expenditure of approximately \$2,300,000.00, annually. Operating and maintaining the Facilities at a level comparable to certain other parks within the City requires an operating and maintenance expenditure of approximately \$1,500,000.00, annually. Under the Agreement, the City estimates that it will avoid expenditures in an amount between \$717,000.00 to \$1,527,000.00 annually, resulting in savings to the City's residents that otherwise would be required to be incurred by the City.

L. The City contemplates that, in addition to the direct cost savings noted in Recital K, the City will be able to increase its own revenue from (i) the availability of the enhanced, more "fan-friendly" facilities, for the City's own sponsored events, and (ii) the increased scheduling opportunities being retained by the City pursuant to the Agreement.

M. The City Council has determined that the Facilities Improvements, as defined in this Agreement, constitute the rehabilitation of, and refurbishments to, existing sports facilities, without either creating or authorizing the establishment of new sports facilities, or changing the "footprint" of the existing Facilities.

N. The Parties agree and intend that the acts of the Parties described in and required by this Agreement (including but not limited to the obligations of the City to cause the renovation of the Facilities, and the obligations of AIG to use the Facilities as AIG's exclusive Spring Training headquarters and as a site for AIG's year-round player development, to cause the Team to play its Spring Training games in the City for the term of this Agreement, and to assume operation and maintenance responsibilities at the Facilities, which AIG presently is neither obligated nor under any legal compulsion to do, but which represent a free and voluntary decision by AIG) are specifically and expressly "bargained for" by and between the Parties as part of the Parties' promised performance to each other, and therefore constitute "consideration" to support this Agreement, as required by *Turken v. Gordon*, 207 P.3d 709 *et seq.* (Ariz. 2010).

AGREEMENT

In consideration of the payments, promises and performance of the Parties set forth in this Agreement, the Parties agree as follows:

1. Facilities Improvements. The Parties acknowledge and agree that certain improvements must be made to the Facilities before the Parties may enjoy the benefit of their bargain in connection with this Agreement. The continuing effectiveness of this Agreement therefore is expressly conditioned upon the City causing such improvements to the Facilities to be completed pursuant to the terms and conditions of this Agreement. The Parties shall cause the Site Master Plan (as defined below in Paragraph 5) for all such improvements to be attached hereto as Exhibit B. Changes to that Site Master Plan (if any) made in accordance with the terms of this Agreement shall be in writing and deemed part of Exhibit B. The work described in Exhibit B is referred to as the “**Facilities Improvements.**”

2. City Obligation for Facilities Improvements. The City’s responsibilities under this Agreement shall include all designs, plans and specifications, required Governmental Approvals, required site work, construction and Completion of the Facilities Improvements, including procuring and paying the costs of services provided by Third Party technical registrants, contractors and consultants, subject to the terms and conditions set forth in this Agreement. City acknowledges that such work may include, without limitation, the following (such work in each instance to be determined by the Project Committee as provided for in Paragraph 6):

(a) On-Site Utility Infrastructure. Improvements, if any, to the City-owned utility infrastructure and dry utility infrastructure within the Facilities, including any improvements or other work required to provide water, wastewater (sanitary sewer), gas services and any dry utility services, adequate to serve all intended uses of the Facilities.

(b) Field and Irrigation Water Improvements. Cooperation with AIG concerning the Completion of field improvements and method of irrigation water delivery and storage to the Facilities, including all work and other improvements, if any, required in connection with pumps, laterals, pipes, tanks and lifts comprising water delivery and storage infrastructure to within the Facilities to the extent necessary to provide irrigation water to the Facilities.

(c) Facilities Electric Power Infrastructure. Completion of improvements, if any, to the Facilities’ electric utility infrastructure and appurtenant facilities (including conduit, lines and transformers) in sufficient scope and capacity to provide electric power service adequate to serve all intended uses of the Facilities;

(d) Parking. Completion of improvements to the Facilities’ parking facilities, including without limitation expansion of certain parking areas to provide additional spaces for player (that is, not public) parking within the areas designated for “Team Parking” on Exhibit B;

(e) Construction-Related Taxes, Fees and Charges. Satisfaction of all construction sales taxes or equivalent fees or charges and any governmental application, processing, permit or equivalent fees or charges and payable in respect of the Facilities Improvements prior to the Completion;

(f) Non-City Personnel. When the services of Third Party, non-City personnel are requested by the Project Committee in connection with the Facilities Improvements, retention of and payment to any and all Third Parties;

(g) Construction Contract Contingencies. Negotiation and performance under any and all construction contracts entered into by the City with respect to the Facilities Improvements, all of which contracts shall include a provision for a contingency in an amount recommended by the Project Committee and approved by the City with respect to the contract amount (to account for, for example, unforeseen conditions, design errors, etc.). Any and all such contingencies shall be used only to the extent needed; and

(h) Use of Bond Proceeds. In the event that the City recovers monies pursuant to payment or performance bonds as a result of a breach or default by a contractor of any construction contract related to the Facilities Improvements, the City agrees to use such monies for the cost of Facilities Improvements, or to refund such funds to the City or AIG (allocated or prorated in accordance with the Parties' respective responsibility for costs described in Paragraph 3) in the event that the Facilities Improvements or any part thereof are not Completed.

3. Responsibility for Costs. The City shall be solely responsible for the first Fifteen Million Dollars (\$15,000,000.00) of Facilities Improvements costs that are actually incurred. Thereafter, City and AIG shall each be responsible for fifty percent (50%) of the next Five Million Dollars (\$5,000,000.00) of Facilities Improvements costs actually incurred, on a dollar-for-dollar basis, up to a total of Twenty Million Dollars (\$20,000,000.00). Any costs for design and construction of the Facilities Improvements in excess of Twenty Million Dollars (\$20,000,000.00) (if any) shall be paid solely by AIG, and the City shall have no responsibility for any such amounts.

(a) Examples. As examples of the Parties' respective responsibilities for the cost of the Facilities Improvements, the Parties acknowledge the following as illustrative:

(1) If the total cost of the Facilities Improvements is \$13,000,000.00, the City is solely responsible for such costs.

(2) If the total cost of the Facilities Improvements is \$18,000,000.00, the City is responsible for \$16,500,000.00 (\$15,000,000.00, plus one-half of \$3,000,000.00), and AIG is responsible for \$1,500,000.00 (one-half of \$3,000,000.00).

(3) If the total cost of the Facilities Improvements is \$21,000,000.00, the City is responsible for \$17,500,000.00 (\$15,000,000.00, plus one-half of \$5,000,000.00), and

AIG is responsible for \$3,500,000.00 (one-half of \$5,000,000.00, plus \$1,000,000.00 in excess of \$20,000,000.00).

(4) In no event shall the City's responsibility for the cost of the Facilities Improvements exceed \$17,500,000.00.

(b) Payment by the City. The City shall pay all Facilities Improvements costs to all Third Parties but shall be reimbursed by AIG as necessary for AIG to satisfy its obligation for such costs (that is, AIG's portion of the costs incurred between \$15,000,000.00 and \$20,000,000.00, and all costs in excess of \$20,000.00.00). In this regard, AIG shall pay to the City, within ten (10) business days of its receipt of an invoice from the City, all such costs allocated to AIG by this Agreement. The City may, in its sole election, submit invoices to AIG as costs are incurred by the City.

(c) City Financing. The City will timely and fully pay its portion of such costs by such means, and in such manner, as the City determines in its sole discretion. The City does not intend to fund or to pay the City's obligations under this Agreement, directly or indirectly, by or through the imposition of any new, increased or expanded City tax, fee or charge levied or assessed in respect of the construction, development, occupancy, use or operation of the Facilities.

(d) Excess Costs. Notwithstanding anything in this Paragraph 3 to the contrary, in the event that the negligence or willful misconduct of a Party causes the cost of the Facilities Improvements to exceed the maximum amount or amounts which that Party is required to pay pursuant to this Paragraph 3, such excess costs shall not be included in or allocated toward such Party's maximum required contribution, and shall be paid solely by such Party.

(e) Ownership. Notwithstanding the source of payment, all Facilities Improvements shall be and remain the sole property of the City.

4. Commencement and Completion.

(a) Commencement; Completion. Time is of the essence with respect to the Commencement and Completion of all Facilities Improvements. The City will work diligently to cause the Commencement of all Facilities Improvements as soon as the Chicago Cubs vacate the Facilities (and no later than January 1, 2014) and to cause the Completion of all Facilities Improvements no later than December 31, 2014, or such other date as agreed in writing by the Parties ("**Scheduled Completion Date**"). Without limitation of the foregoing, the obligations of the Parties with respect to the Facilities Improvements and other work contemplated by this Agreement in all events shall be subject to this Agreement and all Applicable Laws.

(b) Remedies for non-Completion. AIG shall have the right to terminate this Agreement on September 30, 2013, if it is not reasonably satisfied as to the progress of the City's performance under this Agreement and/or the progress of the construction of the new Spring Training facilities being constructed for the Chicago Cubs. If the City fails to cause the Completion of the Facilities Improvements by the Scheduled Completion Date, AIG may, in its

{00071390.1}

sole election and upon written notice to the City, either (i) suspend its obligations under this Agreement and conduct its operations elsewhere during the period of non-Completion, or (ii) require the City to provide alternate facilities in accordance with Paragraph 4(c). Notwithstanding the foregoing, as its sole remedy for non-Completion, AIG may elect to terminate this Agreement in its entirety upon written notice to the City if the Facilities Improvements are not Completed within one hundred eighty (180) days after the Scheduled Completion Date, with the City promptly refunding to AIG any amounts contributed by AIG to satisfy AIG's responsibility for the cost of the Facilities Improvements.

(c) Alternate Facilities. In the event of non-Completion, the City will provide AIG the use of Gene Autry Park (or other mutually agreed upon Mesa-based facilities) during any period of non-Completion at no cost or expense to AIG, and subject to mutually agreed upon modifications made at the City's sole cost and expense, but limited to such modifications (if any) as may be necessary as reasonably determined by the Parties to bring such alternate facilities to a condition acceptable for the purposes intended (that is, MLB Spring Training). Further, the City will use commercially reasonable efforts (but not the expenditure of money) to assist AIG in securing an alternate facility within thirty (30) miles of the Stadium in which the Team can play its Home Games during any period of non-completion.

5. Site Master Plan. Promptly after the Effective Date, the City and AIG shall prepare a conceptual development plan for the Facilities Improvements ("**Site Master Plan**"). Without limitation, the Site Master Plan shall identify and address: (i) the location and details of all Facilities Improvements agreed upon by the Parties; (ii) all necessary Governmental Approvals and Third Party approvals, including all permits and agreements, which are necessary to develop, use and operate all planned Facilities Improvements; (iii) any and all environmental, biological or cultural resource matters known to the Parties that could affect the Facilities Improvements or the use and operation of the resulting renovated Facilities; and (iv) all existing and anticipated off-site and on-site drainage corridors and facilities (as well as any necessary additional drainage analysis which may be required), utility corridors and other locations for the City and other utility services and facilities, infrastructure and improvements (including the City-owned utility infrastructure and electric power infrastructure) which are necessary to develop, use and operate the Facilities upon completion of all planned Facilities Improvements. Notwithstanding the foregoing, the Parties acknowledge and agree that preparation of the Site Master Plan is not intended to supersede or override any requirement under Applicable Laws for the City or other Governmental Approvals for the ultimate improvement and use of the Facilities as contemplated by this Agreement.

6. Project Committee.

(a) To facilitate the effective participation of the Parties and the timely Completion of all Facilities Improvements, a committee ("**Project Committee**") shall be established, which shall include and be limited to (i) the City Manager (or his designee), (ii) a representative of AIG, and (iii) four (4) other persons, two (2) of whom shall be designated by the City Manager and two (2) of whom shall be designated by AIG, to administer the design and construction of the Facilities Improvements and make recommendations to the City and AIG concerning all material aspects of the Facilities Improvements. The Project Committee will meet {00071390.1}

on such schedule and at such location(s) as agreed by the Parties until such time as the Facilities Improvements are Completed and AIG takes possession of the Facilities; provided, one hundred twenty (120) days following AIG's acceptance of possession, the Project Committee shall be dissolved without further act by or of, or notice from or to, the Parties required.

(b) Without limitation of the foregoing, the City acknowledges, in light of AIG's obligations under this Agreement including AIG's obligation pay certain costs for the Facilities Improvements, that it is necessary and appropriate for AIG to provide detailed input into all such matters, including the procurement of all Third Party services, *e.g.*, advisers, the owners' representative, design professionals, technical registrants, contractors, sub-contractors and consultants ("**Project Personnel**") and the development and implementation of all design specifications and plans and all other aspects of the Facilities Improvements.

(c) Without limitation of the foregoing, the City will not proceed with any material aspect of the Facilities Improvements or with the selection of any contractor, architect or other material personnel, budgetary or design element, and will not enter into any contract related to this Agreement or authorize any expenditure hereunder, without the prior review and reasonable approval of a majority of the Project Committee.

(d) Consents by, or approvals of, members of the Project Committee shall not be unreasonably withheld conditioned, or delayed.

7. Project Schedule. The City, diligently and subject to the review and recommendations of the Project Committee, shall prepare a schedule that identifies all major milestones of the Facilities Improvements (the "**Project Schedule**") including (i) the procurement of key Project Personnel, (ii) the commencement and completion dates for all necessary studies, assessments, surveys and reports; (iii) the commencement of the Facilities Improvements, (iv) the commencement and completion dates for the submittal and issuance of all required Governmental Approvals, (v) the commencement and completion of site and other preparatory work, and (vi) the Completion of the Facilities Improvements (each of the foregoing referred to herein as a "**Milestone**").

