

**CONCESSION SERVICES AGREEMENT**

**BY AND AMONG**

**ARIZONA TOURISM AND SPORTS AUTHORITY, D/B/A THE ARIZONA SPORTS AND  
TOURISM AUTHORITY,**

**ARIZONA CARDINALS FOOTBALL CLUB LLC,  
NEW CARDINALS STADIUM, LLC**

**AND**

[\_\_\_\_\_]

**DATED \_\_\_\_\_, 20\_\_**

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## CONCESSION SERVICES AGREEMENT

THIS CONCESSION SERVICES AGREEMENT (the "Agreement") is dated as of \_\_\_\_\_, 20\_\_ and entered into by and among the ARIZONA TOURISM AND SPORTS AUTHORITY, d/b/a THE ARIZONA SPORTS AND TOURISM AUTHORITY, existing pursuant to Arizona Revised Statutes §5-801 et seq., as the same may be modified or amended (collectively, the "Act"), as a corporate and political body of the State of Arizona having all the rights, powers and immunities of a municipal corporation (the "Authority"), ARIZONA CARDINALS FOOTBALL CLUB LLC, a Delaware limited liability company, d/b/a Arizona Cardinals ("Club"), NEW CARDINALS STADIUM, LLC, an Arizona limited liability company ("Stadium LLC") and [\_\_\_\_\_], a [insert legal entity and place of formation] (the "Concessionaire"). For purposes of this Agreement, Club and Stadium LLC are collectively referred to herein as the "Cardinals".

### RECITALS

A. Pursuant to the Act, the Authority operates the multipurpose facility known as University of Phoenix Stadium in Glendale, Arizona (the "Facility").

B. Club is a member of the National Football League ("NFL") and, pursuant to that certain Cardinals Use Agreement, has agreed to play their Home Games at the Facility for the term of the Cardinals Use Agreement.

C. The Authority entered into that certain Fiesta Bowl Use Agreement pursuant to which the Fiesta Bowl agrees to play its Fiesta Bowl Games at the Facility for the term of the Fiesta Bowl Use Agreement.

D. The Authority, the Cardinals and the Concessionaire wish to enter into this Agreement to obtain the services of the Concessionaire to manage and operate the Concession Services at the Facility.

### AGREEMENT

#### ARTICLE 1 DEFINITIONS AND ACCOUNTING TERMS

1.1 Definitions. Capitalized terms used in this Agreement shall have the meanings set forth or described on Exhibit 1.1 (such meanings to be equally applicable to both the singular and plural form of such terms). All terms used in this Agreement that are not defined in Exhibit 1.1, however, shall have the meaning set forth elsewhere in this Agreement.

1.2 Accounting Terms. Unless otherwise specifically provided herein, any accounting term used in this Agreement has the meaning customarily given in accordance with generally accepted accounting principles as consistently applied. In addition, unless otherwise specifically provided herein, all financial computations hereunder must be computed in accordance with generally accepted accounting principles as consistently applied.

#### ARTICLE 2 CONCESSION SERVICES

2.1 Exclusive Rights Granted. Subject to the terms and conditions of this Agreement, the Concessionaire shall have the exclusive right to provide Concession Services at the Facility pursuant to

the terms of this Agreement; provided, however, that the exclusive rights granted hereunder do not include:

2.1.1 Back of the House Areas; provided, however, that nothing in this Agreement shall preclude the Concessionaire from providing Concession Services to all or a portion of the Back of the House Areas on an Event by Event basis to the extent specifically requested by the Cardinals or the Authority,

2.1.2 Catered Events; provided, however, that the Concessionaire shall have the right to submit a bid to the Authority, the Cardinals or other Licensee hosting the Catered Event (the "Catered Event Host") to provide Catering for that Catered Event. Should the Catered Event Host, in its sole and absolute discretion, not select the Concessionaire to provide Catering for the Catered Event, then the Concessionaire shall be entitled to receive from the Catered Event Host a non-commissionable (i.e., not included in Gross Revenue) fee equal to ten percent (10%) of the amount billed to the Catered Event Host for the food and beverage portion of such services provided by a provider other than the Concessionaire. If the Concessionaire is selected to provide Catering for the Catered Event, the following additional provisions shall apply:

(a) Payment of Invoices. All Catering provided by the Concessionaire under this Section 2.1.2 shall be paid for within forty-five (45) days after receipt of the Concessionaire's invoice. If any party is past due in paying any undisputed invoice submitted under this Section 2.1.2, the Concessionaire shall not be obligated to provide additional Catering services to such party until such undisputed past due invoices are paid in full.

(b) Private Catered Functions. Notwithstanding the other provisions of this Section 2.1.2, catering at private functions at the Facility or on the Facility Property hosted by the Authority, the Cardinals, the Manager or any other Licensee ("Private Catered Functions") shall not exceed six (6) functions in any calendar year with three (3) such functions each involving not more than two hundred fifty (250) participants and three (3) such functions each involving not more than one hundred (100) participants. The Manager shall provide not less than ten (10) Business Days' prior notice of any Private Catered Function which notice shall include the time and date, expected number of participants and description of Concession Services to be provided at such function.

2.1.3 Culinary Events;

2.1.4 Special Facility Events; and

2.1.5 Vending machines, located anywhere in the Facility, though the Authority and the Cardinals agree that vending machines shall be located only in Back of the House Areas.

2.2 Limitation on Exclusive Rights. In addition to other terms and conditions of this Agreement, the rights granted to the Concessionaire in Section 2.1 are subject to the following limitations:

2.2.1 Reserved Rights. The Authority and the Cardinals reserve the right to (i) require the Concessionaire to sell certain Branded Products in connection with any Sponsorship Agreement or other arrangement but only under the conditions set forth in Section 11.2.1; (ii) permit any Branded Provider to self-operate within the Facility pursuant to Section 11.2.2; and (iii) approve, authorize and permit all advertising at the Facility pursuant to Section 2.2.3.

2.2.2 Non-Food Items Excluded. The Concessionaire shall have no rights for the sale of non-food items including novelties, souvenirs, merchandise, electronic games, sundries and programs, such items being specifically excluded from this Agreement.

2.2.3 No Advertising Rights. This Agreement reserves and does not grant or confer, nor shall it be construed to grant or confer, upon the Concessionaire any advertising rights or rights to sell advertising space in and on the Facility, or any rights to any advertising revenue at the Facility, on the Facility Property or on any packaging and containers for Products used or sold in the Facility or on the Facility Property. No advertising of any kind is permitted in the Facility or on any of the Concession Spaces unless approved in writing by the Manager, which approval may be withheld in its sole and absolute discretion. The Manager, and not the Concessionaire, shall have full and complete discretion with respect to the display of any product or sponsor names or logos in or on the Facility, the Concession Spaces, the Equipment, the uniforms or other equipment utilized by employees of the Concessionaire, as well as the prominence and positioning of any such display. The Concessionaire agrees that all signage and displays, and the contents and graphics thereof, to be utilized by the Concessionaire at the Facility shall be subject to the prior approval of the Manager, which may be granted or denied in the Manager's sole and absolute discretion.

2.2.4 Proprietary Rights. The Concessionaire may not use the name or logo of the Facility or the Cardinals in any manner whatsoever outside the Facility without the express prior written consent of the Manager or the Cardinals (whichever is applicable), except that the Concessionaire shall have the right to list the name of the Facility and the names of the Authority and the Cardinals (but not their respective trademarks, symbols or trade names) on its sales and marketing brochures as a client, location or Event serviced by the Concessionaire. Likewise, all copyrights, trademarks, service marks, trade names, trade dress, logos, symbols or other intellectual property rights (collectively, "Proprietary Rights") owned by the Concessionaire shall be retained by the Concessionaire, and nothing in this Agreement shall be construed to confer upon the Authority or the Cardinals any right, title or interest in or to such Proprietary Rights, except that the Authority and the Cardinals each may use the Concessionaire's name, trademarks, service marks and other symbols in promotional or other materials to identify the Concessionaire as their concessionaire at the Facility.

2.2.5 Fiesta Bowl Activities. The Concessionaire hereby acknowledges and agrees that the Fiesta Bowl may, in its sole and absolute discretion, host an invitation-only pre-game party outside of the Facility at which free Products may be served ("FB Pre-Game Party"). With respect to Fiesta Bowl Activities (as defined in the Fiesta Bowl Use Agreement) that are held outside the Facility, including the FB Pre-Game Party, the Fiesta Bowl shall have the right to select, in its sole and absolute discretion, the vendors and the products it shall be provided at or during the Fiesta Bowl Activities and FB Pre-Game Party outside the Facility without any compensation of any kind to the Concessionaire, unless expressly otherwise agreed to in writing by the Fiesta Bowl. This paragraph is for clarification only and nothing in this paragraph is intended to imply that any rights of any kind are granted to the Concessionaire outside the Facility.

2.2.6 Free Distribution of Food or Beverages. The Concessionaire shall not interfere with the free distribution of Products or any other items of any nature whatsoever, where the Manager has authorized such distribution. At the sole and absolute discretion of the Manager, free samples may be given away by or on behalf of, or with permission of, any person or organization that has properly engaged the Facility for any Event. As a general rule, except for the Fiesta Bowl and any other Event of which the Manager notifies the Concessionaire in advance, the free distribution of Products authorized by the Manager shall be limited to three (3) ounces per food sample and four (4) ounces per beverage sample. Under the terms and conditions of the Fiesta Bowl Use Agreement, the Fiesta Bowl shall have the right to use promotional samples and "give-aways" of non-consumable products and services for

sponsors of Fiesta Bowl Activities, and promotional samples and "give-aways" of consumable products for any title or presenting sponsors of Fiesta Bowls, subject to this Agreement.

2.3 The Concessionaire's Obligation. The Concessionaire accepts the rights granted in Section 2.1 and during the Term agrees to provide the Concession Services for the Facility pursuant to the terms and conditions of this Agreement.

2.4 Concession Spaces. Set forth in Exhibit 2.4, attached hereto and incorporated by reference herein, are descriptions of the various spaces within the Facility where the Concessionaire shall render the Concession Services (individually, the "Concession Space" and, collectively, the "Concession Spaces").

2.4.1 Non-Interference with Concession Spaces. During the Term and subject to the terms and conditions of this Agreement, the Concessionaire shall have the non-exclusive use of the Concession Spaces for the rendering of Concession Services, and, so long as the Concessionaire is not in default hereunder, such right shall not be disturbed. The Manager shall not permit any other use of the Concession Spaces that interferes with the Concessionaire's exclusive right to provide Concession Services at the Facility, except as specifically provided in this Agreement.

2.4.2 Relocation(s) of Concession Spaces. The Authority reserves the right to relocate all or any portion of a Concession Space(s) (which includes any office space or locker spaces) to a substantially comparable space(s) within the Facility, provided that the operations of the Concessionaire under this Agreement shall not be unreasonably or materially interrupted. Further, in order for the Authority to exercise this right, the new location(s) must be comparably furnished at the Authority's sole expense and must be reasonably comparable in size, layout, equipment and improvements. All relocation expenses shall be fully paid for by the Authority within thirty (30) days after submission of an itemized statement with proper documentation supporting the costs of relocation by the Concessionaire. Unless otherwise agreed to by the Manager and the Concessionaire, the Concessionaire must complete the relocation within thirty (30) days after the Authority's written notice to the Concessionaire of its exercise of such rights to require relocation, provided that the equipment and improvements at the new location(s) are substantially complete for use by the Concessionaire.

2.4.3 Portables. In addition to the Concession Spaces, the Concessionaire must maintain Portables throughout the Facility at the locations depicted on Exhibit 2.4.3, attached to and incorporated into this Agreement. The Portables must be self-contained for cold and hot water and waste disposal as required by the Maricopa County Health Department. The Concessionaire shall not construct, install or modify, change or alter any Portable without the prior written approval of the Manager, which approval may be withheld in its sole and absolute discretion. In the event the Concessionaire desires to locate additional Portables in the Facility, it shall deliver a written request to the Manager together with plans and specifications in detail reasonably required by the Manager and adequately describing the requested location, dimensions, design, materials, signage, equipment and proposed use for the additional Portables. The Manager may deny requests for additional Portables in the exercise of its sole and absolute discretion. No advertising of any kind is permitted on any of the Portables unless approved in writing by the Manager, which approval may be withheld in its sole and absolute discretion. The Portables shall be the property of the Authority. Upon termination of this Agreement, the Portables shall remain in the Facility.

2.4.4 Roving Vendors. The Concessionaire shall have, subject to and in accordance with the provisions of this Agreement, a right of access to other portions of the Facility as may be reasonably necessary to perform the Concession Services and to permit roving vendors to sell and distribute Concession Services within the Facility, provided that such right of access does not interfere

with (i) the safety of Patrons or Licensees or (ii) the operation or maintenance of the Facility. On or before June 1 of each calendar year during the Term, the Authority, the Cardinals and the Concessionaire shall evaluate and consider the use and performance of roving vendors at Events, including Home Games. If requested by the Authority for any Events (other than Home Games) or by the Cardinals for Home Games, such requests to be made in the Authority's or the Cardinals' reasonable discretion, the Concessionaire shall expand the use of, or, restrict or prohibit roving vendors from selling and distributing Products within the Facility. For purposes of this Section 2.4.4, the Authority and the Cardinals shall be deemed to have exercised their discretion reasonably, provided, that the expansion of, or prohibition of or restriction imposed on, roving vendors is in response to Patron complaints or survey results and is intended to enhance and protect the overall Patron experience at Events or Home Games.

2.5 License Granted; No Lease. This Agreement is a license to the Concessionaire to provide Concession Services at the Facility on the terms and conditions provided herein and shall not be construed as a lease, sublease or rental agreement.

2.6 General Purpose of Operations. The Concessionaire agrees that it shall conduct the sale of Products in the Facility diligently and in good faith and shall use commercially reasonable efforts to optimize the net profits realized by the Authority, the Cardinals or the Fiesta Bowl from the Concessionaire's rendering of Concession Services at each Event.