(a) The City shall, diligently and subject to the review and recommendations of the Project Committee, refine and update the Project Schedule, no less frequently than monthly, to reflect the actual status of all included Milestones, provided the extension of the time for performance of any Milestone (except as provided for in the event of Force Majeure) shall be subject to AIG's prior written approval.

(b) Without limitation of the foregoing, the City acknowledges that AIG is entering into this Agreement in reliance on the City's commitment to timely fund and pay all Facilities Improvements costs that the City is obligated to pay under this Agreement, as well as any other sums the City is obligated to pay under this Agreement, and to perform all obligations of the City as set forth in this Agreement, in each instance on or before the date by which such funds or performance is required to cause the timely payment and performance of all Milestones.

(c) Without limitation of the foregoing, AIG acknowledges that the City is entering into this Agreement, and committing to spend the amounts to which it is obligated hereunder, in reliance on AIG's commitment to timely pay all sums AIG is obligated to pay under this Agreement, and to perform all obligations of AIG as set forth in this Agreement, in each instance on or before the date by which such funds or performance is required to cause the timely payment and performance of all Milestones.

8. Project Personnel. With respect to the Facilities Improvements:

(a) As shall be reflected in the Project Schedule, the procurement process to select the principal Project Personnel, owner's representative (if applicable), architect, general contractor and engineering firm, shall be initiated by the Parties on or before the tenth (10th) day following execution of this Agreement (or such later date as may be reasonably agreed upon by the Parties). The services of all Project Personnel, including the architect and general contractor, shall be procured by the City in accordance with Applicable Laws, provided, upon the recommendation of the Project Committee, the City may use construction-manager-at-risk or other alternative procurement methods approved by AIG and authorized under Applicable Laws. Without limitation of the foregoing, the Parties acknowledge and agree that the Facilities Improvements require specialized qualifications and substantial experience in the design and construction of comparable facilities and projects and, accordingly, AIG shall have the right to approve (such right not to be unreasonably withheld, conditioned or delayed), prior to publication, all requests for qualification and/or requests for proposal including, without limitation, the minimum qualifications of the respondents. AIG shall be entitled to be present for all interviews and meetings with potential Project Personnel and, during the Term, meetings and discussions with any Project Personnel.

(b) Once construction of the Facilities Improvements commences, the Project Manager shall be the lead party communicating with the contractor on behalf of the Project Committee. The Project Manager shall be an employee of the City as selected by the City Manager. The Project Manager shall visit the site daily on days when construction and related activity is conducted. AIG shall also appoint a site representative ("**AIG Site Representative**") who may visit the site daily on days when construction and related activity is conducted. The Project Manager and AIG Site Representative shall use reasonable efforts to confer and review progress of the Project as appropriate. Notwithstanding anything herein to the contrary, (a) any communication of the Project Manager to or from Project Personnel or the Project Committee, shall also be given concurrently to the AIG Site Representative; (b) the AIG Site Representative may communicate with Project Personnel, but only the Project Manager is authorized to direct Project Personnel pursuant to their agreements with the City; and (c) the Project Manager and AIG Site Representative shall reasonably approve all actions undertaken or decisions made at the site, including any change orders that such parties are authorized by the Project Committee to approve, all of which shall be deemed part of Exhibit B hereto. In the event that the Project Manager and AIG Site Representative are unable to agree on an action, such matter shall be referred promptly to the Project Committee for resolution in accordance with this Agreement. The Project Committee may (but is not obligated) to prepare or approve a "project manual" to facilitate decisions made by the Project Manager and AIG Site Representative; but in any event the Project Committee shall prepare a schedule of changes (e.g., cost, programming, scope, {00071390.1}

scheduling, etc.) that require approval by the Project Committee and execution by authorized representatives of the City and AIG.

9. Budget. Promptly following the selection of the principal Project Personnel for the Facilities Improvements, the City shall cause the Project Personnel to prepare a line-item budget for the Facilities Improvements (the “**Project Budget**”). Thereafter, the Project Budget shall be updated, and the Project Committee shall review and make recommendations concerning such updates, no less frequently than monthly, provided the Project Budget shall be automatically adjusted to account for any (i) agreed upon modifications or supplements to the Facilities Improvements and (ii) actual costs as incurred or contracted, when approved by the Project Committee. Without limitation of the foregoing, AIG shall have approval power, prior to implementation, of any material change in any Project Budget line item.

10. Americans with Disabilities Act. The City shall ensure that all Facilities Improvements are designed to comply with, and that every area of the Facilities (including, without limitation, the Stadium) upon the Completion of Facilities Improvements actually does comply with, the Americans with Disabilities Act of 1990 (“**ADA**”) and any and all related requirements under Applicable Laws. Following completion of the Facilities Improvements and throughout the Term, the City shall ensure continued compliance with the ADA and any and all other requirements under Applicable Laws and shall pay for and diligently complete any required modifications to any or all parts of the Facilities due to any changes to those laws (including without limitation changes to the interpretation of such laws by any regulatory or quasi-judicial body with jurisdiction over the Facilities). Any dispute between the Parties in connection with compliance with the ADA shall be resolved by the Dispute Resolution Process.

11. City Contracts. The City shall use commercially reasonable efforts, but at no additional cost or expense to the City, to cause AIG to be named as a third-party beneficiary of, and as an additional insured and indemnified party in, all contracts related to the Facilities Improvements entered into by the City. The City shall use commercially reasonable efforts, but at no additional cost or expense to the City, to cause AIG to be named as a third-party beneficiary of (and AIG shall have the right to request that the City enforce its rights thereunder) any contract or agreement, including under any payment and performance bonds, warranties or insurance coverage obtained in connection with any such contract or agreement, in respect of any and all Facilities Improvements undertaken by the City, provided, prior to exercising its rights as a third-party beneficiary, AIG shall provide the City with notice and a reasonable opportunity to enforce the contract or agreement at issue. The City agrees, at no additional cost or expense to the City, to cooperate with AIG in the exercise of AIG’s rights as a third-party beneficiary, including pursuing claims under payment and performance bonds, warranties and insurance coverage. Any exercise by AIG of its rights as a third-party beneficiary shall not relieve the City of any of its obligations hereunder.

12. Lease and Grant of Rights. The City hereby leases and grants to AIG, and AIG hereby leases and accepts from the City, the right to occupy, use, manage and operate the Facilities for the Term defined below and subject to the terms and conditions set forth in this Agreement.

13. Term. This Agreement shall commence, and be binding upon the Parties, as of the Effective Date. The City shall allow AIG and AIG's retained personnel such access to the Facilities from and after the Effective Date as the City may reasonably provide, and subject to the prior rights of the Chicago Cubs to use the Facilities, so that the Parties may begin work toward the Facilities Improvements. The City will deliver to AIG possession of the Facilities pursuant to the terms and conditions of this Agreement on or before January 1, 2015, for the time period as follows:

(a) Initial Term. This Agreement shall automatically terminate on December 31, 2034 ("**Term**"), unless AIG exercises its option rights as provided below.

(b) Options to Renew. Unless this Agreement already has terminated, and provided that AIG is not in default of any term or condition of this Agreement, AIG may extend this Agreement under its identical terms through December 31, 2039, by providing written notice to the City on or before December 31, 2033. Thereafter, unless this Agreement already has terminated, and provided that AIG is not in default of any term or condition of this Agreement, AIG may extend this Agreement under its identical terms through December 31, 2044, by providing written notice to the City on or before December 31, 2038. Any such exercised option years shall be considered to be within the Term. This Agreement shall automatically terminate immediately at the end of any period during which AIG has not exercised such option rights.

14. Consideration and Other Benefits to the City. In consideration of the Lease and grant of rights to AIG, the City shall receive the following consideration during the Term:

(a) AIG shall assume, pay and be solely responsible for all turf maintenance (including but not limited to the baseball fields, agility fields and batting cages) and common area landscaping as set forth in Paragraph 17(a).

(b) AIG shall assume, pay and be solely responsible for certain utility costs and expenses as set forth in Paragraph 17(b).

(c) AIG shall assume, pay and be solely responsible for certain other costs and expenses (such as, janitorial, security and traffic) set forth in Paragraph 17.

(d) AIG shall contribute to the cost of Capital Improvements as set forth in Paragraph 19.

15. Spring Training And Use Of Facilities.

(a) AIG Spring Training. Unless otherwise provided within this Agreement, at all times during the Term:

(1) AIG shall use the Facilities as Team's exclusive Spring Training headquarters. AIG also may use the Facilities as a site for Team's year-round player development activities. The City acknowledges and agrees that AIG may also use any other site for such player development activities that AIG in its sole discretion deems appropriate, either contemporaneously with AIG's use of the Facilities or to the exclusion of the Facilities.

{00071390.1}

(2) AIG shall cause Team to play a minimum of twelve (12) home Spring Training Games at the Stadium each Spring Training Season unless otherwise required by MLB including, specifically, if Team is required to play any Spring Training Game outside the United States or to open any Regular Season outside of the United States or is prevented by good cause (including without limitation any Force Majeure pursuant to Paragraph 27). If in a particular Spring Training Season AIG does not meet its obligation under this Paragraph 15, AIG shall pay the City Five Thousand Dollars (\$5,000.00) for each such Spring Training Game not played other than as a result of an MLB requirement or other good cause. Team shall pay the City such amount within thirty (30) calendar days of Team's last home Spring Training Game at the Facilities in the Spring Training Season so affected.

(b) AIG Use of Facilities. AIG shall have the following rights to use the respective parts of the Facilities:

(1) AIG Property. During the Term, AIG may place and/or install within the Facilities all equipment, facilities, items and other tangible personal property that AIG in its sole discretion deems appropriate. Any and all equipment, facilities, items and other tangible personal property purchased and paid for by AIG shall be and remain AIG's property throughout and upon the expiration of the Term. Nothing in this Agreement is intended to, or shall, grant the City any right to or interest in any such property. Outside of AIG's permitted exclusive periods of occupancy, AIG shall use reasonable efforts to cause such items to be stored in non-public areas over which it exercises exclusive control or maintains other forms of security; but in the absence of such storage, AIG may leave such property within the Facilities that does not materially interfere with the City's rights hereunder. AIG expressly disclaims any responsibility of the City (including but not limited to its employees, agents and contractors) with respect to loss of or damage to such property.

(2) Hohokam Park: AIG shall have (i) the exclusive right to use the stadium and practice fields at Hohokam Park at all times during each Spring Training Season during the Term, whether for Spring Training games, workouts or for any other activities not prohibited by this Agreement, and (ii) the exclusive right to use the area designated as the "Public Parking Area" on Exhibit B at Hohokam Park on days during which the Team plays Spring Training games. At all other times during the Term, AIG shall have the right to the exclusive use of certain storage facilities at Hohokam Park and field maintenance buildings designated by the City, and the non-exclusive right to use Hohokam Park at such times, and on such conditions, as determined and approved by the City.

(3) Fitch Park: During the Term:

(i) The Parties acknowledge that the Fitch Park facilities were designed for the playing of baseball in accordance with MLB Rules and Regulations. Absent prior mutual written agreement otherwise and except for the Facilities Improvements, the Parties agree not to reconfigure the fields, including without limitation the location of bases, base paths, pitching mounds or other features, in any manner inconsistent with such designed purpose.

(ii) AIG shall have the exclusive right to use Fitch Park during each Spring Training Season, except for that portion of Fitch Park constituting public park amenities, which shall remain open to the public at all times. At all other times during the Term, AIG shall have exclusive right to use and occupy the main clubhouse at Fitch Park, one full baseball field at Fitch Park to be designated on a rotation basis, all practice mounds and batting cages at Fitch Park, and field maintenance buildings designated by the City. During Extended Spring Training Season, Arizona Rookie League Season, and Fall Instructional League Season, AIG shall have a non-exclusive right to use Fitch Park in accordance with the master calendar described in Paragraph 15(c), provided that the City acknowledges the importance of such seasons and their recurrence each year of the Term, and shall use its commercially reasonable efforts not to cause or permit City Events to occur that the City should reasonably understand will interfere with such AIG use.

(4) AIG Staff. Subject to Applicable Laws and this Agreement, AIG may employ such staff at the Facilities as AIG in its sole discretion deems appropriate, provided that such employment complies with Applicable Laws.

(5) Event Control. AIG may, at its sole discretion, cancel or postpone any event to be held at the Facilities (other than the City Events), provided that absent good cause (including, without limitation, as required by MLB or due to any Force Majeure) AIG shall remain obligated to cause Team to play the minimum number of Spring Training Games as provided in Paragraph 15(a).

(6) Third Party Use. Upon the City's approval, and during its periods of exclusive use of the Facilities, AIG may provide Third Parties use of the Facilities for any purpose not prohibited by Applicable Laws or this Agreement, including but not limited to commercial purposes. AIG and the City shall work with one another in good faith to negotiate and execute any and all contracts necessary for such Third Party use, and all revenues paid by such Third Party for its use of the Facilities shall be shared equally with the City.

(7) Restriction on AIG Use. AIG shall not use or occupy the Facilities—or knowingly permit any Third Party to access and use the Facilities—in such a way that (i) will make it impossible for the City or AIG to obtain or maintain insurance as required under this Agreement; (ii) absent the City's prior written authorization, will likely cause structural damage to the Facilities (specifically excluding ordinary wear and tear); (iii) will constitute a public or private nuisance; (iv) will bring shame, disrepute or opprobrium upon the City or its officials, or (v) will violate Applicable Laws.

(c) Master Calendar. The Parties recognize the importance of master calendar usage, in part to provide for appropriate maintenance periods. A master calendar shall be mutually developed by the Parties, maintained by the City and accessible by both Parties at all times. The Parties recognize that the success of the master calendar process as provided herein is dependent upon timely and clear communication between the Parties and each Party agrees to act diligently and in good faith to communicate with the other concerning scheduling matters.

16. City Use of Facilities.

{00071390.1}

(a) City Events. Throughout the Term, the City may hold the City Events within such part(s) of the Facilities not committed to exclusive use by AIG as set forth in Paragraph 15, in accordance with the master calendar described in Paragraph 15(c). During times when the Facilities or parts thereof are committed to exclusive use by AIG, the City shall have the right to use any or all part(s) of the Facilities for a City Event upon AIG's prior approval. The City, pursuant to the terms and conditions of this Agreement, will have three hundred (300) 4-hour blocks of time per year to use the Facilities' baseball fields without charge, provided that such use is for baseball games and not practices or other events (unless upon AIG approval which shall not be unreasonably withheld). Each City use up to 4 hours shall count as one 4-hour block and concurrent use of multiple fields shall count as multiple 4-hour blocks (for instance, if City uses 3 fields during the same 2-hour period, City will have used 3 of its 4-hour blocks). For any additional usage, City shall pay AIG an amount to which the Parties shall agree each year, starting at \$300 per 4-hour block in 2015. The foregoing shall in no way limit or condition City use of any other areas of the Facilities.

(b) City's Right of Entry. At all times during the Term, the City and its employees and agents shall have access to and may enter the Facilities and all parts thereof as reasonably required and narrowly tailored to satisfy the City's obligations under this Agreement. If possible, the City shall provide reasonable advance notice to AIG before accessing the Facilities or any part thereof during times that the Facilities or any part to be accessed is subject to AIG's exclusive use. AIG shall reasonably accommodate all City workers and City-retained Third Parties performing work pursuant to the terms and conditions of this Agreement.

(c) Reserved Parking. AIG shall provide to the City, throughout the Term and at no cost or expense to the City, seven (7) designated and reserved parking spaces for exclusive use by the City and its representatives and invitees. The location of such parking passes shall be as close to the main entrance to the Stadium as is reasonably possible.

(d) City Suite. Notwithstanding anything to the contrary in this Agreement and throughout the Term, the City expressly reserves the exclusive right to use the area within the Stadium currently used and controlled by the City as a divisible suite area and providing for the occupancy of approximately thirty (30) persons (the "**City Suite**"), for the City's use for all Stadium Events at no rental to the City, but otherwise subject to the same terms and conditions as the AIG standard suite license then in effect at the time of each Stadium Event, including, for example, the purchase of food and beverages. The City Suite shall include (at no cost or expense to the City) all applicable admissions, passes or tickets; a standard number of parking passes; printed programs for each such Stadium Event; and catering available for purchase at AIG's standard rates. The location of the City Suite shall be the same throughout the Term as agreed by the Parties.

(e) Group Area. Notwithstanding anything to the contrary in this Agreement and throughout the Term, the City shall have the right during two (2) Spring Training games each Spring Training Season, to the exclusive use and occupancy of an area within the Stadium to accommodate no fewer than fifty (50) persons for non-revenue generating purposes or activities. Each year the Parties will meet to select dates for the City's use. This usage shall be limited to use by the City (and, at the City's election, a civic or non-profit entity or organization,

{00071390.1}

including but not limited to the Mesa Convention and Visitor's Bureau Mesa Convention and Visitor's Bureau or its successor or any comparable substitute entity ("CVB") or the Chamber of Commerce).

(f) Field and Stadium Signs. Notwithstanding anything to the contrary in this Agreement and throughout the Term, AIG shall make available to the City: (i) at least one sign not less than either (a) four (4) feet by twenty (20) feet, or (b) seven (7) feet by fourteen (14) feet, and located inside the Stadium at a location determined by the Parties, to be available to the City for use by the City, the CVB, the Chamber of Commerce, or similar non-profit municipal groups or organizations, to promote the City (provided, however, that no such sign shall include any advertising of or for a Third Party or in any way disparage AIG, its Affiliates or its vendors, or violate any MLB Rules and Regulations); (ii) one identification sign on the outside of the Stadium structure not less than one hundred and twenty (120) square feet in area and in a location reasonably approved by AIG and the City; and (iii) two (2) City of Mesa logos as selected by the City, being one (1) on each side of the home plate; provided, however, and notwithstanding the foregoing, AIG must approve, in writing in advance, the content, design and placement of all such signage and logos; and, provided, further, AIG's obligations under this Paragraph 16(f) are expressly conditioned upon the City's and the CVB's providing AIG with any proposed changes to such signage and logos on or before January 1 of each calendar year during the Term, failing which AIG's obligations to make such changes (but not AIG's obligation to make such signs available) will be deemed waived until the following calendar year.

17. Operations and Responsibilities.

(a) Turf Maintenance, Groundskeeping and Common Area Landscaping. The City acknowledges the importance of having, at both Hohokam Park and Fitch Park, well-maintained baseball fields (and related turf areas) groomed specifically to MLB standards and for MLB purposes and well-landscaped common areas. During the Term, therefore, AIG shall provide and pay for such turf maintenance, groundskeeping and certain common area landscaping as provided below.

(1) AIG Obligations. At its sole cost and expense and in its own reasonable discretion concerning methods of performance, AIG shall provide and pay for all work required to maintain the turf areas at the Facilities (including but not limited to all baseball fields, pitching mounds, batting cages, agility fields), dirt tracks and other structures related directly to the baseball fields, and common landscaping areas as depicted on Exhibit D, in first-class condition for the purposes contemplated within this Agreement. Such obligation shall run for the entire Term of this Agreement, and not just during any applicable Spring Training Season.

(2) Equipment. The obligations of AIG described in Paragraph 17(a)(1) include the obligation of AIG to provide and pay for all equipment required for such maintenance. AIG acknowledges that certain equipment required for such work either currently does not exist at the Facilities or is in need of replacement. AIG shall work in good faith to complete such equipment's acquisition or replacement no later than December 31, 2014.

{00071390.1}

(3) City Obligations. At its sole cost and expense, the City shall provide and pay for all work required (including equipment) to maintain the soccer fields, parking fields, berms and common landscaping areas as depicted on Exhibit D.

(4) Public Procurement. To the extent that AIG's obligations pursuant to this Paragraph 17 require compliance with public bidding or procurement procedures, AIG shall observe and comply with such procedures.

(b) Utilities. The Parties shall be responsible for utilities in the following manner.

(1) AIG shall pay and be solely responsible for (a) its telephone, cable and data costs during the Spring Training Season at Hohokam Park, (b) its telephone, cable and data costs in the main clubhouse building at Fitch Park at all times, and (c) the cost of all individually-metered utilities (water, electric, gas, sewer) for the main clubhouse building at Fitch Park in excess of \$100,000.00 per calendar year.

(2) The City shall pay and be solely responsible for (a) all utilities at Hohokam Park except for AIG's telephone, cable and data costs during the Spring Training Season, (b) all telephone, cable and data costs outside the main clubhouse building at Fitch Park (if any); (c) the cost of all individually-metered utilities (water, electric, gas, sewer) for the main clubhouse building at Fitch Park up to \$100,000.00 per calendar year, and (d) all cost of all utilities outside the main clubhouse building at Fitch Park. For the avoidance of doubt and as part of the foregoing, the City shall pay for all field water necessary for both Parties' turf maintenance, groundskeeping and common area landscaping obligations pursuant to this Paragraph 17.

(c) Janitorial Services. City shall provide and pay for the cost of all janitorial services throughout the Facilities, except that AIG shall pay for (i) one-half of all janitorial service at Hohokam Park during the Spring Training Season; (ii) all janitorial costs for the main clubhouse building at Fitch Park at all times; and (iii) all janitorial costs for any and all other office space during time periods in use by AIG. AIG shall have the right, at any point throughout the Term and in its sole discretion, to begin providing janitorial services for any or all other parts of the Facilities. City shall reimburse AIG for the cost of any additional janitorial services assumed by AIG that have been publicly bid in accordance with all applicable public bidding requirements.

(d) Security and Traffic. During the Term:

(1) The Facilities Improvements shall include the installation and set-up of an electronic door-entry (that is, not video) security system covering the entire Facilities. Thereafter during the Term, the City shall pay all ongoing costs, including but not limited to operating costs, maintenance costs (including, if reasonably necessary, repair and/or replacement of the system with a system of equal or greater value) and monthly monitoring and technical assistance costs.

(2) AIG shall provide and pay for all security and traffic/parking personnel for AIG Events. The City shall provide and pay for all security and traffic/parking personnel for City Events.

(e) Signage.

(1) Directional Signage. The City, at its own cost, shall maintain all external signage directing the public to the Facilities.

(2) Internal Signage. AIG, at its sole cost and expense, may design and install new signs within those portions of the Facilities for which it has an exclusive right to occupancy (or otherwise upon City approval), provided that such signs (a) comply with any Applicable Laws or standard City policies (including the limitations of Paragraph 17(g)(3) of this Agreement) and (b) are intended to be visible primarily by individuals inside the Facilities. AIG may keep such signs in place throughout the Term, provided that upon request from the City, AIG shall cover such signs during periods of use of the Facilities by the City.

(3) External Signage. Subject to compliance with all applicable MLB Rules and Regulations, the City shall control the design, maintenance and installation of all other signs and signage within the Facilities, unless otherwise agreed to by the Parties.

(f) Operations. Except as otherwise provided herein, at all times during the Term:

(1) Revenues.

(i) AIG shall control, collect, receive and retain all revenues deriving from its baseball and related operations at or in connection with the Facilities, including but not limited to all revenues from ticket sales and distribution, food and beverage sales, merchandise sales, product and other retail sales, concessions, novelties, parking, telecast and broadcast rights, pouring rights, advertising, sponsorship, promotional and signage rights, naming rights (except for the City's Facilities-wide naming rights as provided in Paragraph 17(g), and revenue generated from City Events), luxury suite sub-licenses and any other revenues, consideration, barter, trade, in-kind or other benefits however derived or generated. Subject to the terms of this Agreement, AIG shall be solely and exclusively responsible for all taxes required to be collected or paid with respect to all such revenues collected by AIG.

(ii) City shall control, collect, receive and retain all revenues deriving from City Events or paid to the City under any Facilities-wide naming rights agreement pursuant to Paragraph 17(g); provided, however, that any such activities that in any way relate to or are in connection with MLB, AIG or Team are subject to prior approval by MLB and AIG, as the case may be, and that all revenues deriving from such activities shall be paid in full to MLB and/or AIG, as applicable and as determined by MLB and AIG. Subject to the terms of this Agreement, the City shall be solely and exclusively responsible for all taxes required to be collected or paid with respect to all such revenues collected by the City.

(2) Operations, Expenses and Contracts. Unless otherwise provided in this Agreement, each Party shall have control over, and shall pay all costs directly in connection with, its own operations. Either Party, in its sole discretion and subject to this Agreement and Applicable Laws, may take any and all actions and utilize any and all processes it deems appropriate to exercise its revenue-generation rights, including but not limited to retaining Third Parties.

(3) AIG Contracts and Rights of Entry. AIG, at its sole cost and expense, and subject to the City's prior reasonable written consent, may retain Third Parties to perform any and all work under AIG's control pursuant to this Agreement. In connection therewith, and subject to the foregoing, the City hereby grants, for the duration of the Term and subject to all requirements of this Agreement and Applicable Laws:

(i) To AIG, the right to enter into contracts in AIG's name or the name(s) of any of its Affiliates, as AIG in its sole discretion deems appropriate, in connection with any Facilities-related work under AIG's control pursuant to this Agreement. All such contracts shall be consistent with the terms and conditions of this Agreement.

(ii) To all AIG-retained Third Parties, the right of reasonable entry to the Facilities and the right to move freely about the Facilities for all purposes desired by AIG and pursuant to the terms and conditions of this Agreement.

(g) Naming Rights. During the Term:

(1) Facilities-Wide Rights. The City retains the right to enter into a naming rights agreement (or naming rights agreements) related to the entire Facilities or the entirety of any of Hohokam Park, the Stadium and/or Fitch Park). Any such naming rights agreement(s) shall require AIG's prior written consent in each instance (which shall not be unreasonably withheld, conditioned or delayed) and shall not, absent AIG's prior written consent, (i) contain any exclusivity or other restrictions concerning the sale of internal rights described in Paragraph 17(g)(2) below, or (ii) be with a competitor of any company to which AIG has granted exclusive rights (either for the Spring Training Season or Regular Season) at the time the City seeks to enter into its agreement or agreements.

(2) Internal Rights. Subject to the City's prior approval which shall not be unreasonably withheld, AIG shall have the right to enter into fixed-term naming rights and/or sponsorship agreements covering any internal portions of Hohokam Park, the Stadium and/or Fitch Park (for instance, without limitation, naming rights/sponsorship agreements for the Stadium bullpen or premium seating areas, as well as certain areas forthcoming in the Facilities Improvements or future Capital Improvements, including without limitation the planned party decks and "grotto" bar at the Stadium) for which AIG has an exclusive use (or otherwise upon City's approval); provided that such naming or sponsorship agreements are subject in all events to the limitations set forth in Paragraph 15(b)(7), Paragraph 17(e) and Paragraph 17(g)(3).