2.7 Hours of Operation. For Events other than Home Games and the Fiesta Bowl Game, the Concessionaire shall propose to the Manager a staffing plan consisting of the number of employees and Concession Spaces to be provided by the Concessionaire for the Event. The Manager shall approve the staffing plan in its reasonable discretion. For the Home Games and the Fiesta Bowl Game, the Concessionaire shall fully staff all Concession Spaces unless, in the case of the Home Games, the Cardinals otherwise agree, or in the case of the Fiesta Bowl Game, the Fiesta Bowl otherwise agrees.

2.8 Use Agreements. The Concessionaire, the Authority and the Cardinals agree that nothing in this Agreement shall be construed as amending, altering or changing the terms and conditions of the Cardinals Use Agreement or the Fiesta Bowl Use Agreement. The Concessionaire hereby acknowledges and agrees that it has received and reviewed the Cardinals Use Agreement and the Fiesta Bowl Use Agreement.

### **ARTICLE 3 TERM**

3.1 Commencement and Term. The license granted to Concessionaire pursuant to Article 2 of this Agreement shall commence on August 1, 2010 (the "Effective Date") and shall remain in full force and effect for two (2) years after the Effective Date (the "Term"), unless extended or terminated as provided herein. Notwithstanding the execution and delivery of this Agreement prior to the Effective Date, until the expiration or termination of the Concession Services Agreement dated as of June 1, 2005, as amended, (the "Prior Agreement") nothing in this Agreement shall conflict with the rights granted to Volume Services, Inc. ("Centerplate") under the Prior Agreement (it being understood and agreed that such agreement will expire in accordance with its terms prior to the Effective Date and the Authority shall not agree to any amendment or extension of such agreement that would extend beyond the Effective Date).

3.2 Options to Extend. The term of this Agreement shall extend for an additional one (1) year period after the Term if (i) Concessionaire gives the Authority, the Cardinals and the Manager a written request to extend the Term no later than one hundred twenty (120) days prior to the expiration of the Term and (ii) the Authority in its sole and absolute discretion does not provide the Concessionaire

notice of its intent not to renew within thirty (30) days thereafter. If any such extension is granted, a similar option to extend shall exist with respect to the then-current Term, also subject to the sole and absolute discretion of the Authority, with each such extension being on the same terms and conditions (including notice requirements) set forth herein.

3.3 Holding Over. In the event that the Concessionaire should hold over and remain in possession of the premises after the expiration of the Term or following early termination for any reason, such holding-over shall be deemed not to operate as a renewal or extension of this Agreement.

## **ARTICLE 4 FINANCIAL CONSIDERATION**

4.1 Financial Consideration. In exchange for and as consideration of the rights granted to and the services to be provided by the Concessionaire pursuant to this Agreement, (a) the Concessionaire shall pay the Authority (a) [TO BE DETERMINED], and (b) the Concessionaire shall collect all Gross Revenues and, out of such Gross Revenues, the Concessionaire shall pay to itself the balance after it has transferred and remitted to: (i) the Cardinals for its Home Games; (ii) the Fiesta Bowl for the Fiesta Bowl Games; and (iii) the Authority for its Events and the Events of Licensees (other than the Cardinals and the Fiesta Bowl) the sums that are equal to the applicable percentages of Gross Revenue from the various categories of Concession Services at the Facility set forth as follows:

- 4.1.1 For the Cardinals, the percentage of Gross Revenue reflected on Exhibit 4.1.1.
- 4.1.2 For the Fiesta Bowl, the percentage of Gross Revenue reflected on Exhibit 4.1.2.
- 4.1.3 For the Authority, the percentage of Gross Revenue reflected on Exhibit 4.1.3.

4.2 Payment of Applicable Percentage of Gross Revenue. The Concessionaire shall transfer and remit payments monthly on or before the twentieth (20<sup>th</sup>) day following each Monthly Accounting Period during the Term for Gross Revenue that is generated during the previous Monthly Accounting Period. If the twentieth (20<sup>th</sup>) day of any Monthly Accounting Period shall not fall on a Business Day, then the Concessionaire shall transfer and remit payments on the next Business Day immediately following the twentieth (20<sup>th</sup>) day of any such Monthly Accounting Period.

4.3 Accounting and Reports. In addition to the reports otherwise required herein, the Concessionaire shall submit a written monthly statement (the "Statement") as follows: (a) the Statement to be provided to the Manager and the Authority shall include information for all Events at the Facility, including but not limited to all Home Games and the Fiesta Bowl Game; (b) the Statement to be provided to the Cardinals shall be delivered only during those months during which there are Home Games at the Facility and shall reflect only Gross Revenue generated from those Concession Services for the Home Games; and (c) the Statement to be provided to the Fiesta Bowl shall be provided following the Fiesta Bowl Game and shall reflect only Gross Revenue generated from those Concession Services during the Fiesta Bowl Game. The Statements (as adjusted for the Cardinals and the Fiesta Bowl in accordance with the foregoing sentence) shall include but not be limited to: (i) an accounting of Gross Revenue generated by each category of service (General Concessions, Club Seats Concessions, Executive Suites Catering, Catering, Restaurant, Branded Providers and Private Catered Functions) and each Event held at the Facility for the preceding Monthly Accounting Period; (ii) a comparison of the budgeted Gross Revenue for that Monthly Accounting Period against actual Gross Revenue; (iii) the actual Gross Revenue generated for the same Monthly Accounting Period of the prior year; (iv) year-to-date Gross Revenue generated at the Facility; (v) year-to-date budgeted Gross Revenue for the same period of the prior year,

and (vi) year-to-date Gross Revenue generated for the same period of the prior year. The form of Statement is attached hereto as Exhibit 4.3, which may be changed from time to time by the Manager after consultation with the Concessionaire. The Concessionaire shall submit the Statement to the Authority, the Cardinals and the Fiesta Bowl in the manner specified above and at the time it submits the payments called for in Section 4.1.

4.4 Financial Assurance of Performance. The Concessionaire shall furnish to the Authority, the Manager and the Cardinals, at least thirty (30) days prior to the Effective Date, a surety bond issued by a surety company licensed to do business in the State of Arizona and reasonably acceptable to the Authority in the sum of one million (\$1,000,000), which surety bond shall cover the faithful performance by the Concessionaire of all of the conditions and covenants of this Agreement (including without limitation the Concessionaire's payment obligations under Section 4.1). Delivery of such surety bond in accordance with this Section 4.4 shall satisfy the Concessionaire's obligation to provide security pursuant to Section 14.2. The surety company is required to have a minimum rating of A- Class XII or better in the current issue of Best's Key Rating Guide published by A.M. Best and Company, Inc. Upon termination or expiration of this Agreement, the Authority shall return the bond to the Concessionaire.

## **ARTICLE 5 CONCESSION IMPROVEMENTS, REPAIRS AND REPLACEMENT; TRANSITION MATTERS**

5.1 Concession Improvements. Set forth on Exhibit 5.1, attached hereto and incorporated herein, is a list of the structures, furniture, fixtures, equipment and other property, real and personal, presently installed in the Facility with respect to the operation and intended use of the Concession Spaces (individually, a "Concession Improvement," and, collectively, the "Concession Improvements," as amended pursuant to this Section 5.1). All Concession Improvements shall be the property of the Authority. It is the intention of the parties that the Manager shall provide, or cause to be provided (whether through Branded Providers or other sources), fully equipped, operational and finished Concession Spaces throughout the Term of this Agreement. The Concessionaire acknowledges and agrees that the Concession Improvements set forth on Exhibit 5.1 are adequate to fully perform the Concession Services in the manner to be provided by the Concessionaire under this Agreement.

5.2 Maintenance, Repair and Replacement. The Concessionaire will, at its sole cost and expense, maintain in good condition and repair all Concession Improvements and Equipment. The Concessionaire shall replace, at its sole cost and expense, any Concession Improvement or piece of Equipment that is damaged by the Concessionaire or any of its contractors, agents or employees beyond repair, where such damage is due to the negligence or willful misconduct of the Concessionaire or any of its contractors, agents or employees. Notwithstanding the foregoing if in the sole and absolute discretion of the Manager, such Concession Improvement or Equipment is not necessary to the rendering of the Concession Services at the Facility, replacement shall not be required. Any replacement Concession Improvement and Equipment shall be subject to the reasonable approval of the Manager as to type, style and similarity to the Concession Improvements and Equipment being replaced. The Concessionaire shall not be responsible for the replacement of any Concession Improvements or Equipment damaged beyond repair through no fault of the Concessionaire or any of its contractors, agents or employees.

### 5.3 Transition Matters.

5.3.1 In connection with the expiration of the Prior Agreement, each of the Authority, the Club and Stadium LLC shall exercise any rights they may have under the Prior Agreement to cause Centerplate to transfer to the Concessionaire any assets necessary or desirable for the performance of the

Concessionaire's duties under this Agreement, including without limitation the liquor license pursuant to Section 21.1 of the Prior Agreement.

5.3.2 The Manager shall provide to the Concessionaire those Smallwares generally set forth on Exhibit 5.2.2 to be used by the Concessionaire in the rendering of the Concession Services.

## **ARTICLE 6 UTILITIES**

6.1 Utilities; Trash Removal; Expense. The Manager shall provide the Concessionaire with all utilities (electricity, water, gas and sewer services) for the performance of the Concession Services and, subject to Sections 10.4 and 10.5 below, trash removal services. During the Term, the Concessionaire shall pay to the Authority an amount equal to a reasonable approximation of the actual charge incurred for the Concessionaire's use of such utilities and trash removal services, which the parties hereby agree to be equal to 1.25% of the Concessionaire's Gross Revenue for any given year.

6.1.1 The First Year. During the first year of the Term, such payment shall be based on the agreed upon estimate of Gross Revenues for that calendar year. At the end of the first calendar year during the Term, the Concessionaire shall calculate the actual Gross Revenue and provide such calculation to the Manager. If the Concessionaire paid more than 1.25% of the actual Gross Revenue during that year, then the Concessionaire shall invoice the Authority for an amount equal to the difference between the amount actually paid by the Concessionaire and 1.25% of the actual Gross Revenue and the Authority shall pay the invoice within ten (10) days following receipt of such invoice. If the Concessionaire paid less than 1.25% of the actual Gross Revenue during that first year, then the Manager shall invoice the Concessionaire for an amount equal to the difference between the amount actually paid by the Concessionaire and 1.25% of the actual Gross Revenue and the Concessionaire shall pay the invoice within ten (10) days following receipt of such invoice.

6.1.2 No Liability. The Authority, the Cardinals, and the Fiesta Bowl shall not be liable to the Concessionaire for damages to either person or property (including economic injuries) resulting from any interruptions, curtailments, stoppages or suspensions of utility services or systems (including Facility systems) that are beyond the reasonable control of the Authority, the Cardinals, or the Fiesta Bowl.

6.2 Additional Capacity. Should the Concessionaire require any additional utility capacity or outlets (for electricity, water, gas and sewer services) for the performance of the Concession Services and the proper operation of Equipment or otherwise beyond the utility capacity and outlets provided at the Effective Date, then the cost of such installation and hook-ups of any additional utility capacity or outlets shall be at the Concessionaire's sole cost and expense unless the additional utility capacity or outlets are required pursuant to the written request of the Authority or the Manager.

6.3 Conservation Program. Throughout the Term, the Concessionaire shall develop and maintain an effective and continuous energy management and conservation plan or program for the performance of the Concession Services. The plan or program shall be provided to the Manager. The Concessionaire agrees to use its best efforts not to waste electricity, natural gas, water and other utilities at the Facility and to keep all Equipment used by the Concessionaire in good repair so that the consumption of utilities by the Concessionaire is efficient as possible.

6.4 Telecommunication and Electronic Data Expense. The Concessionaire shall be responsible for its own telecommunication and electronic data expenses, including standard customer installation and monthly service charges or costs (not wiring or cabling in the Facility). The Authority

reserves the right to require the use of certain providers of telecommunication and electronic data services to the Facility, provided that the providers are reasonably adequate for the needs of the Concessionaire. If the Authority does so and the services or equipment cannot be directly billed to the Concessionaire, then the Concessionaire shall reimburse the Authority for the actual cost of all equipment, maintenance, long distance and other property or services to the extent provided to the Concessionaire through the Authority. The Concessionaire shall be responsible for the costs of the Concessionaire, Branded Providers, their agents and employees. The Authority shall provide sufficient written documentation to the Concessionaire as is necessary to substantiate the actual cost of the equipment, maintenance, long distance and other telecommunication and electronic data charges directly attributable to the Concessionaire, Branded Providers, their agents and employees by providing any invoice for such amounts. The Concessionaire shall be responsible on for the costs of the Concessionaire, Branded Providers, their agents and employees.

**ARTICLE 7**  
**[INTENTIONALLY OMITTED]**

**ARTICLE 8**  
**THE MANAGER AND REPRESENTATIVES**

8.1 Delegation to the Manager. Except as otherwise provided in this Agreement, the Authority and the Cardinals have delegated all responsibility and authority to supervise the Concessionaire to the Manager.

8.2 The Manager's Authority. Unless otherwise specifically set forth in this Agreement, the Concessionaire shall be entitled to rely on the authority of the Manager to act on behalf of the Cardinals, the Authority and the Fiesta Bowl. The Manager shall decide, on behalf of the Cardinals, the Authority and the Fiesta Bowl, any and all questions that may arise as to the acceptability of services rendered, and as to the manner of performance, the interpretation of the conditions and the specifications, and to respond, on behalf of the Cardinals, the Fiesta Bowl and the Authority, to all questions as to the acceptable fulfillment of the terms and conditions of this Agreement, including maintenance and sanitary conditions.

8.3 Representatives. Each of the Authority and the Cardinals shall appoint a representative to deal with issues involving the Manager and the Concessionaire.

8.3.1 Authority Representative. Within fifteen (15) days of the Effective Date, the Authority shall appoint, and at all times maintain, an individual (or an entity which will, in turn, designate an individual) to serve as the representative of the Authority under this Agreement (the "Authority Representative"). The Authority shall provide written notice to the other parties of this Agreement of the individual or entity appointed to act as the Authority Representative. If the Authority Representative resigns or the Authority wishes to replace the Authority Representative, the Authority shall notify the other parties in writing of its appointment of the new Authority Representative. The Authority Representative, or an alternate designated in writing from time to time by the Authority Representative to serve on a temporary basis, shall be available on a daily basis throughout the Term.