(3) Limitations. The City's approval of any naming or sponsorship relationship shall not be withheld as long as the names(s) or sponsorship(s) do not include (i) any

{00071390.1}

name of any municipality in Arizona other than the City (for example, no University of Phoenix stadium); (ii) names of tobacco manufacturers or distributors; (iii) sexually suggestive names or names of businesses that promote adult business, activities or entertainment; (iv) products or merchandise related to sexual activity; or (v) names of any nature (whether explicit or implicit) that could reasonably bring disrepute, shame or opprobrium upon the City.

(4) Use of Hohokam/Fitch Name and Image. Subject in all events to the prior approval of such use by the City, which approval will not be unreasonably withheld, all rights to use or license the names and images of Hohokam Park or Fitch Park (as they are named and exist now and as they shall be named and exist at any point during the Term) are controlled by AIG on an exclusive basis to the extent that such use in any way relates to or is in connection with MLB, AIG or Team. Nothing herein, however, shall be interpreted to limit the City's right to use or license such names and images in any other manner, nor to limit the City's ability to refer to the Facilities in connection with Team (for instance, City may refer to the Facilities as the "Spring Training Home of the Oakland A's").

(h) Broadcasting. AIG shall possess and retain all rights relating to the broadcasting of any AIG Event via any media. City has the right to charge Third Parties (but not AIG) reasonable hookup fees for television production trucks or similar support equipment, provided that such fees shall be reasonably comparable to similar fees charged at other Cactus League facilities.

18. Facilities Maintenance and Repair. At all times during the Term:

(a) City Obligations. City shall keep the Facilities and all of its structures and facilities in a condition for the purposes contemplated within this Agreement (that is, to the standard of an MLB Spring Training facility). Accordingly, the City shall provide and pay for all Maintenance and Repairs, provided that the City shall not be responsible for any such work or costs arising from the gross negligence or willful misconduct of AIG or its employees, retained Third Parties or other agents. AIG may, in its discretion, elect to perform and pay for such Maintenance and Repairs (including but not limited to the installation of equipment, fixtures and facilities) and in each such instance shall be reimbursed by the City for all reasonable costs associated therewith; provided that AIG acknowledges that certain Maintenance and Repairs may require public bidding under the City purchasing and procurement requirements. Neither Party shall pay for any Maintenance or Repairs with funds from the Capital Improvement Fund unless it has the other Party's prior written consent. For the purposes of this Paragraph 18:

(1) **"Maintenance"** means all actions, whether or not periodic in nature, to maintain the Facilities as agreed herein and to preserve the continuous operational status of all systems, equipment and other components thereof over their reasonably anticipated useful life.

(2) **"Repair"** means any work, generally non-recurring and non-periodic in nature, to repair, restore to operational status or replace where necessary any part of the Facilities or any system, equipment or other component located in the Facilities.

19. Capital Improvements. AIG and the City acknowledge the importance of the Facilities remaining at the forefront of all Cactus League facilities. During the Term:

(a) Capital Improvement Fund. The City and AIG shall establish a capital improvement fund (“**Capital Improvement Fund**”) to be maintained by the City, to which the City and AIG shall each contribute Twenty-Five Thousand Dollars (\$25,000.00) by January 15, 2015. The Capital Improvement Fund shall be established by a separate bookkeeping entry in the City’s accounts, and shall not be a separate account. Thereafter, on or before January 15th of each year during the Term, AIG and the City shall each contribute Twenty-Five Thousand Dollars (\$25,000.00) to the Capital Improvement Fund. Either Party may deposit additional funds into the Capital Improvement Fund at any time, and shall do so as necessary to satisfy such Party’s obligations hereunder. The Capital Improvement Fund shall earn interest to the extent permitted by Applicable Laws. The City shall keep record of all deposits to and withdrawals from the Capital Improvement Fund, ensuring the separation of such deposits into two (2) categories: (i) funds deposited by the City pursuant to this Paragraph 19 (“**City Funds**”); and (ii) funds deposited by AIG pursuant to this Paragraph 19 (“**AIG Funds**”). Any and all interest earned on the Capital Improvement Fund shall be allocated pro rata among those categories of funds. The City shall provide AIG an accounting with respect to the Capital Improvement Fund each calendar quarter during the Term. AIG also shall have the right to inspect the City’s records at any time upon request.

(b) Interim Capital Improvements. Either the City or AIG may propose Capital Improvements to the Facilities at any time, including the replacement of any part(s) of the Facilities or the installation of new assets (“**Interim Capital Improvements**”). All Interim Capital Improvements shall require both Parties’ written consent. The City shall cause all Interim Capital Improvements to be completed within a reasonable time. Interim Capital Improvements shall be paid by the Capital Improvement Fund and charged equally against City Funds and AIG Funds (including any interest earned thereon).

(c) Scheduled Capital Improvements. The City acknowledges that certain Capital Improvements shall be necessary throughout the Term in order to ensure that the Facilities exists as a first-class Spring Training facility. Upon the commencement of each of the tenth (10th) and twentieth (20th) years of the Term (provided, with respect to Scheduled Capital Improvements to be made during the twentieth (20th) year of the Term, that AIG has provided written notice to the City on or before the expiration of Year 17, that AIG is waiving its right pursuant to Paragraph 25(d) of this Agreement through and including Year 20), the Parties shall evaluate the Facilities to identify, and the City shall pay for and cause to be promptly designed, engineered, permitted, purchased, installed and/or constructed, as applicable, through Completion, all improvements that are reasonably determined by the Parties to be required (i) to include features found in the facilities in which at least five (5) other Cactus League clubs conduct Spring Training, and/or (ii) to replace certain capital items that may require replacement at such time, including (by way of example) playing field turf, stadium lighting, HVAC systems, seats, concession areas and scoreboards (“**Scheduled Capital Improvements**”).

(d) Exceptions. Notwithstanding the foregoing, any Capital Improvements that are required as the result of the gross negligence or willful misconduct of either Party or {00071390.1}

such Party's employees, retained Third Parties or other agents shall be the sole responsibility of that Party.

(e) Release of Funds Upon Termination. Upon the expiration or earlier termination of this Agreement, any accounts payable from the Capital Improvement Fund shall be satisfied pursuant to the terms and conditions contained herein. No later than thirty (30) calendar days after the later of the expiration or earlier termination of this Agreement or the satisfaction of such accounts payable, the Parties shall cause all remaining funds in the Capital Improvement Fund to be released as follows, provided that the City shall comply with all legal obligations it has with respect to any funds released to it:

(1) City Funds (including interest earned thereon): One hundred percent (100%) to the City; and

(2) AIG Funds (including interest earned thereon): One hundred percent (100%) to AIG.

(f) Procurement of Capital Improvements. All contracts for the design, engineering, permitting, purchase, installation or construction, as applicable, of Capital Improvements must be procured in accordance with Applicable Laws. Without limiting the foregoing:

(1) City Performance. The City shall cause all Capital Improvements to be Completed unless the Parties otherwise agree in writing. The City, after consultation with AIG, shall select the contractors and vendors for such work in accordance with Applicable Laws including the City standard protocols, including obtaining:

(i) Bonds. Payment and performance bonds from all contractors performing such work; and,

(ii) Warranties. At a minimum, one-year warranties from all Third Party contractors performing such work, provided the cost of any warranties obtained hereunder by the City (or AIG) shall be paid using funds from the Capital Improvement Fund.

(g) Third-Party Beneficiary. The City will use commercially reasonable efforts, but at no additional cost or expense to the City, to cause AIG to be named as a third-party beneficiary of, and as an additional insured and indemnified party in, all contracts for Capital Improvements entered into by the City. The City will use commercially reasonable efforts, but at no additional cost or expense to the City, to cause AIG to be named as a third-party beneficiary of (and AIG shall have the right to request that the City enforce its rights thereunder) any contract or agreement, including under any payment and performance bonds, warranties or insurance coverage obtained in connection with any such contract or agreement, in respect of any and all Capital Improvements undertaken by the City, provided, prior to exercising its rights as a third-party beneficiary, AIG shall provide the City with notice and a reasonable opportunity to enforce the contract or agreement at issue. The City agrees, at no additional cost or expense to the City, to cooperate with AIG in the exercise of its rights as a third-party beneficiary including

{00071390.1}

pursuing claims under payment and performance bonds, warranties and insurance coverage. Any exercise by AIG of its rights as a third-party beneficiary shall not relieve the City of any of its obligations hereunder.

(h) Performance of Work. Regardless of whether AIG or the City is responsible for procuring or supervising any contract for the design, engineering, permitting, purchase, installation and/or construction of any Capital Improvements, the responsible Party shall cause the procurement and work (as applicable) to be Completed as promptly as possible, in a good and workmanlike manner, and all contracts or other agreements for such work shall require the contractor(s) to promptly correct all defects in workmanship and materials used in such work. All such work shall be conducted in a manner so as to eliminate, or if elimination is not possible, to minimize, interference with AIG's operation and use of the Facilities. All such work shall be scheduled, whenever possible, for commencement and Completion at times other than during any Spring Training Season.

(i) Disposition of Facilities Equipment. Without the prior written consent of AIG, the City shall not remove or dispose of any Facilities Equipment from the Facilities at any time including, without limitation, during the performance of any Capital Improvements.

(j) Open Communication. Each Party shall keep the other Party reasonably informed of the status of such Party's activities with respect to all material matters relating to any Capital Improvements including, without limitation, any material occurrences or issues relating to the Capital Improvements Fund, the bank or other financial institution account or the design, engineering, permitting, purchase, installation or construction, as applicable, of any Capital Improvements.

20. Damage and Destruction. In the event of damage to or destruction of the Facilities in whole or in part:

(a) Decision to Rebuild. If any part of the Facilities is damaged or destroyed by fire, flood or other casualty, but to such an extent that the Facilities remains substantially suitable for AIG's activities at the Facilities as contemplated herein, this Agreement shall continue in full force and effect and the City shall repair and rebuild the Facilities with reasonable diligence to its condition immediately before such loss. If such damage or destruction is total or of such extent as would materially interfere with AIG's activities at the Facilities as contemplated herein, then the City may elect not to repair or rebuild the Facilities by providing written notice to AIG within thirty (30) calendar days of the damage or destruction. In the event of such notice, AIG may terminate this Agreement immediately by providing to the City written notice of AIG's intent to do so within thirty (30) calendar days of its receipt thereof. If the City does not timely notify AIG of the City's election not to repair or rebuild, this Agreement shall continue in full force and effect and the City shall rebuild or repair such damage or destruction to the condition immediately preceding such damage or destruction; provided, however, that in the event of damage or destruction that has been caused in whole or in part by the negligent or intentional acts of AIG or its Affiliates, or their employees, agents, contractors, then the cost of repair, restoration and rebuilding shall be paid by AIG and AIG shall have no right to terminate this Agreement.

{00071390.1}

(b) Abatement. If, as the result of any repair, restoration or rebuilding hereunder, there is any period of substantial interference with AIG's operations at the Facilities, AIG shall have the right, notwithstanding anything herein to the contrary, to utilize and schedule at other locations all of its activities covered by this Agreement (including but not limited to Spring Training Games), with such equitable abatement of all obligations due from AIG to the City under this Agreement during such period.

(c) Failure to Repair or Rebuild. If the City is obligated to repair or rebuild the Facilities and does not commence such work within thirty (30) calendar days after the damage or destruction occurs, or if the City timely commences such work but (i) does not diligently complete the work; (ii) ceases the work for fifteen (15) or more consecutive calendar days; or (iii) does not complete the work within six (6) months after commencement, then AIG may terminate this Agreement immediately by giving the City written notice of its intent to do so. In the event of such termination, the terms of Paragraph 4(c) shall apply.

(d) City Damage. If any such repair, restoration or rebuilding is necessary because of City's actions in damaging the Facilities and AIG must seek alternate facilities as a result, City shall exercise diligent, good faith efforts to assist AIG in locating such alternate facilities and the terms of Paragraph 4(c) shall apply.

21. Condemnation.

(a) Entire or Substantial Taking. If, during the Term: (i) the Facilities, in whole or in any part, is appropriated or taken by any governmental authority with the power of eminent domain ("**Condemning Authority**"), or sold in lieu of or in anticipation of condemnation by a Condemning Authority, (ii) AIG determines, in its sole discretion, that its effective exercise of its operational and use rights under this Agreement is materially interfered with as a result of such condemnation; and (iii) the City cannot cause such condemned part(s) of the Facilities to be timely and reasonably restored or rebuilt, AIG may provide notice to the City to terminate this Agreement with such termination effective as of the date that the Condemning Authority takes title or possession, whichever first occurs. In the event of such condemnation, City shall exercise diligent, good faith efforts to assist AIG in locating alternate facilities for AIG's use, but at no cost or expense to the City unless the provisions of Paragraph 21(d) apply.

(b) Partial Taking. If any part of the Facilities is appropriated or taken by a Condemning Authority and (i) AIG determines, in its sole discretion, that its effective exercise of its operational and use rights under this Agreement are not materially interfered with or (ii) the City can cause such condemned part(s) of the Facilities to be timely and reasonably restored or rebuilt such that AIG's operational and use rights under this Agreement will be reinstated without material interference, this Agreement shall remain in full force and effect, except that AIG shall receive a full or partial abatement and suspension of its payment obligations—to the extent that it is deprived of the effective exercise of its operational and use rights under this Agreement—until the restoration or rebuilding of the condemned part(s) of the Facilities is completed. During such period of restoration or rebuilding, the City shall exercise diligent, good faith efforts to assist AIG in locating alternate facilities for AIG's use, but at no cost or expense to the City unless the provisions of Paragraph 21(d) apply.

{00071390.1}

(c) Awards. Subject to Applicable Laws, all awards and payments made for any taking or conveyance of all or any part of AIG's rights in respect of the Facilities, including but not limited to relocation damages, shall be paid to AIG in addition to any relocation benefits to which AIG may be entitled under Applicable Laws.

(d) City as Condemning Authority. If the City (or any governmental entity acting in concert with the City or otherwise under City's direction or control) is the Condemning Authority under this Paragraph 21, then the terms of Paragraph 4(c) shall apply.

22. Taxes and Assessments. With respect to taxes, assessments, fees, charges or other impositions (collectively, "**Impositions**") applicable to or implied on the Facilities, the Facilities Improvements or any other matters that are the subject of this Agreement:

(a) Property Taxes and Assessments. The City shall pay any and all real property Impositions including, without limitation, any transaction privilege tax or other similar Imposition (collectively, "**Real Property Taxes**") now or in the future levied, assessed or otherwise payable in respect of the Facilities or any part thereof.

(b) Discriminatory Impositions. AIG shall pay and is responsible for all federal, state, county and City Impositions, including all City income, sales and use taxes, payable on account of revenues reserved to or retained by AIG from the operational and use rights granted to, and exercised by, AIG under this Agreement.

(c) Other Impositions. The City shall reimburse AIG for any amounts paid by AIG relating to any City Imposition newly levied, assessed, enforced or otherwise payable by AIG in connection with the Facilities which is not referenced in Paragraphs 22(a) and (b) above and which is not in effect as of the Effective Date, unless such Imposition is applicable to all other residents and persons conducting business in the City. The reimbursement described in this Paragraph 22(c) shall include, without limitation, any City Imposition to recoup any portion of the amounts for which the City is obligated hereunder; provided that, subject to the foregoing:

(1) Stadium Events. The operator of any Stadium Event shall be responsible for and shall pay for any and all generally applicable processing and permit fees directly applicable to such Stadium Event.

(2) Future Construction. The responsible Party will pay all generally applicable construction-related Impositions in respect of future construction contemplated by this Agreement, including Capital Improvements (in which event such Impositions shall be paid from the Capital Improvements Account pursuant to Paragraph 17).

(d) AIG Remedies. Without limitation to any other AIG remedy:

(1) Reimbursement. If any Imposition which is the subject of the City's obligations under this Paragraph 22 is paid by AIG or otherwise collected from AIG by the applicable taxing authority (including the City), the City shall reimburse to AIG an amount equal to any such payment or collection within thirty (30) calendar days of the City's receipt of a

{00071390.1}

statement therefor, together with reasonable supporting documentation establishing payment or collection; and/or

(2) Reduction of Term/Offset. If the City fails timely to pay AIG any amount owed to AIG by the City under the preceding clause, then, at AIG's election and in addition to any other remedies available to it, AIG may offset or credit the amount of any such unpaid Imposition against any other amounts payable by AIG to the City under this Agreement.

23. Insurance.

(a) City's Insurance. City shall procure and maintain in full force and effect during the Term, at its sole expense, insurance of the types of coverage and limits of liability listed below. All insurance policies must be issued by an admitted insurance carrier with an A.M. Best rating of A-8 or better. City shall name as additional insureds, under the Commercial General Liability (using ISO Form CG2010 or its equivalent) and Commercial Automobile Liability and Umbrella Liability Policies, AIG and its Affiliate(s), directors, officers, employees and agents in connection with the operations of the City. All liability insurance policies must contain cross liability endorsements or their equivalents. Coverage for the additional insureds shall apply on a primary basis irrespective of any other insurance, whether collectible or not. Any and all self-insured retentions and deductibles shall be the sole responsibility of the City and shall not apply to AIG and its Affiliate(s), directors, officers, employees and agents. In the event of cancellation, non-renewal or material modification, the City shall provide AIG at least thirty (30) calendar days written notice thereof. Certificates of insurance evidencing compliance with all insurance provisions noted above shall be delivered upon request. Notwithstanding the foregoing, the City may self-insure against any of the risks set forth in this Paragraph 23, and shall provide a certificate of self-insurance to AIG with respect to any such coverage that the City elects to provide through self-insurance.

(1) Commercial General Public Liability Insurance. A commercial general liability insurance policy, including but not limited to providing coverage for bodily injury and property damage, contractual liability, personal injury liability, advertising liability and products/completed operations liability coverage, with a limit of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate.

(2) Workers' Compensation Insurance. Workers' Compensation Insurance as required by applicable state law, including, but not limited to, statutory Disability Benefits Liability and Employer's Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00).

(3) Automobile Liability Insurance. If the use of a motor vehicle is required for performance of any obligations under this Sponsorship Agreement, Automobile Liability Insurance that covers Bodily Injury and Property Damage Coverage, and including Owned, Non-Owned, Leased, and Hired Auto Liability and associated defense costs, with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence.

(4) Umbrella Liability Insurance. Umbrella liability insurance, in excess of the policies required above, with a limit of not less than Thirty Million Dollars (\$30,000,000.00) per occurrence and in the aggregate. Umbrella policies shall follow the form of the underlying policies.

(b) AIG/League-wide Insurance. AIG shall maintain insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by other MLB clubs, of such types and in such amounts as are customarily carried by other MLB clubs, but providing coverage as follows:

(1) Commercial General Public Liability Insurance. A commercial general liability insurance policy, including but not limited to providing coverage for bodily injury and property damage, contractual liability, personal injury liability, advertising liability and products/completed operations liability coverage, with a limit of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate.

(2) Workers' Compensation Insurance. Workers' Compensation Insurance as required by applicable state law, including, but not limited to, statutory Disability Benefits Liability and Employer's Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00).

(3) Automobile Liability Insurance. If the use of a motor vehicle is required for performance of any obligations under this Sponsorship Agreement, Automobile Liability Insurance that covers Bodily Injury and Property Damage Coverage, and including Owned, Non-Owned, Leased, and Hired Auto Liability and associated defense costs, with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence.

(4) Umbrella Liability Insurance. Umbrella liability insurance, in excess of the policies required above, with a limit of not less than Thirty Million Dollars (\$30,000,000.00) per occurrence and in the aggregate. Umbrella policies shall follow the form of the underlying policies.

AIG shall name (or cause to be named) as additional insureds, under the Commercial General Liability (using ISO Form CG2010 or its equivalent) and Commercial Automobile Liability and Umbrella Liability Policies, the City, its Council members, employees and agents in connection with the operations of AIG. All liability insurance policies must contain cross liability endorsements or their equivalents. Coverage for the additional insureds shall apply on a primary basis irrespective of any other insurance, whether collectible or not. Any and all self-insured retentions and deductibles shall be the sole responsibility of AIG and shall not apply to the City, its Council members, employees and agents. In the event of cancellation, non-renewal or material modification, AIG shall provide (or cause to be provided) to the City at least thirty (30) calendar days written notice thereof. Certificates of insurance evidencing compliance with all insurance provisions noted above shall be delivered upon request. Notwithstanding the foregoing, AIG may self-insure against any of the risks set forth in this Paragraph 23, and shall provide a certificate of self-insurance to the City with respect to any such coverage that AIG

{00071390.1}

elects to provide through self-insurance. The Parties acknowledge and agree that, notwithstanding anything to the contrary herein, participation by AIG in the league-wide insurance facility sponsored by MLB in material compliance with the foregoing shall be deemed to satisfy the requirements of AIG's insurance obligations in all respects.

(c) Casualty Insurance. If the Parties so elect, the City shall use commercially reasonable efforts to obtain a separate policy of casualty insurance with respect to the Facilities Improvements in an amount equal to the replacement cost of the Facilities Improvements, or such lesser amount as the City reasonably elects. The Parties thereafter shall share the cost of the premium (or premiums) for such casualty insurance based upon an allocation of use of the Facilities Improvements as reasonably determined by the Parties in good faith.

(d) Mutual Release and Waiver of Subrogation. To the extent permitted by any applicable contracts of insurance, or as otherwise agreed by their insurers, the City and AIG, on behalf of themselves and all others claiming under them (including any insurer) waive all claims, demands, or rights of indemnity that either of them may have against the other (including all rights of subrogation) arising out of damage to any property, real or personal, including the Facilities, resulting from fire or other casualties, no matter what the cause thereof may be. The parties waive their respective rights, as set forth herein, because adequate insurance is to be maintained by each of them to protect themselves against all such casualties and they have obtained or agree to obtain from their insurance carriers appropriate "waiver of subrogation" provisions in all such policies of insurance. If the City elects to self-insure for the exposures contemplated under Paragraph 23(a)(5) above, this waiver of subrogation shall be effective as if the City had purchased and maintained insurance as required in that Paragraph 23(a)(5).

24. Promotional Activities; Intellectual Property.

(a) Promotion by AIG. AIG agrees to perform the following promotional activities for the City, beginning in 2015 and continuing thereafter each year under the Term:

(1) All official game programs sold and distributed at Spring Training Home Games shall include a one-page advertisement acknowledging the City and its role in providing facilities for the Team and/or promoting the unique tourism attributes and attractions of the City. The copy for such advertisements shall be prepared by the City and supplied to AIG in camera-ready form and reasonably in advance of program publication to ensure their inclusion therein. The City may periodically update that copy consistent with its obligations herein. All content shall be subject to AIG's approval and shall comply with MLB Rules and Regulations. Each advertisement must be City-related and the City may not sell any advertisements or any content to a Third Party.

(2) AIG shall provide one (1) thirty second (:30) commercial radio spot during each Spring Training Game broadcast on the Oakland A's Radio Network during the Term. The commercial announcement will be provided by the City and will be designed for the sole purpose of promoting the unique tourism attributes and attractions of the City. All content shall be subject to AIG's prior written approval and shall comply with MLB Rules and

{00071390.1}

Regulations. Each spot must be City-related and the City may not sell any spots or any content to a Third Party.

(3) Notwithstanding anything to the contrary in this Agreement and throughout the Term, AIG shall make available, at AIG's cost and without any mark-up for profit, at least one (1) sign not less than either (a) four (4) feet by twenty (20) feet, or (b) seven (7) feet by fourteen (14) feet, located inside the Stadium at a location mutually determined by the Parties, to be available to the City to promote the City (provided, however, that no such sign shall include any advertising of or for a Third Party or in any way disparage AIG, its Affiliates or its vendors). All content, design and placement of all such signage and logos is subject to AIG's prior written approval and shall comply with MLB Rules and Regulations. Notwithstanding the foregoing, AIG's obligations hereunder are expressly conditioned upon the City and the CVB providing AIG with any proposed changes to such signage and logos on or before January 1st of each calendar year during the Term, failing which AIG's obligations to make such changes will be deemed waived until the following calendar year.

(4) One (1) player and/or publicly recognizable Team member shall make a public appearance at two (2) events at area schools, youth facilities or City facilities in support of local programs or organizations serving children or residents of the City. AIG shall select such players and/or Team members in its sole discretion. Locations for appearances shall be selected within Maricopa County with the intent to best serve youths recognized as underprivileged, at-risk or having other special needs. City shall be responsible for any costs or expenses related to such public appearances. AIG's obligations hereunder are expressly conditioned upon the City providing AIG with its request for such public appearance, including requested dates, times and other necessary information, on or before January 1st of each year under the Term, failing which AIG's obligations in such regard will be deemed waived until the following calendar year.

(5) As used in this Paragraph 24 only, the term "City" shall include the City, the CVB, the Chamber of Commerce, or non-profit municipal groups or organizations.

(b) Promotion by City. At no cost or expense to the City, the City agrees to investigate and actively pursue opportunities to increase public awareness of Team's Spring Training presence and activities, including but not limited to the following:

(1) The City will encourage and assist in activities encouraging fans from Team's MLB Home Television Territory (as defined by MLB) to attend Team's Spring Training activities.

(2) The City will distribute Team-related promotional materials and information within the community and at its convention and visitors' centers.

(3) The City will actively participate in the Cactus League Association or such successor or substantially similar organization(s) as shall be in operation throughout the Term.

(c) Intellectual Property.

(1) MLB Marks. Nothing herein shall be deemed to provide the City any right whatsoever to use any names, word marks, logos, uniform designs, mascots, images, colors and color combinations, trade dress, characters, symbols, designs, likenesses and/or visual representations, owned, controlled, first used and/or applied for or registered with the United States Patent and Trademark Office by MLB (collectively, “**MLB Marks**”).

(2) Team Marks. The City:

(i) Acknowledges the proprietary nature of all names, word marks, logos, uniform designs, mascots, images, colors and color combinations, trade dress, characters, symbols, designs, likenesses and/or visual representations owned, controlled, first used and/or applied for or registered with the United States Patent and Trademark Office by AIG (such marks are collectively referred to herein as “**Team Marks**”). The City further acknowledges that all rights, title, and interest to the Team Marks belong to AIG. The City agrees that during the Term and after the expiration or termination of this Agreement it shall refrain from any use of any of the Team Marks, any mark that is confusingly similar to any of the Team Marks, any mark that is dilutive of any of the Team Marks and/or any mark that is likely to mislead the public into falsely believing that there is an affiliation or relationship between the City and AIG without first obtaining AIG’s prior written consent. The City further acknowledges that for purposes of this Paragraph 24(c), “use” includes, but is not limited to, trademark, fair, incidental, descriptive or functional uses.

(ii) Acknowledges the proprietary nature of all copyright rights that are owned, controlled or licensed by AIG including, without limitation, all accounts, descriptions, radio broadcasts, television broadcasts and streamed versions of all Games and events involving AIG (and excerpts thereof). The City hereby covenants that it will not use any of the foregoing without the prior written consent of AIG.