8.3.2 The Cardinals Representative. Within fifteen (15) days of the Effective Date, the Cardinals shall appoint, and at all times maintain, an individual (or an entity which will, in turn, designate an individual) to serve as the representative of the Cardinals under this Agreement (the "Cardinals Representative"). The Cardinals shall provide written notice to the other parties to this Agreement of the individual (or entity) selected to act as the Cardinals Representative. If the Cardinals Representative resigns or the Cardinals wish to replace the Cardinals Representative, the Cardinals shall

notify the other parties to this Agreement in writing of its appointment of the new the Cardinals Representative. The Cardinals Representative, or an alternate designated in writing from time to time by the Cardinals Representative, shall be available on a daily basis throughout the Term.

## **ARTICLE 9 PERFORMANCE OF THE CONCESSION SERVICES**

9.1 Level of Service. The Concession Services to be performed by the Concessionaire are a very important aspect of the Facility operation for the Authority, the Cardinals and other Licensees. The Concessionaire shall perform the Concession Services, and particularly the Executive Suite Catering, at the highest levels of Product quality, service and ambiance of other high standard Concession Service providers for comparable facilities.

9.2 Employee Training. The Concessionaire agrees that it shall train, supervise, and regulate all persons employed by it in the conduct of its business so that they are aware of, and continuously practice, high standards of cleanliness, safety, courtesy and service required and customarily followed in the conduct of first class Concession Services. It is the intent of the Authority, the Cardinals, the Manager and the Concessionaire that all of the Concessionaire's employees shall have a positive, customer-oriented attitude. In that regard, each member of the Concessionaire's staff at the Facility shall be required to complete a Facility-wide customer orientation program consistent with Exhibit 9.2 attached hereto (the "Customer Program") prior to commencing work at the Facility. The cost and expense of training any of the Concessionaire's employees in the Customer Program shall be borne by the Concessionaire. In addition, as reasonably requested from time to time by the Manager, the Concessionaire shall provide training in the Customer Program as is reasonably necessary at its sole cost and expense to any non-profit groups who shall be in the Facility. At the Manager's request, but no less than annually, the Concessionaire shall provide the Manager with a certified list of all personnel who have successfully completed the Customer Program.

9.3 The Concessionaire's Sales Activities. The public's rights shall not be infringed upon by any activity of the Concessionaire or any of its employees. The activities of the Concessionaire shall be such as to render service to the public in a pleasant and dignified manner and the Concessionaire shall use no pressure, coercion or persuasion in an attempt to influence the public to purchase Products or use the Concession Services of the Concessionaire. The Concessionaire and its employees shall not distribute campaign or political literature of any kind in the Facility. The Concessionaire shall perform the Concession Services and manage the Concession Spaces in an efficient manner for the convenience and safety of the public during Events or other times as required by the Manager. All of the Concessionaire's sales activities shall be conducted and operated in a way so as not to interfere with the orderly conduct of any Event at the Facility.

9.4 Scheduling of Events. The Manager shall schedule all Events requiring the services of the Concessionaire. Any and all proposed Events offered by the Concessionaire utilizing the Facility may be rejected by the Manager or accepted and incorporated into the official calendar of Events at the Manager's sole and absolute discretion.

### 9.5 The Concessionaire's Employees.

9.5.1 The Concessionaire shall employ and compensate its own employees (in each case in adequate numbers to properly and promptly serve the Patrons present at each Event in order to avoid loss of sales or potential sales) and all such employees shall meet all the pertinent requirements set forth herein.

9.5.2 The Concessionaire shall conduct a reasonable background check in hiring all employees who shall work at the Facility.

9.5.3 The Concessionaire shall require that its employees maintain personal cleanliness and shall be polite and courteous towards the Patrons, the public and their fellow employees.

9.5.4 All employees of the Concessionaire shall enter and leave the Facility by the entrance(s) so designated by the Manager and must present a valid identification card to enter the Facilities at any time and must wear the identification card in accordance with the Manager's policies.

9.5.5 All employees of the Concessionaire shall be neatly attired in clean uniforms that properly identify the Concessionaire. The Concessionaire must provide each employee who works at the Facility with a name badge and any other identification credentials requested by the Manager and the employees must wear the name badge in a conspicuous location at all times when on duty. All uniforms and name badges shall be subject to prior approval by the Manager.

9.5.6 The Manager reserves the right to deny access to the Facility for any of the Concessionaire's employees or to request that an employee not work at the Facility if that individual employee is considered, in the reasonable discretion of the Manager, unsatisfactory or whose employment is not in the best interest of the Facility.

9.5.7 The employees of the Concessionaire shall be required to comply with all rules and regulations generally applicable to all employees working at the Facility.

9.5.8 The Concessionaire agrees that drinking alcoholic beverages or the use of narcotic substances by any of its employees on the job shall not be tolerated and infractions shall bring immediate removal from the premises. The Concessionaire shall have a written policy for alcohol and drug testing and proper employee conduct, in accordance with all applicable laws, including random screening or testing of all employees of the Concessionaire at the Facility for drugs, alcohol or other substance abuse for cause. All employees of the Concessionaire shall be required to possess a valid health certificate at all times.

9.5.9 The Concessionaire shall be solely responsible for payment of all federal, state, and local employment taxes and health and welfare benefit plans and other fringe benefits, if any, for its employees.

9.5.10 The Concessionaire shall hire and employ experienced managers responsible for the Concessionaire's performance of the Concession Services and such managers shall be present at the Facility during all Events requiring their respective skills or expertise and shall be available to and consult with the Manager regarding the performance of Concession Services under this Agreement. If the Manager is not satisfied with the performance of any manager employed by the Concessionaire, it shall notify the Concessionaire in writing. Upon receipt of the written notice, the Concessionaire shall arrange to meet with the Manager to discuss and resolve any such concerns, which resolution may include, without limitation, the replacement of the manager. If the Concessionaire's manager is to be replaced, the Concessionaire shall act diligently to replace the manager, but in all events the manager shall be replaced within forty-five (45) days after the decision to replace the manager is made.

9.6 Access to Events at the Facility. At no time shall the Concessionaire permit the entry of any person who is not a bona fide employee, subcontractor, or person necessary to effect repairs of the Concessions Spaces or Equipment or the performance of the Concession Services, for any Event. No employees of the Concessionaire who are not required for the performance of the Concession Services

shall be permitted entry to the Facility for an Event. Only those employees actually working at the Facility shall be permitted into the Facility without charge. The Concessionaire shall remove, and the Manager reserves the right to remove, any employees of the Concessionaire observed in the Facility at Events at which they are not working unless they are in possession of a ticket for such Event.

9.7 Parking. The Concessionaire shall be entitled to a number of the two hundred (200) non-reserved parking spaces in a shared lot near the Facility and set aside for the use of the Authority at all Events, such number to be agreed upon in writing between the Authority and the Concessionaire, but which shall not be more than twenty (20). Parking for employees of the Concessionaire is not available at the Facility or on the Facility Property. If the Manager or any other service provider shall arrange for a shuttle service to the Facility for employees at the Facility, the Concessionaire shall be entitled to participate on a proportionate cost basis.

9.8 Office and Locker Spaces. The Manager shall provide office space and purse-size lockers for the employees of the Concessionaire. The Manager reserves the right to change the location of such office and locker spaces from time to time at the Manager's sole and absolute discretion and with the relocation expenses to be fully paid for by the Manager, provided, that such alternate office and locker spaces are comparable in size are available to the Concessionaire and at no additional cost.

9.9 The Concessionaire's General Manager.

9.9.1 Appointment. The Concessionaire shall at all times, subject to the prior approval of the Authority and the Cardinals, such approval not to be unreasonably withheld or delayed, designate an individual to act as the Concessionaire's general manager (the "General Manager") who shall have the responsibility of supervising the performance of the Concession Services and the Concessionaire's other obligations under this Agreement.

9.9.2 Replacement. The Concessionaire may replace the current General Manager only with a capable person of suitable experience, but only upon the prior written consent of the Authority and the Cardinals, which consent shall not be unreasonably withheld or delayed. If the Concessionaire intends to change the General Manager, the Concessionaire shall first give written notice to the Manager at least thirty (30) days prior to the departure of the current General Manager, unless such prior written notice is not possible, in which case the Concessionaire shall give the Authority and the Cardinals the best opportunity possible under the circumstances to approve in advance the replacement candidate for General Manager. In no event shall the Concessionaire be prevented by the Authority from hiring a new General Manager where the change of General Managers is necessitated for reasons beyond the Concessionaire's reasonable control, such as death, disability, serious illness or voluntary resignation of the current General Manager; provided, however, that the appointment of the new General Manager shall be subject to the prior approval of the Authority and the Cardinals, such approval not to be unreasonably withheld or delayed. The Concessionaire shall act diligently to replace any General Manager as required, but in all events the General Manager shall be replaced within forty-five (45) days.

9.9.3 Removal. The Manager may request the removal of the General Manager upon written notice to the Concessionaire, such notice to contain reasonable detail of the reasons for such request. Within thirty (30) days after receipt of such request, the Concessionaire shall appoint a replacement General Manager in accordance with the provisions of Section 9.9.2.

9.9.4 Non-Solicitation. The Cardinals and the Authority each agree not to solicit for hire the services of the Concessionaire's General Manager and any of the Department Heads during the Term and for a period of one (1) year following the Expiration Date (the "Restricted Period"). The Cardinals and the Authority each agree that the General Manager and the Department Heads have

acquired special knowledge, skills and contacts as a result of being trained by the Concessionaire. If without the Concessionaire's prior written permission, either the Cardinals or the Authority solicits and then engages the services of the Concessionaire's General Manager or any of the Department Heads in violation of this Section 9.9.4, directly or indirectly, during the Restricted Period, then the parties agree that the Concessionaire shall suffer damages that shall be difficult to calculate. Therefore, the parties agree that, as compensation and not as penalty for the breach of this Section 9.9.4, the party hiring any such employee contrary to the provisions of this Section 9.9.4 shall pay the Concessionaire as liquidated damages and not as a penalty, an amount equal to the annual salary of such employee in effect immediately prior to the breach of this Section 9.9.4. Notwithstanding the provisions of this Section 9.9.4, the Cardinals and the Authority may hire the General Manager or Department Head after three (3) months following that employee's voluntary resignation from employment by the Concessionaire.

9.9.5 Obligations of the General Manager. The General Manager shall at all times maintain his or her principal residence within a fifty (50) mile radius of the Facility. The General Manager shall be available on a daily basis to respond to inquiries from the Manager concerning the Concession Services at the Facility and the Concessionaire's performance of its obligations under this Agreement.

9.10 Information to be Provided by the Concessionaire to the Manager. Upon the request of the Manager, the Concessionaire shall provide the Manager (with any updates to be provided annually) with the following:

9.10.1 A copy of the Concessionaire's employee handbook.

9.10.2 A statement identifying the anticipated sources to be used for obtaining non-management employees.

9.10.3 The outlines for all entry-level training programs and customer service training programs (for all customer-contact personnel) to be employed at the Facility.

9.10.4 A staffing plan for various attendance levels and different types of Events.

9.11 No Glass or Metal Beverage Containers. All beverages sold either at Concession Spaces or Portables (except for Executive Suite Catering, Catering, Restaurants or Club Seat Concessions) shall be sold in paper or plastic cups or bottles and not in glass or metal cans. The Manager shall have the right of prior approval of all containers and may require the Concessionaire to provide custom containers; provided, however, that the Concessionaire's cost shall include only the normal and customary cost (and not any premium cost) of lettering or printing associated with names or logos.

9.12 Logo Display. At the sole cost and expense of the Concessionaire, all uniforms, plastic and paper cups, containers and napkins must prominently display the Facility's name and logo or an alternate name or logo as designated by the Manager; provided, however, that the Concessionaire's cost shall include only the normal and customary cost (and not any premium cost) of lettering or printing associated with names or logos. The Concessionaire's logo may be displayed also at the Manager's prior written approval, such approval to be in the sole and absolute discretion of the Manager. All artwork and design specifications for the logos require prior written approval of the Manager.

9.13 Sale of Tobacco and Chewing Gum. The Concessionaire shall not sell tobacco products, chewing gum or other candy products containing chewing gum.

9.14 Rules and Relations. The Manager has issued, and may amend or replace from time to time, rules and regulations for the operation of the Concession Spaces and supporting facilities, and the Concessionaire shall operate in accordance with such rules and regulations. In the event of any conflict between the rules and regulations and this Agreement, this Agreement shall govern.

9.15 Working Capital. The Concessionaire is required to provide sufficient levels of working capital (such as till funds, petty cash and inventory) to adequately serve the Patrons of the Facility at all times.

9.16 No-Liens. The Concessionaire shall not grant, place or permit any lien or other encumbrances against the Facility, the Concession Spaces, the Equipment or any other equipment located therein.

9.17 Time of Operation. The days and hours of operation for the Concession Services shall be subject to the prior approval of the Manager after consultation with the Concessionaire, it being understood that the Concessionaire shall perform the Concession Services sufficiently in advance of each Event to allow time for Patrons of the Facility to purchase refreshments and shall continue to provide such services until such Event ends or such further time that may be reasonably necessary to adequately meet the public demand.

9.18 Plan of Operation. Prior to the Effective Date, and thereafter as indicated, the Concessionaire shall submit to the Manager for approval a plan of operation that shall include, at a minimum, the following information.

9.18.1 An organization chart showing the General Manager for the Facility and Department Heads (e.g., separate managers for General Concessions, the Restaurants, the Executive Suite Catering and the Club Seat Concessions). In addition, the organization chart should show all full-time positions planned for the operations at the Facility denoting anticipated annual salary for each position.

9.18.2 The food service-related experience and education of the Concessionaire's managers for the Facility and the names, resumes and references of the managers, as to whom the Manager shall have the right of prior approval of selection.