(iii) Represents and warrants that it will not conduct in the future any promotions, ticket giveaways, contests or sweepstakes relating to or associated with AIG without obtaining the prior written consent of AIG.

(3) City Marks. AIG acknowledges the City’s ownership of and rights in the City’s name, trademarks, tradenames, service marks, logos, emblems, insignias and other identification (the “**City Marks**”), including the City’s exclusive and unconditional right to control the use and licensing of such City Marks. AIG shall not use any City Marks without the prior written consent of the City, and upon such terms and conditions as the City may require, provided, however, that the City hereby provides AIG such consent necessary to effect the terms and conditions of this Agreement (such as, without limitation, the right for AIG to broadcast any visible City Marks within a television broadcast). Further, all rights to use or license the City Marks (as they are named and exist now and as they shall be named and exist at any point during the Term) are controlled by AIG on an exclusive basis to the extent that such use in any way relates to or is in connection with MLB, AIG or Team. Nothing herein, however, shall be interpreted to limit the City’s right to use or license City Marks in any other manner.

{00071390.1}

25. Suspension and Termination Rights.

(a) MLB Minimum.

(1) If fewer than six (6) other Major League Baseball Clubs participate in Cactus League Spring Training activities during any one (1) full calendar year during the Term (whether, for instance, from January 1st through December 31st of the same year or from June 1st through May 30th of the following year), AIG may, upon written notice to the City, suspend this Agreement, without cost to AIG or payment of any sums due during such time (and during which time no portion of the Facilities shall be available for use by AIG), until such time as AIG reasonably determines or when at least six (6) MLB teams participate in Cactus League Spring Training activities.

(2) If fewer than six (6) other Major League Baseball Clubs participate in Cactus League Spring Training activities for three (3) consecutive full calendar years during the Term, AIG may, upon written notice to the City, terminate this Agreement in its entirety. Any termination under this Paragraph 25(a) shall take effect on the tenth (10th) day after the last day of the Spring Training Season occurring in the year of the Term in which AIG provides such notice or, at AIG's election, on the tenth (10th) day after the last day of the Spring Training Season occurring in the succeeding year after notice.

(b) Change in City Regulations. If due to a change in City Regulations any payment or the performance of any material term or condition of this Agreement, in the manner and at the times provided for in this Agreement, is prevented or materially impaired and AIG cannot realize the practical benefits intended to be conferred by this Agreement, AIG may provide notice ("**Pre-Termination Notice (City Regulations)**") to the City of AIG's intention to terminate this Agreement. The Parties shall thereafter work in good faith to remedy the situation and restore AIG's position as close as reasonably possible as it existed before such change in City Regulations. If the Parties are unable to do so within thirty (30) calendar days after AIG's Pre-Termination Notice (City Regulations), AIG shall have the right to terminate this Agreement upon written notice to the City of AIG's intent to do so ("**Termination Notice (City Regulations)**"), such termination to be effective at AIG's option at any point up to May 1st after the following Spring Training Season. In the event of such termination, the City shall exercise diligent, good faith efforts to assist AIG in locating alternate facilities for AIG's use and the terms of Paragraph 4(c) shall apply.

(c) Applicable Laws. Except as otherwise provided herein, the Parties shall bear equally the risk of changes in or to Applicable Laws (other than City Regulations) during the Term, and changes in or to Applicable Laws (other than City Regulations) during the Term shall not be a Default of either Party under the terms of this Agreement or provide a basis generally for terminating this Agreement. If, however, changes in Applicable Laws prevent substantially either Party's benefit of the bargain pursuant to this Agreement, and the Parties are unable in such instance to remedy the matter, then the affected Party may terminate this Agreement, subject to Paragraph 31(a)(3), upon written notice to the other Party, with such termination to be effective at AIG's option at any point up to May 1st after the following Spring Training Season. Notwithstanding and without limitation to the foregoing, the Parties covenant

{00071390.1}

and agree to cooperate in all reasonable measures undertaken, to oppose any such change(s) in Applicable Laws that adversely impact AIG's rights under this Agreement.

(d) Early Termination. Following the fifteenth (15th) or any later Spring Training Season during the Term, AIG may provide notice to the City of its election to terminate this Agreement, specifying the termination date which shall be: (i) if such notice is given during a Spring Training Season, on the tenth (10th) day following the end of that Spring Training Season; or (ii) if notice is given after a Spring Training Season, then on the tenth (10th) day after the date of the notice; provided, in either such event, that AIG shall pay to the City the sum of One Million Dollars (\$1,000,000.00) for each Spring Training Season that would have occurred subsequent to the termination date and prior to the last day of the twentieth (20th) Spring Training Season following the Commencement Date (the "**Early Termination Payment**"). The Early Termination Payment shall be payable to the City annually, on or before the date which is thirty (30) days following the last day of each Spring Training Season which would have occurred subsequent to the early termination date and prior to expiration of the twentieth (20th) Spring Training Season following the Commencement Date; provided, however, that the City shall use commercially reasonable efforts to find a replacement Major League Baseball Club to conduct Spring Training activities at, and/or another Third Party to operate and use, the Facilities and, in any such event, the balance of AIG's Early Termination Payment obligations shall be waived in its entirety upon such replacement Major League Baseball Club taking possession of the Facilities. Notwithstanding the foregoing, no Early Termination Payment shall be required in connection with, and AIG shall have no cost or obligation with respect to, any termination of this Agreement by AIG as otherwise provided in this Agreement.

26. Default. Subject to the provisions of Paragraph 27:

(a) Default and Cure Period. If either Party fails to perform a material obligation under this Agreement and such failure continues for a period of thirty (30) calendar days from such Party's written notice thereof ("**Cure Period**"), such failure shall constitute a default under this Agreement ("**Default**"). Where such Default is a non-monetary Default and more than thirty (30) calendar days reasonably are required to perform or otherwise comply with this Agreement, the Cure Period shall be extended by such additional time as reasonably necessary (not exceeding sixty (60) total calendar days or such other time period as shall be agreed by the Parties in writing) for the Party in Default ("**Defaulting Party**") to cure such Default, provided that the Defaulting Party commences performance or compliance within the initial Cure Period and thereafter diligently and in good faith pursues performance or compliance in a manner reasonably calculated to cure the Default, with any excess cost or expense incurred as a result of such Default being the obligation solely of the Defaulting Party.

(b) Default Notice. Any notice of an alleged Default ("**Default Notice**") shall specify (i) the nature of the alleged Default and (ii) the manner in which the Default may be cured to the satisfaction of the Party not in Default ("**Non-Defaulting Party**").

(c) Termination. If a Defaulting Party does not cure its Default as provided herein, the Non-Defaulting Party may provide notice of termination ("**Termination Notice**").

{00071390.1}

(**Default**)”), such termination, subject to Paragraph 31(a)(3), to be effective at the Non-Defaulting Party’s option any point up to May 1st after the following Spring Training Season.

(d) Effect of City Default. If a City Default materially impairs AIG’s use of the Facilities, AIG may, upon written notice to the City, immediately suspend its activities at the Facilities, withhold any payments due to the City and utilize any alternative facilities that AIG in its sole discretion deems suitable. In such event, the City shall exercise diligent, good faith efforts to assist AIG in locating alternate facilities for AIG’s use and the terms of Paragraph 4(c) shall apply.

(e) Other Remedies. Any termination under this Paragraph 26 shall not act to release a Defaulting Party from any payment or performance obligations then due, nor shall it preclude the Non-Defaulting party from seeking and recovering any and all remedies available to it under Applicable Laws; provided, however, that a Non-Defaulting Party may seek to recover only actual damages from the Defaulting Party, hereby waiving its rights to seek or recover consequential, exemplary, special, punitive or multiple damages from the Defaulting Party. Notwithstanding the foregoing, in the event of non-Completion pursuant to Paragraph 4(b), the failure of the City to repair or rebuild all or any portion of the Facilities pursuant to Paragraph 20(c) or 20(d), a partial or total condemnation of the Facilities by the City pursuant to Paragraph 21, a termination as a result of a change in City Regulations pursuant to Paragraph 25(b), or a Default that materially impairs AIG’s use of the Facilities pursuant to Paragraph 26(d), then AIG’s sole and exclusive remedy shall be its rights set forth and described in Paragraph 4(c).

(f) Dispute Resolution. The Parties shall cooperate, diligently and in good faith, to resolve all matters under this Agreement, provided if either Party believes the other Party is not making required payments or performing in accordance with the terms and conditions of this Agreement or performing in a commercially reasonable manner in connection with any matter, such Party (“**Objecting Party**”) may invoke the provisions of this Paragraph 26(f) and provide notice to the other Party (“**Objection Notice**”) identifying the matter objected to with reasonable specificity. In such event, within three business days of the other Party’s receipt of such Objection Notice, representatives of the City and AIG shall meet, telephonically or in person, in an effort to resolve such objection. If such objection is not able to be resolved to the satisfaction of the City and AIG at the conclusion of such meeting, then either Party may invoke the dispute resolution process delineated on Exhibit C attached to this Agreement (the “**Dispute Resolution Process**”), by written notice to the other Party.

27. Force Majeure. Neither Party shall be considered in Default under this Agreement in the event of a delay due to causes beyond such Party’s control and without such Party’s fault (“**Force Majeure**”), including but not limited to the following: acts of God, acts of a public enemy, acts of terrorism, fires, floods, earthquakes or other natural disasters, unusually severe weather, epidemics, quarantine, restrictions, embargoes, strikes or labor disputes (MLB or otherwise), acts of the federal or state government, and acts of Third Parties (including contractors, subcontractors and suppliers) resulting in delay beyond the reasonable control of such Party. In the event of Force Majeure:

(a) The time(s) for performance for the affected Party shall be extended throughout the event of Force Majeure, provided that the affected Party notifies the other Party of such Force Majeure event within three (3) business days of such event's commencement or, if such timely notice is impossible, as soon as reasonably practicable thereafter; provided, however, that if the affected Party's performance is prevented by Force Majeure for a period of thirty (30) consecutive calendar days, the other Party may terminate this Agreement with such termination to be effective at that Party's option at any point up to May 1st after the following Spring Training season.

(b) AIG shall have the right, in the event of any Force Majeure affecting either Party and materially impacting AIG's use of the Facilities, to move to and utilize such other facility for any purpose that AIG in its sole discretion deems appropriate.

(c) The affected Party shall notify the other Party within three (3) business days of the end of the Force Majeure period.

28. Representations and Warranties. The Parties represent and warrant to the other Party as follows.

(a) The City. The City represents and warrants to AIG that, as of the Effective Date:

(1) The City's execution and approval of this Agreement is in compliance with the procedural requirements of the City Charter and City Code.

(2) The City will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement and evidence this Agreement.

(3) The City knows of no litigation, proceeding, initiative, referendum or official investigation contesting the powers of the City or its officials with respect to this Agreement, including but not limited to the City's execution, delivery and performance hereof.

(4) The City's execution, delivery and performance of this Agreement is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which the City is a party or is otherwise subject.

(5) The City holds fee simple title to the Facilities, free and clear of any liens or encumbrances.

(6) The City has all necessary authority and power to grant all rights to AIG contemplated under this Agreement.

(7) The City has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

For the purposes of this Paragraph 28(a), the “knowledge” of the City shall be deemed to refer only to the knowledge (whether actual or constructive, as applicable) of the City Manager as of the Effective Date, and solely in his capacity as the City Manager, including in no event shall he be personally liable for any representation or warranty contained in this Agreement.

(b) AIG. AIG represents and warrants to the City that, as of the Effective Date:

(1) AIG is the sole owner of Team and, subject to MLB Rules and Regulations, is the sole holder of all operating and franchise rights with respect thereto that affect AIG’s rights and obligations under this Agreement and all MLB Governing Documents in existence as of the Effective Date.

(2) AIG’s execution and approval of this Agreement complies with AIG’s formation, organizational and operating documents.

(3) AIG will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement and evidence this Agreement.

(4) AIG knows of no litigation, proceeding or official investigation contesting the powers of AIG or its officers with respect to this Agreement including AIG’s execution, delivery and performance hereof..

(5) AIG’s execution, delivery and performance of this Agreement is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which AIG is a party of is otherwise subject.

(6) AIG has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

For the purposes of this Paragraph 28(b), the “knowledge” of AIG shall be deemed to refer only to the knowledge (whether actual or constructive, as applicable) of the President of AIG as of the Effective Date, and solely in his capacity as the President of AIG, including in no event shall he be personally liable for any representation or warranty contained in this Agreement.

29. Indemnification.

(a) Indemnification by AIG. To the fullest extent permitted by Applicable Laws, AIG shall indemnify, defend, pay and hold harmless the City and its officers, agents, employees and City Council members, and each of their respective successors and assigns (collectively, “**Indemnified City Parties**”) for, from and against any and all “Liabilities,” including for any “Bodily Injury” or “Property Damage” (as such terms are defined below in Paragraph 29(c)) whatsoever arising directly out of or resulting from the following, provided that such indemnity shall not apply to the extent any such liabilities are caused by the negligence or willful misconduct of the Indemnified City Parties nor to the extent the Indemnified City Parties

have expressly undertaken the obligation to indemnify AIG for such Liabilities pursuant to the terms of this Agreement:

(1) The material breach of a representation or warranty of AIG made under this Agreement;

(2) The negligent acts or omissions of AIG or its agents, contractors or employees occurring in, on or about the Facilities; or

(3) The use, occupancy or operation by AIG of any part of the Facilities.

(b) Indemnification by City. To the fullest extent permitted by Applicable Laws, the City shall indemnify, defend, pay and hold AIG and its Affiliates, and the respective officers, agents, employees, directors, shareholders and partners of each, and the respective successors and permitted assigns of AIG and its Affiliates (collectively, “**Indemnified AIG Parties**”) harmless for, from and against any and all Liabilities, including for any Bodily Injury or Property Damage, whatsoever arising out of or resulting from the following, provided that such indemnity shall not apply to the extent any such liabilities are caused by the negligence or willful misconduct of the Indemnified AIG Parties nor to the extent the Indemnified AIG Parties have expressly undertaken the obligation to indemnify the City for such Liabilities pursuant to the terms of this Agreement:

(1) The material breach of a representation or warranty of the City made under this Agreement;

(2) The negligent acts or omissions of the City, or the City’s agents, contractors or employees occurring in, on or about the Facilities; or

(3) The ownership, use, occupancy or operation by the City of any part of the Facilities.

(c) Definitions. As used in this Paragraph 29:

(1) “**Liabilities**” means all liabilities, claims, damages, losses, penalties, litigation, demands, causes of action (whether in tort or contract, in law or equity or otherwise), suits, proceedings, judgments, disbursements, charges, assessments and expenses (including reasonable attorneys’ and expert fees and expenses incurred in investigating, defending or prosecuting any litigation, claim or proceeding, whether out of court, at trial or in any appellate or administrative proceeding).

(2) “**Bodily Injury**” means bodily injury, sickness or disease sustained by a person, including death resulting from any of the foregoing.

(3) “**Property Damage**” means physical injury to tangible property, including all resulting loss of use of the property, or loss of use of tangible property not physically injured.

{00071390.1}

(d) Indemnification Procedure. The Party to whom indemnification is owed (“**Indemnified Party**”) shall give written notice to the Party required to provide indemnification under this Agreement (“**Indemnifying Party**”) of any action or proceeding for which indemnification is sought and the Indemnifying Party (at its expense) shall assume the defense of any claim (with counsel reasonably satisfactory to the Indemnified Party and with the Indemnified Party having the right, at its expense, to join in any such action or proceeding). The Indemnifying Party shall not consent to a settlement or entry of any judgment, award or order (1) without the Indemnified Party’s consent, that could affect the intellectual property rights or other business interests of the Indemnified Party or (2) that does not include an unconditional release (including release under California Civil Code Section 1542 or other analogous law) from all liability with respect to such claim or litigation.

(e) Obligation Reduced by Other Recovery. An Indemnifying Party’s duty to pay an indemnity claim shall, in each instance, be reduced by the amount, if any, that the Indemnified Party recovers from any Third Party, including but not limited to as a result of the Indemnified Party exercising its rights as a third party beneficiary under another agreement or of receiving insurance proceeds in connection with such indemnity claim. The intent of this provision is that the Indemnified Party be made as whole as possible without receiving a windfall.

30. AIG Lenders. Notwithstanding any other provision hereof, AIG may convey, pledge, encumber, grant security interests in or otherwise transfer all or any portion of its rights, titles and interests under this Agreement in favor of a single lender or a group of lenders solely in connection with AIG’s dealings with such lender(s). Such lender(s) shall be deemed to have assumed and to be subject to all applicable terms and provisions of this Agreement, except as otherwise expressly provided herein. AIG shall notify the City of any such action within five (5) business days of its occurrence.

31. General Terms And Conditions.

(a) MLB Rules. The Parties agree and acknowledge that this Agreement is subject and subservient to MLB Rules and Regulations, and that therefore:

(1) Notwithstanding any other provision of this Agreement, this Agreement and any rights or exclusivities granted by AIG hereunder shall in all respects be subordinate to the MLB Rules and Regulations. The issuance, entering into, amendment or implementation of any of the MLB Rules and Regulations shall be at no cost or liability to any MLB Entity or to any individual or entity related thereto. The territory within which the City is granted rights is limited to, and nothing herein shall be construed as conferring on the City rights in areas outside of, the Spring Training territory of the Team as and to the extent provided for in the Agency Agreement and as such territory may be amended from time to time. No rights, exclusivities or obligations involving the Internet or any interactive or on-line media (as defined by the applicable MLB Entities) are conferred by this Agreement, except as are specifically approved in writing by the applicable MLB Entities.

(2) This Agreement is subject to MLB Approval, and no amendment of this Agreement may be made without first obtaining all necessary MLB Approvals.

(3) Under no circumstances may AIG's rights to use the Facilities as defined in this Agreement be terminated between January 1st and April 30th of any year during the Term. Any reference herein to termination (whether phrased as "immediate" or setting forth a time period pursuant to prior written notice) occurring at any point during such time period shall be deemed to occur no earlier than May 1st of the particular year.

(4) If any provision of this Agreement shall at any time during the Term violate any of the MLB Rules and Regulations, the Parties shall work with one another in good faith to amend this Agreement to maintain its intended purpose but comply with such applicable MLB Rules and Regulations.

(b) Operating Lease. AIG intends that this Agreement be an "operating lease" and not a "capital lease," as those terms are defined by GAAP. Notwithstanding AIG's intention, the characterization of this Agreement as other than an "operating lease" shall in no way modify, limit, excuse or otherwise affect AIG's required payments and performance under this Lease.

(c) Notices. All notices, or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be considered as properly given or made if delivered personally or by messenger or mailed from within the United States via first class U.S. mail (postage prepaid) or generally-accepted overnight carrier, or sent by facsimile transmission and sent to the intended recipient at the following addresses or numbers (such contact information may be changed at any time by either Party upon written notice to the other Party and without a formal amendment to this Agreement):

| If to the City: | If to AIG: |
|---|---|
| Mesa City Manager 20 East Main Street, Suite 750 P. O. Box 1466 Mesa, Arizona 85211-1466 Fax: _____ | AIG General Counsel Oakland Athletics 7000 Coliseum Way Oakland, California 94621 Fax: 510-430-9757 |
| With a copy to: | |
| Mesa Community Services Manager P.O. Box 1466 Mesa, Arizona 85211-1466 Fax: _____ | |

(d) Recording. Within ten (10) calendar days of the full execution of this Agreement, the Parties shall cause this Agreement to be recorded in the office of the Maricopa County, Arizona Recorder.

(e) Waiver. Neither Party shall be deemed to have waived any right, obligation or Default under this Agreement unless it does so specifically in a signed writing. No waiver of a right, obligation or Default under this Agreement shall be construed as a waiver of any other right, obligation or Default. Neither the failure to insist upon strict performance of any of the agreements, terms, covenants or conditions hereof, nor the acceptance of monies due hereunder with knowledge of a breach of this Agreement, shall be deemed a waiver of any rights or remedies that either Party hereto may have or a waiver of any subsequent breach or Default in any of such agreements, terms, covenants or conditions. No delay of or omission in the exercise of any right, power or remedy accruing to any Party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of any future exercise of any right, power or remedy.

(f) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona, without giving effect to the conflict of laws principles thereof. Maricopa County, Arizona shall be the venue of any legal action arising out of any dispute between the Parties.

(g) Entire Agreement. This Agreement, which includes its Exhibit(s), constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings relating to the subject matter hereof.

(h) Construction and Severability. This Agreement has been fully reviewed and negotiated by the Parties and their respective legal counsel. Accordingly, in interpreting this Agreement, no weight shall be placed upon which Party (or Party's counsel) drafted the provision being interpreted. If any term or provision of this Agreement shall be found to be void or contrary to law, such term or provision shall, but only to the extent necessary to bring this Agreement within the requirements of law, be deemed to be severable from the other terms and provisions hereof, and the remainder of this Agreement shall be given effect as if the Parties had not included the severed term herein.

(i) Execution and MLB Approval. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one (1) and the same instrument. This Agreement may be executed by facsimile and a facsimile signature shall constitute an original signature for all purposes. As provided in Paragraph 31(a), this Agreement is subject to MLB Approval.

(j) No Other Warranties. Each of the Parties acknowledges and agrees that, except as expressly set forth herein, neither Party has made, and neither Party is relying on, any representation or warranty, express or implied, with respect to the subject matter hereof.

(k) Amendments. Notwithstanding any other provision of this Agreement (except as otherwise provided in connection with Notice in Paragraph 31(c)):

{00071390.1}

(1) This Agreement may be amended only through a writing signed by both Parties. The Parties acknowledge that any amendment is subject to and shall not be effective without the advance acquisition of MLB Approval and City Council approval.

(2) Within ten (10) calendar days of any amendment to this Agreement pursuant to this Paragraph 31, the Parties shall cause such amendment to be recorded in the office of the Maricopa County, Arizona Recorder.

(l) Business Days. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement shall fall on a Saturday, Sunday or legal holiday in the state of the Party to perform or where performance is necessary, then the duration of such time period or the date of performance, as applicable, shall be extended so it shall end on the next succeeding day which is not a Saturday, Sunday or legal holiday in the state of the Party to perform.

(m) Headings. The descriptive headings contained within this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

(n) Exhibits and Recitals. Any exhibit attached hereto shall be deemed to have been incorporated into this Agreement by reference with the same force and effect as if fully set forth in the body of this Agreement. The Recitals set forth at the beginning of this Agreement and the introductory paragraphs preceding the Recitals are incorporated into this Agreement and the Parties hereby confirm the accuracy of the Recitals.

(o) Transferability and Successors. Except as otherwise provided herein, neither Party may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other Party and any attempt by either Party to do so shall be void and of no force and effect whatsoever, and shall constitute a Default hereunder and breach of this Agreement. All of the Parties' respective duties and obligations under this Agreement shall be binding upon and inure to the benefit of the heirs, devisees, successors in interest and permitted assignees of each of the Parties hereunder.

(p) No Legal Partnership. The Parties expressly understand and agree that they are independent contractors unrelated to each other or each others' subsidiaries or affiliates. Nothing in this Agreement is intended to create a relationship, express or implied, of employer-employee or principal-agent or master-servant, between the Parties. AIG does not have the authority to bind or act in any respect on behalf of the City, and the City does not have authority to bind or act in any respect on behalf of MLB, Team, AIG or any of its Affiliates.

(q) Persons Not Liable. No owner, shareholder, partner, member, director, officer, official, representative, agent, attorney or employee of either Party shall be personally liable to the other Party, or any successor-in-interest to the other Party, in the event of any Default by a Party or for any amount which may become due to the other Party or any successor or assign, or with respect to any obligation of the City or AIG under the terms of this Agreement.

(r) Good Faith of Parties. Except where any matter is expressly stated to be in the sole discretion of a particular Party, the Parties, in performance of this Agreement, will act in good faith and will not act unreasonably, arbitrarily or capriciously and will not unreasonably withhold, delay or condition any requested approval, acknowledgement or consent.

(s) Further Assurances. Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgements and instruments as the other Party may reasonable require from time to time to consummate, evidence, confirm or carry out the matters contemplated by this Agreement or to confirm the status of (a) this Agreement as in full force and effect or (b) the performance of the obligations hereunder at any time during the Term.

(t) Survival. The terms of Paragraphs 22 (Taxes and Assessments), 28 (Representations and Warranties) and 29 (Indemnification), shall survive, for the period of the applicable statute(s) of limitations, the execution and delivery of this Agreement, the consummation of any transaction contemplated herein, and the rescission, cancellation, expiration or termination of this Agreement. Any reference within this Agreement to “termination,” early or otherwise, refers to termination except for the provisions that expressly survive termination.

(u) Conflict of Interest Statute. This Agreement is subject to, and may be terminated by the City in accordance with, the provisions of A.R.S. §38-511.

(v) Requirements Applicable to Government Property Improvements. The Parties acknowledge and agree: (i) the City is a “government lessor,” (ii) AIG is a “prime lessee” and (iii) the Facilities and Facilities Improvements which are the subject of this Agreement and the grant of operational and use rights to AIG are “government property improvements,” as such terms are defined in A.R.S. §§ 42-6201(1), (2) and (4). The Parties further acknowledge and agree the Facilities and Facilities Improvements which are the subject of this Agreement are owned (and title held) solely by the City as a government lessor and are being leased to AIG pursuant to this Agreement primarily for athletic, recreational, entertainment, artistic, cultural or convention activities as described in A.R.S. § 42-6208(4). Within thirty (30) days after this Agreement is approved by the City Council of the City and executed by the Parties, the Parties shall cause this Agreement to be recorded.

(w) Prohibition of Doing Business with Sudan and Iran. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, AIG hereby certifies to the City that AIG does not have “scrutinized” business operations, as defined in A.R.S. §§ 35-391 and 35-393, in either Sudan or Iran. AIG acknowledges, in the event either of the certifications to the City by AIG contained in this paragraph is determined by the City to be false, the City may terminate this Agreement and exercise other remedies as provided by law, in accordance with A.R.S. §§ 35-391.06 and 35-393.06.

32. Definitions.

(a) **Definitions.** As used in this Agreement, the following words/phrases have the following meanings. Where contextually appropriate, such definitions shall apply to the singular, plural or variant of the corresponding words/phrases.

(1) **“Agreement”** means this Facilities Use Agreement, as amended and restated or supplemented in writing from time to time, and includes all exhibits and schedules hereto. References to “Paragraphs” or “Exhibits” are to this Agreement unless otherwise specified. The introductory paragraphs and Recitals set forth are incorporated herein by reference and form a part of this agreement.