9.18.3 Proposed menus for all Concession Services for the Facility indicating each anticipated menu item, portion sizes and selling prices for the first year of the Term. The Concessionaire shall include sales taxes in the anticipated prices. On or before June 1 of each subsequent year of the Term, such menus, portion sizes and selling prices shall be updated by Concessionaire.

9.18.4 A repair, maintenance and cleaning plan (the "RMCP") to be followed by the Concessionaire for all of the Concession Spaces in the Facility. The RMCP should include a definition of the frequency (time interval) and the various repair, maintenance and cleaning functions, including refuse and waste disposal.

9.18.5 The Concessionaire shall use such inventory control systems, cash registers, sales slips, invoicing machines and other automatic accounting equipment as are provided at the Facility. Upon reasonable notice, all sales records of the Concessionaire relating to the Facility shall be subject to inspection by the Manager, its officers, employees and representatives, during such hours that the Facility is operating or during regular business hours. Any such inspection shall be made so as not to interfere with the Concessionaire's business.

9.18.6 A detailed marketing and promotional plan promoting the Concession Services at the Facility to be implemented by the Concessionaire.

9.18.7 A detailed energy management and conservation program for the concessions operations at the Facility as required by Section 6.3.

9.18.8 Any other information that the Concessionaire feels is pertinent to the success of the Concession Services at the Facility.

9.19 Solicitation of Tips. Neither the Concessionaire nor any of its employees, subcontractors or agents may solicit tips, service charges or other gratuities in connection with the Concession Services (unless the tip, service charge or gratuity is agreed to in advance and in writing by the Manager and is added on to the cost of Products). No invoice for Concession Services shall contain a line for tips or gratuities. Notwithstanding the provisions of this Section 9.19, the Concessionaire's employees, subcontractors or agents may accept tips or gratuities if the same are spontaneously offered without having been solicited.

9.20 Restaurant/Executive Suite Catering/Club Seat Concessions. Restaurants, Executive Suite Catering and Club Seat Concessions shall be a very important aspect of the Concession Services at the Facility. Such services shall be provided only on "Event" days (as that term is defined in Exhibit 1.1 hereto).

9.20.1 Standard of Service. The Concessionaire shall operate the Concession Services related to Restaurants, Executive Suite Catering and Club Seat Concessions at the highest levels of Product quality, service and ambiance of other high standard Concession Service providers for comparable facilities.

9.20.2 Separate the Managers. The Authority and the Cardinals require that the operation of the General Concessions be separate from the Restaurants, Executive Suite Catering and Club Seat Concessions. The Concessionaire must employ separate managers and prepare separate Gross Revenue projections for each of the General Concessions, Restaurants, Executive Suite Catering and Club Seat Concessions.

9.20.3 Executive Suite Licensees and Club Seat Holders. The licensees of the Executive Suites and the Club Seat holders shall have charge privileges. This service, subsequent billing, and any accounts receivable shall be the responsibility of the Concessionaire, subject to the approval of the Manager. The Concessionaire shall provide an Executive Suite and Premium Services Director to assist Executive Suite licensees and Club Seat holders with their needs for Concession Services within the Facility.

9.21 Cooperation with the Authority and the Cardinals. The Concessionaire shall cooperate with the Authority and the Cardinals and other Licensees and their vendors for the sale of Executive Suites, advertising in the Facility and other services.

9.22 Storage. Storage of Products and Smallwares shall be permitted only in locations approved by the Manager, with the Manager retaining the right to change the location of such storage from time to time at the Manager's sole and absolute discretion with the relocation expenses to be fully paid for by the Manager, provided, that such alternate storage shall be comparable in size.

9.23 Deliveries. All deliveries shall be made only at locations specifically identified by the Manager during normal business hours at such times as to not interfere with other deliveries or Events.

The Concessionaire shall endeavor to schedule all deliveries according to a schedule to be prepared by the Concessionaire and approved by the Manager in advance of all deliveries.

9.24 Safety. The Concessionaire must conduct all of its operations at the Facility in a safe manner. The Manager may require the removal, closure, discontinued use or alteration of Equipment, any of the Concession Spaces or Portables within no more than ten (10) Business Days (or immediately if in the sole and absolute discretion of the Manager the safety concern is immediate and substantial) after delivery of written notice to the Concessionaire if the Manager determines in its sole and absolute discretion that such removal, closure, discontinued use or alteration is necessary for (i) the safety of employees, contractors, visitors, Patrons or Licensees or (ii) the protection of the Facility.

9.25 Use of the Concession Spaces and the Facility. The Concessionaire shall use the Concession Spaces and the Facility solely for the purpose of performing the Concession Services in accordance with the terms and conditions of this Agreement or in connection with Sportsman's Park Events. Use of the Concession Spaces or the Facility for any other purpose not authorized under this Agreement without, in each such instance, the prior written approval of the Manager shall be prohibited, which approval may be withheld in the sole and absolute discretion of the Manager. The Concessionaire shall not conduct or permit to be conducted any activity, including placement of any Equipment, in or about the Concession Spaces or the Facility which is not customarily conducted at similar sports facilities by entities providing services comparable to the services provided by the Concessionaire under this Agreement and which shall in any way increase the rate or cause the cancellation of any insurance coverage maintained by the Authority covering the Facility or its operation. The Concessionaire shall not operate any gasoline or diesel fuel powered device (not including devices powered by natural gas or propane) in the Facility without the prior written consent of the Manager, which consent may be withheld in its sole and absolute discretion.

9.26 Right of Access to the Concession Spaces. Notwithstanding the Concessionaire's obligations hereunder, the Manager shall have the right at all times to enter upon any portions of the Concession Spaces or Portables for any legitimate purpose, including the observation of the Concessionaire's performance of the Concession Services and its other obligations under this Agreement. Any trustee pursuant to any indenture encumbering the Facility or any portion or interest therein shall also, after reasonable prior notice to the Concessionaire, have the right of access to the Concession Spaces and Portables at any time to inspect the Concession Spaces, Portables, and Equipment. Except in the case of an emergency such rights to access the Concession Spaces and Portables shall not be exercised in a manner that shall unreasonably interfere with the Concessionaire's performance of the Concession Services. In order to effectuate the rights of access and entry pursuant to this Section 9.26, the Concessionaire shall provide the Manager, at all times, with (i) duplicate keys to all locks within or to the Concession Spaces (except for liquor or cash storage areas) or any Portables; (ii) access codes or cards for all security systems or devices within or to the Concession Spaces (except liquor or cash storage areas) or any Portables; and (iii) combinations for all combination locks within or to the Concession Spaces (except liquor or cash storage areas) or any Portables. The distribution of such duplicative keys, codes and combinations shall be limited to one person designated by the Manager as the recipient of such information, and the Manager shall agree to keep such information confidential and not to make copies of any such keys or codes obtained without the express written permission of the Concessionaire, which shall not be unreasonably withheld or delayed. If the Manager's negligence or misconduct compromises security in the Concession Spaces, then the Manager shall be responsible for the costs of re-keying and/or reprogramming codes for the Concession Spaces. In connection with any Events where Products are permitted under this Agreement to be sold by a provider other than the Concessionaire under Section 2.1, the Concessionaire shall cooperate with the Manager in permitting access to such areas of the Concession Spaces as shall be necessary for the provision of the other services, provided that the Concessionaire receives an appropriate indemnity and evidence of reasonable insurance coverage from the other provider.

9.27 Security at the Facility. The Concessionaire is responsible for the control of keys and access codes obtained from the Manager. The Concessionaire shall immediately report all facts relating to losses incurred as a result of break-ins to the Manager. If the Concessionaire's negligence or misconduct compromises security at the Facility, then the Concessionaire shall be responsible for the costs of re-keying the Facility and/or reprogramming codes at the Facility.

9.28 Community Involvement. The Manager shall have the right to designate charitable organizations which may be appropriate for receiving excess Products following Events at the Facility, provided that such organizations provide the Concessionaire with indemnification and insurance reasonably acceptable to the Concessionaire, and provided, further that the Concessionaire shall determine in its sole discretion what Products are excess following Events at the Facility. The Concessionaire agrees to reasonably cooperate with charitable or other civic-minded programs that the Manager may endorse or sponsor, provided that the Concessionaire is given advance notice and an opportunity to comment on such programs.

## **ARTICLE 10 MAINTENANCE AND CLEAN UP**

10.1 Maintenance of Equipment and Smallwares. The Concessionaire shall maintain all of the Concessions Spaces, Portables and Equipment used in performance of the Concession Services in a high quality condition, including maintenance and repair necessitated by ordinary wear and tear, all in accordance with the RMCP.

10.2 Compliance with Health and Sanitary Codes. The Concessionaire shall maintain all Concession Spaces at the Facility in clean and sanitary condition in the highest standards of the food service industry and in accordance and consistent with all applicable rules, demands and requirements of law, pertinent health and sanitary codes, and requirements of duly authorized health authorities of City of Glendale, Arizona State Health Department, Maricopa County, and any other health departments having jurisdiction over the Facility and its operations.

10.3 Pest Control. After consultation with the Concessionaire, the Manager shall engage and supervise exterminators to control vermin and pests at the Facility. The Concessionaire shall pay to the Manager the Concessionaire's *pro rata* share of the costs for such vermin and pest extermination activities in connection with the Concession Services, based on a ratio of the square footage in the Concession Spaces to total useable square footage in the Facility. Such extermination services shall be conducted in all areas where Products are prepared, dispensed or stored by the Concessionaire as often as is reasonably necessary but at least monthly. The Concessionaire shall coordinate any of its separate vermin and pest extermination activities with the Manager and the Facility-wide program for vermin and pests. Within sixty (60) days following the end of each calendar year, the Authority shall provide to the Concessionaire an accounting of the actual cost of such services for the Facility for the year then ending.

10.4 Trash Receptacles. The Concessionaire shall supply adequate trash and waste receptacles in the Concession Spaces. The Manager shall supply or arrange for the supply of adequate trash and waste receptacles in all areas of the Facility. All Concession Spaces, including condiment areas and trash and waste receptacles located therein shall: (i) be maintained in a clean and neat manner, (ii) be regularly monitored by the Concessionaire for condiment stocking and supplies, cleanliness and trash removal during Events; and (iii) have specified personnel assigned by the Concessionaire to these tasks.

10.5 Disposal of Waste Material. The Concessionaire shall remove all trash and waste from the Concession Spaces, service areas, and at the condiments locations to a location designated by the Manager. The entire area within a radius of twelve (12) feet of each Concession Space, point of sale,

condiment area, commissary and work area operated by the Concessionaire shall be kept clean and neat. Trash and waste materials generated by the Concessionaire shall be placed in closed metal containers until removed from the Facility. Except as specifically set forth in this Agreement, the Concessionaire shall have no obligation to remove any trash and waste generated by Patrons outside of the Concession Spaces, service areas and condiment locations.

10.6 Copies of Maintenance Contracts. The Concessionaire shall provide the Manager with copies of all maintenance contracts and cleaning and maintenance schedules on at least an annual basis and at any such time as they may be modified or amended.

10.7 Grease Removal. The Concessionaire shall contract for and cause the removal of grease in a manner that is consistent with the highest industry standards and after every Home Game, or more often when, in the reasonable determination of the Manager, it is required or is consistent with industry standards after taking into consideration the climate where the Facility is located. The Concessionaire shall arrange for professional pumping of grease traps when reasonably required and consistent with the highest industry standards after taking into consideration the climate where the Facility is located.

## **ARTICLE 11 PRODUCTS TO BE SOLD; PRICES**

11.1 Quality of Products. The Concessionaire recognizes that the quality of Products sold at the Facility is a matter of highest concern to the Authority and the Cardinals and is essential to this Agreement. The Concessionaire represents and warrants that all Products shall be of the highest possible quality. At a minimum, the Concessionaire shall provide products of quality and at prices at least consistent with similar products presently being offered in other similar facilities in Maricopa County, Arizona such as Chase Field, US Airways Center, Jobing.com Arena or Sky Harbor International Airport. The Manager reserves the right to determine whether a particular Product complies with the standard, which right shall be exercised reasonably. In the event the Manager determines a particular Product does not comply with the above standard, it shall provide written notice to the Concessionaire, which shall have a reasonable period of time to substitute a satisfactory Product comparable in price with other similar items it sells.

### 11.2 Branded Products and Branded Providers.

11.2.1 Branded Products. The Concessionaire acknowledges that the Manager may require the Concessionaire to use certain Products that are sold nationally, regionally or locally and which are advertised, marketed and sold outside the Facility to the general public under the same name by which the Products are offered for sale inside the Facility ("Branded Products"), either on an exclusive or "have available" basis.

(a) Notwithstanding the provisions of this Section 11.2.1, the parties acknowledge that it is in their best interest for the Concessionaire to use Products that are (i) competitively priced, (ii) of comparable quality, and (iii) furnished by suppliers who are capable of adequately servicing the Facility. The Concessionaire agrees to use the Branded Products as required by the Manager pursuant to this Section 11.2.1, provided that the foregoing conditions as to price, comparability and service are met. The Authority, the Cardinals and the Concessionaire agree that one of the conditions in determining whether the price of a Branded Product required by the Manager is competitive is a comparison of the price the Concessionaire pays for a comparable Product under its local, regional and national account contract(s).

(b) The Concessionaire shall not at any time offer an exclusive right to any supplier of Branded Products without the prior written approval of the Authority or the Cardinals.

(c) The Concessionaire shall not offer for sale any Products that compete with Branded Products that are the subject of a Sponsorship Agreement.

(d) The Concessionaire's obligations under this Section 11.2.1 are subject to its right to sell off any reasonable amount of existing inventory of other Products.

(e) Any payments made by the supplier for the right to have such Branded Products sold at the Facility shall be retained by the Authority or the Cardinals, as appropriate, and shall not be included in Gross Revenue for purposes of calculating commissions under this Agreement.

(f) Except for the cost of purchasing the Branded Products for resale (including applicable freight, delivery and taxes, if any), the Concessionaire shall not be required to incur any out-of-pocket expense in connection with Branded Products, including without limitation, the cost of fitting out the Concession Spaces or purchasing additional Equipment in connection with any Branded Product and shall have the right to deduct any royalty, franchise or any other fees and charges from Gross Revenue required to be paid by the Concessionaire to the seller of the Branded Product as direct result of the Sponsorship Agreement.