(2) **“Affiliate”** means, as applied to any Person, the Person and any Person directly or indirectly Controlling, Controlled by, or under common Control with, the Person or a blood relative or spouse of such Person, if such Person is a natural person and for purposes of AIG (for this Agreement only) includes any entity controlled or owned by any member of the families of John J. Fisher and/or Lewis N. Wolff. For purposes of this definition, **“Control,” “Controlled,”** and **“Controlling,”** as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person, whether through the ownership of voting securities, by contract or otherwise.

(3) **“AIG”** means Athletics Investment Group LLC, a California limited liability company as defined in the introductory paragraph of this Agreement.

(4) **“AIG Event”** means any activity engaged in and controlled by AIG pursuant to this Agreement, including but not limited to all Spring Training Games and activities.

(5) **“AIG Funds”** means as defined in Paragraph 19(a).

(6) **“Applicable Law(s)”** means all federal, state and county laws, rules, ordinances and regulations, and City Regulations, in effect at the time any determination of compliance of the Parties with respect to their obligations under this Agreement is necessary or appropriate under this Agreement.

(7) **“Arizona Rookie League Season”** shall have the same meaning as generally accepted throughout MLB.

(8) **“BOC”** means the Office of the Commissioner of Baseball, an unincorporated association comprised of the Major League Clubs who are party to the Major League Constitution, and any successor organization thereto.

(9) **“Bodily Injury”** means as defined in Paragraph 29(c).

(10) **“Cactus League”** means a baseball league comprised of Major League Baseball teams formed for the purpose of scheduling and playing Major League Baseball Spring Training Season games in Arizona.

(11) **“Cactus League Game”** or **“Cactus League Games”** mean the singular or plural of Major League Baseball Spring Training Season game(s), including split-squad game(s), that are scheduled to be played in Arizona between Major League teams.

(12) **“Capital Improvement”** means the new installation of, replacement of, or other work performed in connection with an asset, facility or other physical component of the Facilities that meets the applicable requirements for being depreciable or otherwise achieves applicable capitalization thresholds under GAAP, and shall include both the Interim Capital Improvements and the Scheduled Capital Improvements.

(13) **“Capital Improvement Fund”** means as defined in Paragraph 19(a).

(14) **“City”** means the City of Mesa, Arizona, as defined in the introductory paragraph of this Agreement.

(15) **“City Charter”** means the Mesa City Charter, as amended from time to time.

(16) **“City Code”** means the Mesa City Code, as amended from time to time.

(17) **“City Council”** means the City Council of the City.

(18) **“City Event”** means any event or activity held at the Facilities pursuant to the City’s rights pursuant to this Agreement to use the Facilities or any part(s) of the Facilities.

(19) **“City Funds”** means as defined in Paragraph 19(a).

(20) **“City Marks”** means as defined in Paragraph 24(c).

(21) **“City Manager”** means such individual as shall be employed by the City in the role of city manager or such substantially similar or replacement role as hereafter may be developed and designated by the City.

(22) **“City Regulations”** means the City charter, City Code, and other City ordinances, rules, regulations, standards, procedures, and administrative policies in effect from time to time.

(23) **“Commence”** or **“Commencement”** means the occurrence of both: (i) the obtaining of a building, excavation, grading or similar permit (if applicable); and, (ii) the actual commencement of physical construction operations in a manner reasonably designed to cause, and with the intent at the commencement of such construction to diligently pursue, Completion of the Facilities Improvements and Capital Improvements as contemplated by this Agreement.

(24) “**Commissioner**” means the Commissioner of Baseball as elected under the Major League Constitution or, in the absence of a Commissioner, any Person succeeding to the powers and duties of the Commissioner pursuant to the Major League Constitution.

(25) “**Complimentary Tickets**” means admission tickets to Cactus League Games played on the Facilities that are issued by AIG without receipt of any consideration therefor or tickets issued in exchange for the value of goods and services received by AIG or in lieu of a cash payment or other consideration AIG is obligated to pay or perform.

(26) “**Complete**” of “**Completion**” means, with respect to each Facilities Improvement or Capital Improvement that is the subject of this Agreement, that (a) such Facilities Improvement or Capital Improvement is operational and fully usable in all material respects for its intended use in accordance with all Applicable Laws and this Agreement; (b) all required Governmental Approvals have been validly and permanently issued; and (c) AIG reasonably accepts that such Facilities Improvement or Capital Improvement is complete per the terms and conditions of this Agreement (except for only to minor and insubstantial “punch list” items that do not affect operation or use).

(27) “**Facilities**” means as defined in the Recitals and as legally described on Exhibit A.

(28) “**Facilities Improvements**” means as defined in Paragraph 1.

(29) “**Condemning Authority**” means as defined in Paragraph 21(a).

(30) “**Cure Period**” means as defined in Paragraph 26(a).

(31) “**CVB**” means as defined in Paragraph 16(e).

(32) “**Default**” means as defined in Paragraph 26(a).

(33) “**Default Notice**” means as defined in Paragraph 26(b).

(34) “**Defaulting Party**” means as defined in Paragraph 26(a).

(35) “**Effective Date**” means the date as defined in the introductory paragraph of this Agreement.

(36) “**Extended Spring Training Season**” shall have the same meaning as generally accepted throughout MLB.

(37) “**Facilities Equipment**” means (i) any furnishings, fixtures and equipment so affixed to the Facilities that they are deemed part of the Facilities (e.g., mounted cupboards and cabinets, telephone, affixed furnishings and equipment related to viewing Stadium events, audio or alarm systems incorporated within the buildings constituting the applicable Improvements, mounted flat-screen televisions, video equipment and software

{00071390.1}

included as part of initial construction (but not part of subsequent capital improvements) and including without limitation cables and wiring (but only if placed inside interior walls); and (ii) non-affixed suite and patio furniture, press box furniture and similar Stadium-related elements provided by the City as part of the initial furnishings only. Except as expressly noted in the previous sentence, Facilities Equipment does not include any non-affixed material or equipment, any furniture, any computer equipment or software, telephone handsets, supplies and similar items.

(38) “**Fall Instructional League Season**” shall have the same meaning as generally accepted throughout MLB.

(39) “**Fitch Park**” means the land parcel described on Exhibit A hereto, along with all fixed structures located thereon.

(40) “**Force Majeure**” means as defined in Paragraph 27.

(41) “**GAAP**” means generally accepted accounting principles as recognized by the United States Financial Accounting Standards Board.

(42) “**Game(s)**” means the singular or plural, as appropriate, of Spring Training baseball contests involving the Team, whether as a full- or split-squad.

(43) “**Governmental Approvals**” means any governmental approvals, permits and authorizations submitted by or on behalf of the City in respect of the Facilities, including without limitation any approvals, permits and authorizations pertaining to on- and off-site drainage, air quality, transportation, water, water and sewer service and infrastructure, electrical and other utility service and infrastructure, land use, archeological, biological or environmental constraints or conditions and fire and public safety service and facilities.

(44) “**Hohokam Park**” means the land parcel described on Exhibit A hereto, along with all fixed structures located thereon.

(45) “**Home Game(s)**” means the singular or plural, as appropriate, of Games hosted by the Team during Spring Training.

(46) “**Impositions**” means as defined in Paragraph 22.

(47) “**Indemnified AIG Parties**” means as defined in Paragraph 29(b).

(48) “**Indemnified City Parties**” means as defined in Paragraph 29(a).

(49) “**Indemnified Party**” means as defined in Paragraph 29(d).

(50) “**Indemnifying Party**” means as defined in Paragraph 29(d).

(51) “**Interim Capital Improvements**” means as defined in Paragraph 19(b).

{00071390.1}

(52) “**Liabilities**” means as defined in Paragraph 29(c).

(53) “**Maintenance**” means as defined in Paragraph 18(a)(1).

(54) “**Major League Baseball**” or “**MLB**” means, depending on the context, any or all of (i) the BOC, each other MLB Entity and/or all boards and committees thereof, including, without limitation, Executive Council and the Ownership Committee, and/or (ii) the Major League Clubs acting collectively.

(55) “**Major League Baseball Club**” or “**Major League Club**” means any professional baseball club that is entitled to the benefits, and bound by the terms, of the Major League Constitution.

(56) “**Major League Constitution**” means the Major League Constitution adopted by the Major League Clubs (which amended and superseded the Major League Agreement dated January 1, 1975, the Agreement in re Major Leagues Central Fund dated as of December 8, 1983, as amended, and the respective constitutions of the former American and National Leagues of Professional Baseball Clubs) as the same may be amended, supplemented or otherwise modified from time to time in the manner provided therein and all replacement or successor agreements that may in the future be entered into by the Major League Clubs.

(57) “**MLB Agency Agreement**” means the Amended and Restated Agency Agreement, effective as of January 1, 2013, by and among Major League Baseball Properties, Inc., the various Major League Baseball Clubs and the BOC (and the Operating Guidelines related thereto), as may be amended, supplemented or otherwise modified from time to time.

(58) “**MLB Approval**” means, with respect to the Major League Baseball Clubs, the Commissioner, the BOC or any other MLB Entity, any approval, consent or no-objection letter required to be obtained from such Person(s) pursuant to the MLB Rules and Regulations (as exercised in the sole and absolute discretion of such Person(s)).

(59) “**MLB Entity**” means each of the BOC, Major League Baseball Enterprises, Inc., Major League Baseball Properties, Inc., The MLB Network, LLC, MLB Advanced Media, L.P., and/or any of their respective present or future affiliates, assigns or successors.

(60) “**MLB Governing Documents**” means the following documents as in effect from time to time and any amendments, supplements or other modifications thereto and all replacement or successor documents thereto that may in the future be entered into: (a) the Major League Constitution, (b) the Basic Agreement between the Major League Baseball Clubs and the Major League Baseball Players Association, (c) the Professional Baseball Agreement between the BOC, on behalf of itself and the Major League Baseball Clubs, and the National Association of Professional Baseball Leagues, (d) the Major League Rules (and all attachments thereto), (e) the Interactive Media Rights Agreement, effective as of January 20, 2000, by and

{00071390.1}

among the BOC, the various Major League Baseball Clubs, MLB Advanced Media, L.P. and various other MLB Entities and (f) each agency agreement and operating guidelines among the Major League Baseball Clubs and any MLB Entity, including, without limitation, the MLB Agency Agreement.

(61) “**MLB Marks**” means as defined in paragraph 24(c).

(62) “**MLB Rules and Regulations**” means (a) the MLB Governing Documents, (b) any present or future agreements or arrangements entered into by, or on behalf of, the BOC, any other MLB Entity or the Major League Baseball Clubs acting collectively, including, without limitation, agreements or arrangements entered into pursuant to the MLB Governing Documents, and (c) the present and future mandates, rules, regulations, policies, practices, bulletins, by-laws, directives or guidelines issued or adopted by, or behalf of, the Commissioner, the BOC or any other MLB Entity as in effect from time to time.

(63) “**Non-Defaulting Party**” means as defined in Paragraph 26(b).

(64) “**Party**” or “**Parties**” means the individual or collective, as appropriate, of the City and AIG as defined in the introductory paragraph of this Agreement.

(65) “**Person**” means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint ventures, limited liability companies, limited liability partnerships, trusts, land trusts, business trusts, municipal corporations, municipalities and other organizations, whether or not legal entities.

(66) “**Pre-Termination Notice (City Regulations)**” means as defined in Paragraph 25(b).

(67) “**Project Personnel**” means as defined in Paragraph 6(b).

(68) “**Property Damage**” means as defined in Paragraph 29(c).

(69) “**Real Property Taxes**” means as defined in Paragraph 22(a).

(70) “**Regular Season**” means the MLB Championship Season (as such term is commonly understood in MLB), specifically excluding all exhibition games , All-Star games or related events and any MLB “Postseason” (i.e. the Wild Card, League Division Series, League Championship Series and the World Series, as such terms are commonly understood in MLB) in which the Team participates.

(71) “**Repair**” means as defined in Paragraph 18(a)(2).

(72) “**Scheduled Capital Improvements**” means as defined in Paragraph 19(c).

(73) “**Scheduled Completion Date**” means as defined in Paragraph 19(c).

{00071390.1}

(74) “**Spring Training**” and “**Spring Training Season**” mean the annual period during which MLB conducts spring training operations and/or training for the Regular Season, generally running from January 15th through April 15th of each calendar year but concluding no later than the first Regular Season Game.

(75) “**Stadium**” means HoHoKam Stadium located within HoHoKam Park.

(76) “**Stadium Event**” means either an AIG Event or a City Event.

(77) “**Team**” means the MLB franchise owned and controlled by AIG.

(78) “**Team Marks**” means as defined in Paragraph 24(c).

(79) “**Term**” means the term of this Agreement as defined in Paragraph 13(a).

(80) “**Termination Notice (City Regulations)**” means as defined in Paragraph 25(b).

(81) “**Termination Notice (Default)**” means as defined in Paragraph 26(c).

(82) “**Third Party**” means any Person or entity other than a Party or a Party Affiliate.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date of the last signature below:

CITY:

CITY OF MESA, ARIZONA,
an Arizona municipal corporation

By: Christopher J. Brady
Its: City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by Christopher J. Brady, the City Manager of the City of Mesa, Arizona, an Arizona municipal corporation, who acknowledged that he signed the foregoing instrument on behalf of the City.

Notary Public
My commission expires:

{00071390.1}

AIG:

ATHLETICS INVESTMENT GROUP LLC, a California limited liability company

By: Michael P. Crowley

Its: President

STATE OF ARIZONA)

) ss.

COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by Michael P. Crowley, the President of Athletics Investment Group LLC, a California limited liability company, who acknowledged that he signed the foregoing instrument on behalf of AIG.

My commission expires: Notary Public

{00071390.1}