11.2.2 Branded Providers. The Authority, the Cardinals, the Manager and the Concessionaire contemplate that certain locations to be agreed upon between the parties in the Facility may be used to sell Branded Products pursuant to sub-concession agreements (a "Sub Concession Agreement") between the Manager, the Concessionaire and a third party providing those Products (a "Branded Provider"). Unless otherwise agreed to by the parties to this Agreement, the Concessionaire will be compensated with respect to a Branded Provider as set forth in Exhibits 4.1.1, 4.1.2 and 4.1.3, as applicable. In that event, the Branded Provider may install certain improvements as well as provide employees and other equipment in order to facilitate the sale of the Branded Products. Any Sub-Concession Agreement shall be reviewed and approved by the Manager and shall specifically provide that the Authority and the Cardinals are third party beneficiaries thereof, except with regards to the sale of any Alcoholic Beverages or to the extent otherwise not legally permissible. The Concessionaire shall require that each Branded Provider discharge all obligations with respect to the Branded Products provided in the same manner that would be required of the Concessionaire under this Agreement when the Concessionaire provides Products. It is acknowledged by the parties that the Concessionaire may, pursuant to a Sub-Concession Agreement with a Branded Provider, provide the Branded Products using such materials, equipment and methods of preparation as are required by the Branded Provider.

11.3 Price Schedule for Products and Service Charges. Subject to Section 11.2, the Concessionaire shall submit a detailed written price schedule for all Products, including all Branded Products, it proposes to sell, showing size, weight and price of each Product and any service charges it proposes to impose on certain types of Concession Services within the Facility, which shall be subject to the final approval of the Manager, which approval shall not be unreasonably withheld or delayed. The Manager shall meet with the Concessionaire to review Products, including Branded Products, to be sold and all the prices or service charges to be charged on an annual basis or more often as may be determined by the Manager, using June 1 of each calendar year of the Term as the beginning for each annual yearly period. The Manager must object to any Products to be sold and prices or service charges to be charged on or before the expiration of ten (10) Business Days after the later of June 1 or the actual date the Manager receives the list of Products to be sold and prices or service charges to be charged from the Concessionaire. Whenever unique economic conditions result in unusual cost increases to the Concessionaire, the Manager shall consider a request by the Concessionaire for price changes at times

other than the annual date specified above. Prices may be changed only with the Manager's prior written approval, which shall not be unreasonably withheld or delayed.

11.4 Local Source of Products. Except as otherwise agreed by the Manager and with the exception of Products requested by the Manager pursuant to Section 11.2, the Concessionaire shall procure all Products and operating supplies from local sources where possible, provided that the local sources meet the quality requirements, are capable of adequately servicing the Facility, are price competitive and are reputable. Non-local purchases must be pre-approved by the Manager, whose approval shall not be withheld for reasons other than quality or price considerations.

11.5 Right of Inspection. All Products kept for sale shall be subject to inspection and the reasonable approval or rejection by the Manager or its duly authorized representatives during all times that the Concession Spaces are in operation at the Facility. Products rejected by the Manager shall be removed from the Facility and shall not be returned for sale immediately upon the Manager stating in writing a reason for such rejection and removal. Furthermore, the Authority, the Cardinals and the Manager or their designated representatives shall have the right to enter any and all Concession Spaces and supporting facilities to inspect the Concessionaire's compliance with the obligations set forth in this Agreement and observe the performance of the Concession Services, but in so doing shall not unreasonably disrupt or interfere with the Concessionaire's provision of Concession Services.

11.6 Certain Restrictions on Products. The Concessionaire understands and agrees that the Authority may contract with Licensees for particular functions and that such contracts may stipulate reasonable restrictions on the sale of certain Products where necessary, to protect the goods advertised or on display or where necessary because of restrictions applicable to the nature of the function. For example, without limiting the generality of the foregoing, (i) such items as popcorn, sno-cones and cotton candy may be restricted items at shows displaying boats, campers, automobiles and the like; (ii) at functions such as meetings, as opposed to public exhibitions, the Licensee may require that no Products be sold in Licensee's area of occupancy; (iii) the sale of alcoholic beverages in certain situations or locations may not be permitted; or (iv) there may be agreements or contracts with Branded Providers, or other Sponsorship Agreements which restrict the promotion and sale of competing Products, as set forth in Section 11.2 above.

11.7 Special Sales of Concessions. At the request of the Manager, the Concessionaire may:

11.7.1 sell Products (for personal use and not for resale) to employees of the Authority, the Manager or any Licensee who display some form of identification satisfactorily demonstrating that such person is doing business or working at the Facility at the time of the sale, for fifty percent (50%) of the retail price; and

11.7.2 provide Catering for occupants of the press box areas during Events at the Facility and be compensated in the same manner as a Private Catered Function.

Any sales under this Section 11.7 shall not be included in Gross Revenue.

## **ARTICLE 12 RECORDS, ACCOUNTING AND AUDITING**

12.1 Maintenance of Accounting Records. The Concessionaire shall maintain all accounting records and documents regarding operations at the Facility throughout the Term and for a period of three (3) years after the Expiration Date, all in accordance with generally accepted accounting principles. The Manager may prescribe the form of records to be kept by the Concessionaire in accordance with this

provision. The Concessionaire will, upon reasonable demand, make available to the Manager records, books of account and statements maintained with respect to the Concessionaire's operations at the Facility, including all supporting documents and work papers related to the services under this Agreement. The books of account and statements of the Concessionaire maintained in accordance with this Agreement shall be available at the Facility or at the Concessionaire's office in the Phoenix metropolitan area, and the Manager shall have review access to such records upon reasonable advance notice.

12.2 Inventory of Products and Equipment. Within ninety (90) days following the beginning of each calendar year, the Concessionaire shall provide an inventory of all Products and Equipment to the Manager, noting for the Manager any unusable or missing items. The Manager or its designated representative shall be entitled, at any reasonable time, to conduct its own inventory of Products and Equipment and the Concessionaire shall be entitled to accompany and participate in such inventory with the Manager or its designated representative. The Concessionaire agrees that the Manager may conduct such inventory at least twice per calendar year. The Concessionaire and its agents and employees shall cooperate fully with any such review by the Manager or its designated representative. The Concessionaire shall be provided with an electronic, computerized point of sale cash and inventory control system that shall be capable of transmitting reports electronically to the Manager. Such inventory control system shall be subject to the prior mutual agreement of the parties. The system shall include an electronic accounting system and a debit and credit card reader or comparable system or another inventory sales method acceptable to the parties. The Concessionaire shall supply reports pertaining to Gross Revenue to the Manager electronically or in hard copy form, as requested by the Manager in its reasonable discretion. Provided that the Manager provides electrical and telephone lines and necessary conduit to such areas, the Concession Spaces and Portables shall be equipped for debit cards, spot cards, credit cards, smart cards or value added cards as available payment methods for all sales in the Facility.

12.3 Commercial Accounts. The Concessionaire shall establish one or more separate commercial banking account or accounts into which all Gross Revenue under this Agreement shall be deposited pursuant to the terms and conditions of this Agreement. Records of receipts so deposited and disbursements made shall be kept by the Concessionaire and made available to the Manager at its reasonable request.

12.4 Records Satisfactory to the Manager. The Concessionaire shall keep accurate and complete records of its operations at the Facility for each Event held at the Facility, in accordance with generally recognized accounting principles applied consistently throughout the period and in a form and substance satisfactory to the Manager.

12.5 Annual Audit. An annual audit of Gross Revenue prepared by certified public accountants selected by the Concessionaire and approved by the Manager must be submitted to the Manager no later than sixty (60) days after the end of the initial calendar year of operations and each subsequent calendar year of the Term. The annual audit report shall be prepared in accordance with generally recognized accounting principles applied consistently throughout the period and in a format acceptable to the Manager.

12.6 Questioning of Statements. If the Manager is not satisfied with the statements setting forth Gross Revenue and sales data for the Facility submitted by the Concessionaire as provided for herein, the Manager shall have the right to make a special audit, by auditors selected by the Manager, of the books and records required to be made and prepared by the Concessionaire. If this special audit shows a deficiency in payments for any period covered, in excess of one percent (1%), of the amount thereof, the Concessionaire shall pay promptly to the Manager the amount of the difference, plus annual

interest at the then-prime rate as established in the Wall Street Journal plus two percent (2%), and also the cost of the audit.

12.7 Taxes. The Concessionaire shall collect and promptly disburse all sales, transaction privilege, license, excise or similar taxes imposed by federal, state and local authorities (the "Taxes") and shall pay any applicable Taxes relating to the Concession Services, Equipment, inventory and rents. The Concessionaire shall file separate returns for state and local taxes associated with its operations at the Facility and shall not commingle such returns with any other operation of the Concessionaire. The Concessionaire shall fully indemnify and defend the Authority, the Cardinals and any other Licensee from and against all liabilities for Taxes relating to the Concession Services, Equipment, inventory and rents.

12.8 Reports. In addition to the reports otherwise required herein, the Concessionaire shall submit to the Manager the following reports (in form satisfactory to the Manager) on its operations at the Facility:

12.8.1 Daily Event and monthly sales reports by location or point of sale.

12.8.2 Event sales reports by location or point of sale.

12.8.3 Annual sales report corresponding with the Authority's fiscal year and reconciling with previous year's monthly reports, along with accurate and complete audited financial statements complying with generally accepted accounting principles.

12.8.4 An annual sales and revenue and semi-annual revised sales and revenue budget.

12.8.5 An audited revenue statement for the Facility.

12.8.6 The Concessionaire's audited financial statements.

12.8.7 An annual Equipment inventory.

### **ARTICLE 13 PERFORMANCE STANDARDS**

13.1 Service Problems. The Concessionaire shall anticipate and resolve service problems pertaining to the performance of the Concession Services as soon as possible and the Concessionaire shall use commercially reasonable efforts to resolve such problems before the end of any Event in which they arise, or within a reasonable time thereafter if such time frame is not possible. The General Manager and other members of the Concessionaire's management team shall review any complaints about or problems with service as they occur and discuss and implement solutions to prevent their recurrence. By way of example, indicators of problems include Patron complaints, excessively long lines or bottlenecks at the Concession Spaces, Portables or club lounges causing gaps in lines, delays in production, products that are difficult or time consuming to serve, and insufficient supplies of Products to serve the Patrons' demands during Events at the Facility.

13.2 Resolution of Complaints. The Concessionaire shall resolve, as soon as possible and without expense to or intervention by the Manager, all complaints received by the Concessionaire with respect to the Concessionaire's Concession Services and the performance of its obligations under this Agreement. The Concessionaire shall use all commercially reasonable efforts to resolve such complaints before the end of the Event in which such complaints arise. All complaints pertaining to the

Concessionaire Services and the performance of the Concessionaire's obligations under this Agreement shall be resolved at the Concessionaire's sole expense.

13.3 Notification of Complaints. The Manager shall refer to the Concessionaire any complaints concerning the Concession Services. Likewise, the Concessionaire shall notify the Manager of any written complaint it receives concerning the Concessions Services, as well as any complaint not fully resolved before the end of the Event to which the complaint relates. The Concessionaire shall deliver copies of any written complaint received by the Concessionaire to the Manager by the later of ten (10) Business Days after the Concessionaire's receipt of such complaint, or no later than one (1) Business Day prior to the Cardinal's next Event at the Facility. The Concessionaire shall keep the Manager fully informed of the status of any meetings or proceedings to resolve a complaint and shall promptly notify the Manager upon final resolution of each complaint. The Concessionaire shall immediately bring serious complaints to the attention of the Manager for the Event during which they occur. The Concessionaire shall use best efforts to have all verbal complaints it receives reduced to writing and submitted to the Manager.

13.4 Annual Survey. Each year during this Agreement, the Concessionaire shall conduct a survey to evaluate satisfaction with respect to the Concession Services provided by the Concessionaire and the performance of the Concessionaire under this Agreement. The form, content and census of the surveys shall be subject to the prior reasonable approval of the Manager, and the results of such surveys shall be promptly submitted to the Manager. In no event shall the number of persons required to be surveyed exceed three hundred (300).

13.5 Monitoring Program. The Concessionaire shall develop and implement a program to continually monitor and evaluate and to address proposed changes that would enhance the overall operation of the Concession Services at the Facility. The Concessionaire shall provide service survey or comment cards at each point of sale within the Facility and shall provide any written comments received to the Manager. The General Manager shall meet with the Manager on a regular basis (not less than one (1) time after each Event of the Cardinals at the Facility), (i) to review and evaluate the performance of the Concessionaire in aspects including maintenance and cleaning operations, operation of the Concession Services, staff training and development, and community outreach efforts, and (ii) to recommend ways to improve the overall service provided by the Concessionaire.

13.6 The Manager's Right to Test Products. The Manager reserves the right to examine, sample and otherwise test all Products offered for sale by the Concessionaire at any time for the purposes of assessing quality and portion size, but in so doing shall not disrupt or disturb the Concessionaire's operations.

## **ARTICLE 14 INDEMNITY, RELEASE, INSURANCE AND SECURITY**

14.1 Indemnification of the Authority, the Manager and the Cardinals. To the fullest extent permitted by law, the Concessionaire shall defend, indemnify and hold harmless the Authority, the Manager and the Cardinals and their directors, officers, employees and agents, from and against all losses and expenses arising out of, connected with, or resulting from, directly or indirectly, any breach of any representation, warranty or covenant of this Agreement, any failure of the Concessionaire to perform in accordance with the terms, conditions and specifications of this Agreement, any claims by any party for personal injury or property damage resulting from the Concessionaire's performance under this Agreement, and any claims of any nature made by any employees of the Concessionaire against the Authority, the Manager and the Cardinals. Said claims, damages, losses and expenses shall include,

without limitation, reasonable attorney's fees and any claims, damages, losses and expenses due to the failure to perform in accordance with the terms, conditions, and specifications of this Agreement.

14.2 Surety. The Concessionaire shall furnish to the Authority, the Manager and the Cardinals, thirty (30) days prior to the Effective Date, either a surety bond executed by the Concessionaire as principal and by a surety company licensed to do business in the State of Arizona and acceptable to the Authority as surety in the sum of one million (\$1,000,000) or such other form of security in that amount as may be agreed upon. This surety shall be conditioned upon payment by the Concessionaire of the sums due to the Authority and the Cardinals under Article 4 hereof during the Term as well as faithful performance by the Concessionaire of all other conditions and covenants of this Agreement. The surety company is required to have a minimum rating of A- Class XII or better in the current issue of Best's Key Rating Guide published by A.M. Best and Company, Inc. Upon termination or expiration of this Agreement, except as set forth hereunder, the Authority shall cancel the bond requirement and return the bond to the Concessionaire.

14.3 Safety. The Concessionaire shall at all times enforce by adequate supervision and training of supervisory personnel, a safe working environment for all employees, including the supervision of all services which relate to the general safety and welfare of any persons exposed to the services performed under this Agreement by the Concessionaire. The Concessionaire agrees to fully cooperate with the Manager in any employee and public safety program sponsored by the Manager. The Concessionaire agrees to conduct all of its operations with due diligence for the safety of all persons at all times.

#### 14.4 The Concessionaire Insurance.

14.4.1 During the Term, the Concessionaire shall provide, pay for, and maintain with companies satisfactory to the Authority and the Cardinals the types of insurance described herein. All insurance shall be obtained from companies duly authorized to do business in the State of Arizona and with a minimum rating of A- Class XII or better in the current issue of Best's Key Rating Guide published by A.M. Best and Company, Inc. All liability policies shall provide that the Authority, the Manager, the Cardinals, the Fiesta Bowl and any other Licensee are additional insureds as to the operations of the Concessionaire under this Agreement. Prior to the Effective Date, the insurance coverages and limits required must be evidenced by properly executed certificates of insurance, along with a letter from the Concessionaire's insurance broker explaining how the insurance coverage meets the requirements of this Agreement. The authorized representative thereof must personally manually sign the certificate. Thirty (30) days written notice must be given to the Authority and the Cardinals of any cancellation, intent not to renew, or reduction in the policy coverages, except in application of aggregate liability limits provisions. Should any aggregate limit of liability coverage be reduced, for any reason whatsoever, it shall be immediately increased back to the limit required by this Agreement. The insurance coverages required pursuant to this Agreement are to be primary to any insurance carried by the Authority or the Cardinals or any self-insurance program thereof.

14.4.2 If any general liability insurance required herein is to be issued on a "claims made" form as opposed to the "occurrence" form, the retroactive date for coverage shall be no later than the Effective Date and shall provide in the event of cancellation or non renewal that the discovery period for insurance claims (tail coverage) shall be limited to the longest applicable statute of limitations plus two (2) years.

14.4.3 The insurance coverages and limits required of the Concessionaire under this Agreement are designed to meet the minimum requirements of the Authority and the Cardinals. The minimum insurance requirements set forth in this Agreement are not intended to limit the liability of the

Concessionaire in any way. They are not designed as a recommended insurance program for the Concessionaire. The Concessionaire alone shall be responsible for the sufficiency of its own insurance program. Should the Concessionaire have any questions concerning its exposure to loss under this Agreement or the possible insurance coverages required hereunder, it should seek professional assistance. The Authority and the Cardinals shall in no way be responsible to the Concessionaire or any other party for the inadequacy of the Concessionaire's overall insurance program.

14.4.4 Should at any time the Concessionaire not maintain the insurance coverages required in this Agreement, the Authority and the Cardinals, at their sole and absolute discretion, are authorized to purchase such coverage and charge the Concessionaire for such coverages purchased. The Authority and the Cardinals shall be under no obligation to purchase such insurance or be responsible for the coverages purchased or the financial stability of the insurance company used. The decision of the Authority and the Cardinals to purchase such insurance coverages shall in no way be construed as a waiver of their rights.

14.4.5 All of the required insurance coverages in this Agreement must be issued as required by law and must be endorsed, where necessary, to comply with the minimum requirements contained herein. Thirty (30) days written notice by certified or registered mail must also be given to the Authority and the Cardinals as to the cancellation of the policies and any change that shall reduce the insurance coverages required herein. Notwithstanding the foregoing, ten (10) days written notice shall be given to the Authority and the Cardinals of cancellation of insurance for nonpayment of premiums of such insurance. Renewal certificates of insurance must be provided to the Authority and the Cardinals fourteen (14) days prior to expiration of current coverages so that there shall be no interruption in the work due to lack of proof of insurance coverages required of the Concessionaire in this Agreement.

14.4.6 Upon written request, the Authority and the Cardinals shall have the right to receive certified true copies of insurance contracts to support the certificates of insurance. The Authority and the Cardinals, without penalty or expense, may terminate this Agreement if any policies requested hereunder are not provided the Authority and the Cardinals within thirty (30) days of the date when the policies were requested.

14.4.7 Workers Compensation and Employers Liability Insurance. Workers Compensation and Employers Liability insurance shall be provided for all employees engaged in the work pursuant to this Agreement in accordance with the laws of the State of Arizona. In addition, the amount of Employers Liability insurance shall be not less than:

- \$1,000,000 Bodily Injury by Accident
- \$1,000,000 Bodily Injury by Disease - Each Employee
- \$1,000,000 Bodily Injury by Disease

or as necessary to comply with all applicable governmental regulations.

14.4.8 Comprehensive General Liability Insurance. Comprehensive General Liability Insurance shall be maintained by the Concessionaire with a list of not less than:

- |   |             |
|---|-------------|
| General Aggregate                       | \$1,000,000 |
| Products/Completed Operations Aggregate | \$1,000,000 |

Per Occurrence Limit	\$1,000,000
Personal/Advertising Injury Limit	\$1,000,000
Fire Damage Limit	\$1,000,000
Bodily Injury and Property	\$1,000,000 Combined Single
Damage Liability	Limit Each Occurrence

and shall also include the following endorsements or coverage: personal injury; contractual liability for this Agreement; independent contractors; broad form property damage including completed operations; products and completed operations coverage; broad form named insured; additional insureds - by contract, agreement or permit; additional insureds - lessors of premises; additional insureds - athletic activity participants; additional insureds - vendors; products-completed operations hazard redefined; worldwide products liability; defense costs in addition to limits in liability; bodily injury definition extended to include mental anguish; personal injury definition to include abuse of process, Product spoilage, sewer and drain backup, boiler and machinery and ordinance or law coverage.

14.4.9 Dram Shop Liquor Law Liability Insurance. Since alcoholic beverages are to be sold or served, dram shop liquor law liability coverage is also required with a minimum coverage of \$10,000,000.

14.4.10 Automobile Liability Insurance. Automobile Liability Insurance shall be maintained by the Concessionaire in accordance with the laws of the State of Arizona, as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles. The coverage on a combined single limit each occurrence shall not be less than:

Bodily Injury Liability	\$1,000,000
Uninsured/Underinsured	\$1,000,000
Medical Payments	\$10,000
Property Damage Liability -	\$1,000,000

14.4.11 Umbrella Liability Insurance or Excess Liability Insurance. The umbrella or excess coverage for Commercial General Liability, Employee Benefits Liability, Automobile Liability, Employer's Liability and Personal Advertising Injury Liability shall not be less than:

Each Occurrence:	\$16,000,000
General Aggregate:	\$16,000,000
Products - Completed Operations Aggregate	\$15,000,000

The umbrella or excess coverage shall have a coverage endorsement for a drop-down provision.

14.4.12 Notice. The Concessionaire shall immediately report in writing to the Authority, the Cardinals and the Manager any and all accidents or occurrences regardless of whether there was any injury or property damage and any other incident that may result in any claim in any of the coverages mentioned herein. The Concessionaire agrees to cooperate with the Manager in promptly

releasing reasonable information periodically as to the disposition of any claims, including a resume of claims experience, relating to all of its operations at the Facility.

## **ARTICLE 15 REPRESENTATIONS, WARRANTIES AND COVENANTS**

15.1 The Authority's Representations, Warranties and Covenants. The Authority represents, warrants and covenants to both the Cardinals and the Concessionaire that the statements contained in this Section 15.1: (i) are correct and complete as of the date of this Agreement; and (ii) shall be correct and complete at all times from and after the date of this Agreement until the Expiration Date.

15.1.1 Valid Existence. Pursuant to the Act, the Authority is a validly existing corporate and political body of the State of Arizona with the rights, powers and immunities of a municipal corporation.

15.1.2 Power, No Limitation on Ability to Perform. Pursuant to the Act, the Authority has the right, power and authority to execute, deliver and perform this Agreement. All action of the Authority necessary to approve the execution, delivery and performance of this Agreement has been taken.

15.1.3 No Conflict. The execution, delivery and performance of this Agreement by the Authority do not: (i) conflict with or violate the Act or any other law applicable to the Authority or any of its assets, properties or businesses; or (ii) conflict with, result in any breach of, constitute a default (or event which, with the giving of notice or lapse of time, would become a default) under, require any consent under, or give to any other person any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any lien on the assets or the properties of the Authority pursuant to any note, bond, mortgage, indenture, contract, agreement, lease, sublease, license, permit, authorization, franchise or other instrument or arrangement to which the Authority is a party or by which any of its assets or properties are bound or affected.

15.1.4 Valid Execution and Binding Effect. The Authority has duly executed and delivered this Agreement, and (assuming due authorization, execution and delivery by both the Cardinals and the Concessionaire) this Agreement constitutes a legal, valid and binding obligation of the Authority enforceable against the Authority in accordance with its terms.

15.2 Cardinals' Representations, Warranties and Covenants. Each of the Club and Stadium LLC represents, warrants and covenants to both the Authority and the Concessionaire that the statements with respect to it contained in this Section 15.2: (i) are correct and complete as of the date of this Agreement; and (ii) shall be correct and complete at all times from and after the date of this Agreement until the Expiration Date.

15.2.1 Valid Existence. It is an entity duly organized, validly existing and in good standing under the laws of the state of its organization and is duly authorized, qualified and licensed under all applicable laws to carry on its business in the places and in the manner as presently conducted.

15.2.2 Power; No Limitation on Ability to Perform. It has full corporate right, power and authority to execute, deliver and perform this Agreement. All corporate action necessary to approve its execution, delivery and performance of this Agreement has been taken.

15.2.3 No Conflict. The execution, delivery and performance of this Agreement by it does not: (i) violate, conflict with or result in the breach of any provision of its organizational documents;

(ii) conflict with or violate any law applicable to it or any of its assets, properties or businesses; or (iii) conflict with, result in any breach of, constitute a default (or an event which, with the giving of notice or lapse of time, would become a default) under, require any consent under, or give to any other person any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any lien on its assets or properties pursuant to any note, bond, mortgage, indenture, contract, agreement, lease, sublease, license, permit, authorization, franchise or other instrument or arrangement to which it is a party or by which any of its assets or properties are bound or affected.

15.2.4 Valid Execution and Binding Effect. It has duly executed and delivered this Agreement, and (assuming due authorization, execution and delivery by the Authority, the Concessionaire and the Club or Stadium LLC, as applicable) this Agreement constitutes a legal, valid and binding obligation of it enforceable against it in accordance with its terms.

15.2.5 The Cardinals Ownership; NFL Good Standing. The Club owns the Arizona Cardinals Football Franchise, an NFL Franchise that is in good standing with the NFL. The Club shall maintain the Franchise in good standing with the NFL at all times during the Term.

15.3 The Concessionaire's Representations, Warranties and Covenants. The Concessionaire represents, warrants and covenants to both the Authority and the Cardinals that the statements contained in this Section 15.3: (i) are correct and complete as of the date of this Agreement; and (ii) shall be correct and complete at all times from and after the date of this Agreement until the Expiration Date.

15.3.1 Valid Existence. The Concessionaire is an entity, duly organized, validly existing and in good standing under the laws of the state of its organization and is duly authorized, qualified and licensed under all Applicable Laws to carry on its business in the places and in the manner as presently conducted.

15.3.2 Power; No Limitation on Ability to Perform. The Concessionaire has full corporate right, power and authority to execute, deliver and perform this Agreement. All corporate action of the Concessionaire necessary to approve the execution, delivery and performance of this Agreement has been taken.

15.3.3 No Conflict. The execution, delivery and performance of this Agreement by the Concessionaire do not: (i) violate, conflict with or result in the breach of any provision of the Concessionaire's organizational documents; (ii) conflict with or violate any Applicable Law applicable to the Concessionaire or any of its assets, properties or businesses; or (iii) conflict with, result in any breach of, constitute a default (or an event which, with the giving of notice or lapse of time, would become a default) under, require any consent under, or give to any other person any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any lien on the assets or the properties of the Concessionaire pursuant to any note, bond, mortgage, indenture, contract, agreement, lease, sublease, license, permit, authorization, franchise or other instrument or arrangement to which the Concessionaire is a party or by which any of its assets or properties are bound or affected.

15.3.4 Valid Execution and Binding Effect. The Concessionaire has duly executed and delivered this Agreement, and (assuming due authorization, execution and delivery by both the Authority and the Cardinals) this Agreement constitutes a legal, valid and binding obligation of the Concessionaire enforceable against the Concessionaire in accordance with its terms.

15.3.5 No Guarantees from the Authority, the Cardinals or the Manager. Neither the Authority, the Cardinals nor the Manager, has promised or guaranteed to the Concessionaire any specific number of Events or any level of attendance at Events at the Facility.

## **ARTICLE 16 DEFAULT AND TERMINATION**

16.1 Termination Without Cause. The Authority may terminate this Agreement without cause and without penalty at any time but only during the first twelve months immediately following the Effective Date upon giving the Concessionaire written notice of such termination at least six (6) months prior to the date of termination.

16.2 Defaults under this Agreement. In the event the Manager or the Concessionaire claims that there is a default in any of the payments, obligations or conditions set forth in this Agreement, the Manager shall notify the defaulting party of such claim of default in writing.

16.2.1 Failure to Notify. The failure on the part of the Manager or the Concessionaire to notify the other party of a claim of default in accordance with this Article 16 shall not be deemed a waiver by any party of the non-defaulting party's rights at a subsequent time. Additionally, such notice, when given, shall have the same force and effect as if promptly given.

16.2.2 The Manager's Time to Cure. The Manager, on behalf of the Authority and the Cardinals, shall correct a claim of default within ten (10) Business Days of its receipt written notice of such default from the Concessionaire to the Manager if the default is with respect to any payment required to be made by the Manager, on behalf of the Authority and the Cardinals, for which there is no bona fide dispute, or within a reasonable time, but in no event, without good cause, later than thirty (30) calendar days after written notice by the Concessionaire to the Manager if the notice of the default is of any other nature. If the Manager, on behalf of the Authority and the Cardinals, cannot cure a default (other than nonpayment) within thirty (30) calendar days, but can provide the Concessionaire with good cause why such default cannot be cured within the specified time, the Manager, on behalf of the Authority and the Cardinals, shall not be in default if the Manager commenced performance within the thirty (30) day period and thereafter diligently completes performance. In the event the Manager fails to correct such default to the reasonable satisfaction of the Concessionaire within the time specified, or such greater period as the Concessionaire may permit, the Concessionaire shall follow the procedures set forth in Article 17.

16.2.3 The Concessionaire's Time to Cure. The Concessionaire shall correct a claim of default within ten (10) Business Days of its receipt of written notice of such default from the Manager, on behalf of the Authority and the Cardinals if the default is with respect to any payment required to be made by the Concessionaire for which there is no bona fide dispute, or within thirty (30) calendar days after receipt of written notice if the notice of the default is of any other nature. If the Concessionaire cannot cure a default (other than nonpayment) within thirty (30) calendar days, but can provide the Manager with good cause why such default cannot be cured within the specified time, the Concessionaire shall not be in default if the Concessionaire commenced performance within the thirty (30) day period and thereafter diligently completes performance. In the event the Concessionaire fails to correct such default to the reasonable satisfaction of either the Manager, on behalf of the Authority and the Cardinals within the time specified, or such greater period as the Manager may permit, the Manager, on behalf of the Authority and the Cardinals, shall follow the procedures set forth in Article 17.

16.2.4 No Cure Period for Safety. Any default of the Concessionaire or the Manager hereunder related to the safety of the Facility, the employees of the Concessionaire or any of the other

Patrons or Event Participants, shall be corrected immediately and to the sole satisfaction of the other party under this Agreement. In the event the Concessionaire or the Manager, as the case may be, fails to correct such default within the time specified, or such greater period may be required to cure the default, the other party under this agreement shall have all rights accorded by law, including the right to terminate this Agreement.

16.3 Forfeiture of Bond. Termination of this Agreement by the Manager upon a default by the Concessionaire may be sufficient grounds for the forfeiture of the bond required to be posted by the Concessionaire pursuant to Sections 4.4 and 14.2 hereof and the bond shall so specify, but only upon determination of default by a court of competent jurisdiction, and a finding by the court that forfeiture of the bond is appropriate under the circumstances and that such forfeiture does not exceed the amount of actual damages as determined by the court.

16.4 Labor Disputes. The parties each agree to give the Manager prompt written notice upon learning of any labor dispute potentially affecting their respective performance of their obligations under this Agreement. In the event the party giving notice cannot perform its obligations under the this Agreement because of a labor dispute, such non-performance shall not be considered a default; provided, however, that in the event of a labor dispute affecting the Concessionaire, the Manager may, at its election, either (i) operate the Concession Space at the Facility with employees retained by the Manager or its representative until the labor dispute is settled; or (ii) require the Concessionaire to provide substitute labor to perform its obligations under this Agreement. During the period of operation by the Manager, the Manager shall be entitled to use all Concession Spaces, Portables and Equipment owned by the Concessionaire and located at the Facility and any supplies and inventory of the Concessionaire on hand at the Facility; and the Concessionaire shall not be entitled to any monies received from such operations. In such event, the Manager, on behalf of the Authority and the Cardinals, agrees to pay the Concessionaire a sum equal to the cost of the Concessionaire's supplies and inventory consumed by the Manager in such operation. In the event said labor dispute remains unresolved for an unreasonable period of time in the opinion of the Manager, the Manager shall have the right to terminate the this Agreement upon thirty (30) days notice.

16.5 Bankruptcy or Insolvency. In the event a decree or order by a court having jurisdiction shall be issued, (i) adjudging the Concessionaire bankrupt or insolvent, or (ii) approving as properly filed a petition seeking reorganization of the Concessionaire under any section of the Bankruptcy Code, as amended, or (iii) ordering or approving the winding up or liquidation of the Concessionaire's affairs, or (iv) appointing a receiver or a liquidator or a trustee in bankruptcy for the Concessionaire or its property; if the Concessionaire shall institute proceedings to be adjudicated a voluntary bankruptcy or shall consent to the filing of any bankruptcy or insolvency proceedings against it, or shall file a petition or answer a consent order seeking reorganization under any state insolvency law, or shall admit in writing its inability to pay its debts generally as they become due, or take any action in furtherance of any of the aforesaid purposes, or shall abandon this Agreement, then the Manager, on behalf of the Authority and the Cardinals, may terminate this Agreement and all rights of the Concessionaire to continue to operate the Concession Services and supporting facilities hereunder. In the event of such termination, the Concessionaire shall be liable but not in limitation, for all payments required to be made to the Authority and the Cardinals up to and including said date of termination.

16.6 Licenses Upon Termination. In the event of a termination of this Agreement, either through expiration of the Term or termination, the Concessionaire shall surrender to the Authority and/or use its best efforts to transfer to the Authority or its designee, any permits, license, authorizations and any other necessary licenses or permits related to the Facility and the provision of Concession Services, including the Liquor License, which surrender and transfer to be effected immediately after termination of this Agreement. The Authority agrees to pay only the reasonable costs of transfer.

16.7 Condition of the Concession Spaces and Equipment. Upon the expiration or termination of this Agreement, the Concessionaire shall leave the Concession Spaces, Portables and the Equipment in the same condition as when it was received, subject only to normal wear and tear. The Concessionaire shall have the right to remove from the Facility any and all equipment, portable carts and furnishings in which the Concessionaire holds title as of the date of termination hereof and to remove from the Facility all signage and other materials incorporating any of the Concessionaire's Proprietary Rights. Any such items incorporating any of the Concessionaire's Proprietary Rights are, and shall at all times remain, the property of the Concessionaire and neither the Cardinals nor the Authority shall have any right, title or interest whatsoever therein.

## **ARTICLE 17 DISPUTE RESOLUTION**

17.1 Dispute Resolution. In the event of any default, breach or other dispute between the parties in connection with this Agreement (collectively, the "Dispute"), the parties shall comply with the following procedures:

17.1.1 Negotiation and Mediation. Within seven (7) Business Days after written request (the "Request") by any party hereto, the affected parties promptly shall hold an initial meeting to attempt, in good faith, to negotiate a settlement of the Dispute. No Request concerning a Dispute may be made after the time allowed by any statute of limitations applicable to such Dispute. If within ten (10) days after the Request, the parties have not negotiated a settlement of the Dispute, the parties jointly shall appoint a mutually acceptable neutral person who is not affiliated with either of the parties (the "Neutral"). If the parties are unable to agree on the appointment of the Neutral within fourteen (14) days after the Request, either party may request a mutually agreed upon private arbitration organization to select the Neutral using the procedures of the AAA. To resolve the Dispute, the parties shall develop a non-binding alternative dispute resolution procedure such as mediation or facilitation (the "Mediation") with the assistance of the Neutral. The Neutral shall determine how, when and where the Mediation shall be conducted if the parties have been unable to agree on such matters by the earlier of fifteen (15) Business Days after the appointment of the Neutral or thirty (30) days after the Request. The parties shall participate in good faith in the Mediation to its conclusion. If the parties resolve their Dispute through their own negotiations or in the Mediation, the resolution shall be reduced to the form of a written settlement agreement that shall be binding upon the parties thereto and shall preclude any litigation with respect to such Dispute. No party shall have the authority to settle any Dispute on behalf of another party, and the consent of all parties to this Agreement shall be required for any such settlement.

17.1.2 Other Remedies. If the parties have not resolved the Dispute through the Mediation within one hundred twenty (120) days after the appointment of a Neutral, then at any time thereafter either party may pursue whatever remedies are available to it at law or in equity. The prevailing party or parties, as the case may be, in any Dispute that is not resolved through Mediation shall be entitled to recover from the party or parties, as the case may be, in addition to any other remedy, reimbursement for any costs of such proceeding, reasonable attorneys' fees, reasonable costs of investigation and any other expenses incurred in connection with the Dispute.

## **ARTICLE 18 ASSIGNMENT, TRANSFER**

18.1 By the Cardinals. The Club may transfer its interest in this Agreement only to an entity or successor entity (or an affiliate of such entity) to which the Club is also transferring its NFL franchise in accordance with NFL procedures governing such transfers, and shall give written notification of such transfer to the Concessionaire and the Authority as soon as is reasonably practicable. Any entity to which

the Club's interest in this Agreement is transferred shall execute and provide to the Concessionaire a written assumption of this Agreement within sixty (60) days after the transfer. Stadium LLC may transfer its interest in this Agreement to any entity or successor entity and shall give written notification of such transfer to the Concessionaire and the Authority as soon as is reasonably practicable. Any entity to which Stadium LLC's interest in this Agreement is transferred shall execute and provide to the Concessionaire a written assumption of this Agreement within sixty (60) days after the transfer.

18.2 By the Authority. The Authority may transfer its interest under this Agreement to any entity or successor entity that shall own and operate the Facility, and shall give written notification of such transfer to the Concessionaire and the Cardinals as soon as is reasonably practicable. Any entity to which the Authority's interest in this Agreement is transferred shall execute and provide to the Concessionaire a written assumption of this Agreement within sixty (60) days after the transfer.

18.3 By the Concessionaire. The Concessionaire may not transfer its interest in this Agreement except with the prior written consent of the Authority and the Cardinals, which consent shall be in their sole and absolute discretion. The parent corporation of the Concessionaire, if any, shall upon any permitted assignment by the Concessionaire, guarantee that the new entity is financially capable of performing all of the obligations of the Concessionaire this Agreement.

18.4 Subcontracts. With the exception of any contract with a Branded Provider approved by the Manager, the Concessionaire is prohibited from subcontracting any Concession Services without the prior written consent of the Manager which consents shall be granted at the Manager's reasonable discretion. The Concessionaire shall be fully responsible for all subcontracted services, including responsibility for all appropriate insurance coverage and indemnification of the Authority, the Cardinals, the Manager and any Licensee.

## **ARTICLE 19 FORCE MAJEURE**

19.1 Force Majeure. Except as otherwise provided herein, any party to this Agreement shall be excused from the performance of any of its covenants or agreements hereunder and such party's nonperformance or delays in performance shall not be a default or grounds for termination of this Agreement or any claim for damages for any period to the extent that such party is prevented, hindered or delayed from performing any of its covenants or agreements, in whole or in part, as a result of delays caused by the other party, or, insurrection, terrorism, strikes and lockouts, riots, civil commotion, floods, acts of God, earthquake, fire, epidemics, quarantine, court order, utility failures, rationing, shortages of materials, or other causes beyond that party's control that is not due to such party's negligence, gross negligence or willful misconduct (a "Force Majeure Event"), including, orders, regulations or instructions of the United States or any other governing agency having jurisdiction over the subject matter of this Agreement, or denial of access to the Facility by any authority having jurisdiction over the Facility. An extension of time to perform obligations due a Force Majeure Event shall be limited to the reasonable period of delay due to such cause, which period shall be deemed to commence from the commencement of the Force Majeure Event and conclude at the end of the Force Majeure Event. Notwithstanding the foregoing, in the event the Force Majeure Event is the result of a labor dispute involving the Cardinals and results in the failure of the Cardinals to play five (5) or more Home Games at the Facility during any NFL season during the Term, the Concessionaire may, at its sole election and upon prior written notice to the Manager within thirty (30) days after the suspension of Home Games concludes, elect to extend the Term for one (1) additional NFL season. In the event the labor dispute involving the Cardinals during the NFL season results in the failure of the Cardinals to play less than five (5) Home Games at the Facility during any NFL season during the Term, then the Concessionaire shall not be entitled to any extension of the Term.

**ARTICLE 20**  
**COMPLIANCE WITH RULES AND LAWS**

20.1 Compliance by Concessionaire. All of the Concessionaire's operations shall conform with all applicable laws, rules, regulations and ordinances of the United States of America, the State of Arizona, Maricopa County and the City of Glendale, and such operations must be conducted so as not to interfere, through noise or odor, with the enjoyment by any person or organization. Furthermore, the Concessionaire shall be subject to any reasonable rules and regulations that may be established by the Manager.

20.2 Compliance by the Authority. All of the Authority's operations shall conform with all applicable laws, rules, regulations and ordinances of the United States of America, the State of Arizona Maricopa County and the City of Glendale.

20.3 Permits and Licenses. The Concessionaire will, at its sole cost and expense, procure and maintain during the entire Term, all permits and licenses required by all laws, rules, regulations and ordinances of the United States of America, the State of Arizona, Maricopa County and the City of Glendale. The Authority, the Cardinals, and the Manager shall make reasonable efforts, at the cost of the Concessionaire, to assist the Concessionaire in obtaining any such permits and licenses.

**ARTICLE 21**  
**ALCOHOLIC BEVERAGES**

21.1 Liquor Licenses. In performing under this Agreement, the Concessionaire shall obtain all required licenses and permits ("Liquor License") necessary for the sale of beer, wine and liquor (collectively, "Alcoholic Beverages") in the Facility, and keep them in good standing at all times during the period the Concessionaire is performing services hereunder. The Authority and the Cardinals shall make reasonable efforts to assist the Concessionaire in obtaining the Liquor License, but at the cost of the Concessionaire. Upon receipt of the Liquor License, the Concessionaire (or such other person or entity that is the licensee for such Liquor License) shall execute and deliver to the Authority a proper form of assignment of Liquor License and such other documents or instruments that set forth the legal or equitable interest of the Authority and that will cause the Liquor License to be assigned at the direction of the Authority in the in the event of termination or expiration of this Agreement. Upon termination or expiration of this Agreement, the Concessionaire shall make reasonable efforts to assist the Authority and any new provider of Concession Services to the Facility in the transfer of the Liquor License, but at the cost of the Authority or the new provider of the Concession Services.

21.2 The Concessionaire's Responsibilities. The Concessionaire shall comply with all applicable laws, ordinances and codes regarding the sale, use or provision of Alcoholic Beverages in the Facility. The Concessionaire shall at all times use only qualified and experienced supervisors or management level personnel and qualified and supervised personnel, each with training in the sale of Alcoholic Beverages. The Concessionaire agrees to provide training from time to time (but at least annually) devoted to the sales of Alcoholic Beverages pursuant to a program selected by the Concessionaire after consultation with the Manager and that is approved by the Arizona Department of Liquor, Licenses and Control. The Concessionaire shall at all times exercise prudent, responsible and experienced judgment in the serving of Alcoholic Beverages. The decision to refuse service of any Alcoholic Beverage to any individual shall be the sole responsibility of the Concessionaire.

21.3 Alcoholic Beverages at Events. The Manager shall determine whether or not Alcoholic Beverages may be sold at any Event. If Alcoholic Beverages shall be sold during any Event, the Manager may direct, subject to applicable laws, the Concessionaire when it shall discontinue such sales, either by

category of Event or during any specific Event. Subject to applicable laws, the rules, regulations and policies of the NFL and special circumstances as determined in the reasonable discretion of the Manager, the Cardinals anticipate that Alcoholic Beverages shall be sold at least during the first three quarters of all Home Games.

21.4 Damages. Should the Concessionaire lose the Liquor Licenses required to sell Alcoholic Beverages because of any act or omission of the Concessionaire, the Concessionaire shall pay to the Authority and the Cardinals all damages, including consequential damages, as a result of such loss; provided, however, the Concessionaire shall have no liability where the loss of the Liquor License was caused solely by the willful or intentional act of the Authority, the Cardinals or the Manager.

## **ARTICLE 22 MISCELLANEOUS**

22.1 Modification. No agreement to modify, or modification of, this Agreement shall be binding on the parties unless the same is reduced to writing and executed by all of the parties with at least the same formalities as this Agreement. Notwithstanding the foregoing, the Concessionaire agrees to modify this Agreement or any other necessary contract documents in good faith as reasonably necessary to accommodate any tax-exempt or taxable bond financing obtained by the Authority for the design and construction of the Facility. Without limiting the generality of the preceding sentence, the Concessionaire acknowledges and agrees that the respective cash contributions (or the Concessionaires Loan or other funding devices) or receipt of funds by of the Authority from the performance of the Concession Services may be pledged to the holders of the bonds to be issued by the Authority to finance the design and construction of the Facility and may be held in trust by the trustee for such bonds.

22.2 No Discrimination; Disadvantaged Business Enterprise. The Concessionaire shall not make any discrimination, distinction or restriction on account of color, race, religion, ancestry, age, national origin, sex or handicap. Upon final determination by a court of competent jurisdiction that the Concessionaire has violated this Section 22.2, this Authority may terminate immediately this Agreement and the Concessionaire's rights hereunder. The Concessionaire acknowledges and agrees that the Authority has notified it of the provisions contained in A.R.S. §5-813 (disadvantaged business enterprise participation goals). The Concessionaire agrees that it shall comply with the goals and procedures of the Authority established pursuant to A.R.S. §5-813.

22.3 Independent Contractor. The Concessionaire shall be an independent contractor and nothing contained within this Agreement shall be construed to create a joint venture or partnership by or among the Authority, the Cardinals and the Concessionaire, nor shall the Concessionaire hold itself out as to be considered an agent or employee of the Authority or the Cardinals.

22.4 Notices. All notices and other communications pursuant to this Agreement shall be in writing to the Authority, the Cardinals, the Manager or to the Concessionaire, as applicable, and shall be deemed properly given if sent by personal delivery, by certified United States mail, postage prepaid, return receipt requested, or by nationally recognized overnight delivery service with proof of delivery retained, addressed as follows:

The Cardinals:

Arizona Cardinals Football Club LLC  
8701 South Hardy Drive  
Tempe, Arizona 85284  
Attention: Michael J. Bidwill

New Cardinals Stadium, LLC  
8701 South Hardy Drive  
Tempe, Arizona 85284  
Attention: Michael J. Bidwill

with a copy to:

Arizona Cardinals Football Club LLC  
8701 South Hardy Drive  
Tempe, Arizona 85284  
Attention: General Counsel

and

Gallagher & Kennedy  
2575 East Camelback Road  
Phoenix, Arizona 85016  
Attention: Dean C. Short, II, Esq.

The Concessionaire:

[\_\_\_\_\_]

with a copy to:

[\_\_\_\_\_]

Authority:

Tourism and Sports Authority  
University of Phoenix Stadium  
1 Cardinals Drive  
Glendale, Arizona 85305  
Attention: Thomas R. Sadler  
President and CEO

with a copy to:

Fennemore Craig, P.C.  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012  
Attention: Sarah A. Strunk, Esq.

Each party may by notice to the other parties specify a different address for subsequent notice purposes. Notice shall be deemed effective on the date of actual receipt.

22.5 Attorney's Fees. If any party hereto shall initiate, intervene in or is brought into any action at law or equity, whether in arbitration, court or otherwise, against or involving any other party hereto, which is in any way connection with this Agreement, its interpretation or enforcement, then the party hereto which prevails in any such action shall recover and receive from the other party or parties to such action its reasonable attorney's fees, court costs and expenses, as determined by the arbitrator, court or administrative agency and not by the jury, whether in arbitration, courts or agencies of original,

appellate or bankruptcy jurisdiction; provided, however, that nothing in this Section 22.5 shall apply to any Dispute resolved through Mediation under Section 17.1.1 in which case each side or sides shall bear its own fees, costs and expenses.

22.6 Severability. If any provision of this Agreement is determined to be illegal or unenforceable by an arbitrator(s) or a court of competent jurisdiction, the remainder of this Agreement will, nevertheless, remain in full force and effect in accordance with its terms (other than the unenforceable provision, which shall be deemed stricken).

22.7 Reasonableness. Whenever in this Agreement the consent or approval of the Authority, the Cardinals, the Manager or the Concessionaire is required, unless expressly stated to the contrary (e.g., by phrases such as "in the sole discretion" or "in the sole and absolute discretion"), the granting and the timing of such consent or approval shall be governed by a standard of reasonableness. If any party hereto contends that the reasonableness standard has not been met, the matter shall be resolved as provided in Article 17. In the event that such resolution results in the determination that the action was unreasonable, such determination shall not constitute a default of this Agreement, operate to terminate it or give rise to any right to damages as a result thereof, but the sole remedy shall be limited to specific performance and the recovery of reasonable attorneys' fees and costs (including the fee of the arbitrators) in such resolution procedure.

22.8 Entire Agreement. This Agreement, together with the exhibits hereto, constitutes the entire understanding of the parties with respect to the subject matter of this Agreement. There are no oral or written statements, representations, agreements, understandings or surrounding circumstances that modify, amend or vary any of the provisions hereof. All prior and contemporaneous representations, negotiations and agreements are superseded and replaced by this Agreement. All exhibits and other referenced attachments to this Agreement shall be deemed to be incorporated herein so as to become a part of this Agreement.

22.9 Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the representatives, successors and assigns of the respective parties hereto and their successors and assigns.

22.10 No Third Party Beneficiaries. Nothing in this Agreement is intended to or shall confer upon any other person who is not a party to this Agreement any legal or equitable right, benefit or remedy of any nature whatsoever.

22.11 Time of the Essence. The parties agree that time is of the essence of this Agreement.

22.12 Construction. The headings in this Agreement are inserted for convenience only, and shall not constitute a part of this Agreement and shall not be used to construe or interpret any of its provisions. The parties have participated jointly in negotiating and drafting this Agreement. If a question of interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. Any reference to any statute shall be deemed to refer to the statute, as amended, and to all rules and regulations promulgated thereunder, as amended, unless the context requires otherwise. The parties intend that this Agreement be fully consistent with and, to the extent applicable, give effect to the Act. Anything in this Agreement seemingly inconsistent with the Act shall be interpreted in a manner which is consistent with the Act, and which most closely gives effect to the terms and conditions of this Agreement. The word "include" or "including" means include or including without limitation.

22.13 Expenses of Transaction; Reliance on Advisors. Each party hereto shall pay its and its representatives fees, expenses and disbursements incurred in connection with this Agreement. Each party represents and warrants to the other party that it has relied on its own advisors for all legal, accounting, financial, tax or other advice whatsoever in connection with this Agreement and the transactions contemplated hereby.

22.14 Governing Law. This Agreement shall be construed in accordance with, and pursuant to, the laws of the State of Arizona and all disputes arising out of this Agreement shall be resolved in the appropriate forum in Arizona.

22.15 A.R.S. § 38-511. Both the Cardinals and the Concessionaire acknowledge and agree that the Authority has notified it of the provisions contained in A.R.S. § 38-511 (cancellation of contracts with state or political subdivision for conflict of interest). Furthermore, the Cardinals and the Concessionaire, individually, represent and covenant that they shall not employ or otherwise retain the services of any employee of the Authority for the period prescribed by A.R.S. § 38-511.

22.16 Counterparts. This Agreement may be executed in two (2) or more original or facsimile counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

22.17 Survival and Benefit. No termination of this Agreement, either with or without cause, shall release any party hereto from its representations, warranties or covenants contained in Article 15, the payment of all sums due and owing hereunder and from the performance of obligations that by their terms extend beyond the Expiration Date.

22.18 Calculation of Time. Whenever any provision of this Agreement requires or permits any act or decision to be performed or made within a specified period of time, the day of the act or event from which the designated time period begins to run shall not be included in computing such time period. The last day of such period shall be included, unless it is a Saturday, Sunday or a legal holiday of the State of Arizona or the United States of America, in which case, the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday of the State of Arizona or the United States of America. All notice and other time periods shall expire as of 5:00 p.m. (Phoenix time) on the last day of the notice or other period.

22.19 Further Assurances. If necessary or desirable in connection with any financing of the Facility, the Concessionaire agrees that, without charge or expense to the Authority or the Manager, within twenty (20) Business Days after the request by the Manager, to deliver an opinion letter from independent legal counsel to the Concessionaire regarding the due execution and authority of the Concessionaire to execute this Agreement and to perform its obligations hereunder and such other matters as are reasonably requested by the Manager.

22.20 Estoppels. The Concessionaire will, without charge or expense to the Authority or the Manager, at any time and from time to time, within ten (10) Business Days after written request therefore from the Manager, execute, acknowledge and deliver a written estoppel certificate certifying the following: (i) whether or not this Agreement is unmodified and in full force and effect (or if there have been modifications, that this Agreement is in full force and effect as modified and stating such modifications), (ii) whether or not the Concessionaire has knowledge of any then uncured default by the Authority or the Manager under this Agreement (and if the Concessionaire has such knowledge, specifying the same in detail), (iii) the address of the Concessionaire to which notices should be sent, and (iv) any other factual information reasonably requested by the Manager.

22.21 Liability Limitation and Waiver. Notwithstanding and prevailing over any contrary provision of, or implication in, this Agreement, no director, officer, employee, agent, or consultant of the Authority, and no direct or indirect equity holder, officer, employee, agent or consultant of the Cardinals or the Concessionaire, shall be liable to any other party hereto, or any successors in interest thereof, in the event of any default or breach by any party hereto, for any amount which may become due to such other party or any successors in interest thereof, or on any other obligation under the terms and conditions of this Agreement and all parties to this Agreement hereby forever waive any and all such claims against any director, officer, employee, agent, or consultant of the Authority, the Cardinals or the Concessionaire.

22.22 Approval or Ratification of the Authority's Board of Directors. Notwithstanding the execution and delivery of this Agreement by the Authority, this Agreement shall not be a valid and binding obligation of the Authority until it is approved or ratified by the Authority's Board of Directors at a duly noticed and called public meeting.

22.23 Joint and Several. The Club and Stadium LLC are jointly and severally liable for all of the obligations of the Cardinals hereunder.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

The Authority:

ARIZONA TOURISM AND SPORTS  
AUTHORITY D/B/A THE ARIZONA SPORTS  
AND TOURISM AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

The Concessionaire:

[\_\_\_\_\_]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Club:

ARIZONA CARDINALS FOOTBALL CLUB LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Stadium LLC:

NEW CARDINALS STADIUM, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT 1.1**  
**DEFINED TERMS**

Unless otherwise provided in this Agreement, the following terms shall have the following meanings:

**AAA** means the American Arbitration Association or its successor.

**Act** means Title 5, Chapter 8, Arizona Revised Statutes, as the same may be modified or amended.

**Affiliate** means any entity directly or indirectly controlled by, controlling, or under common control with the Concessionaire. For purposes hereof, "control" shall mean ownership of sufficient interest in order to direct, or cause the direction of, the policies of the affiliated entity.

**Agreement** means this Concession Services Agreement by and between the Authority, the Cardinals and the Concessionaire.

**Authority** means the Arizona Tourism and Sports Authority, d/b/a the Arizona Sports and Tourism Authority, a corporate and political body of the State of Arizona created and existing pursuant to the Act, its successors and assigns (as permitted by this Agreement).

**Back of the House Areas** means any executive or administrative offices of the Authority, the Cardinals, the Fiesta Bowl or any other Licensee, and any video, television or media rooms, pressrooms, interview rooms, dressing rooms, backstage areas and locker rooms.

**Branded Product or Branded Products** has the meaning set forth in Section 11.2.1.

**Branded Provider or Branded Providers** has the meaning set forth in Section 11.2.2.

**Business Day or Business Days** means any day other than a Saturday, Sunday or legal holiday or a day on which banks located in Maricopa County, Arizona, are closed.

**Cardinals** means Club and Stadium LLC.

**Cardinals Use Agreement** means that certain Amended and Restated Cardinals Use Agreement dated August 15, 2005 by and between the Authority and the Club, as the same may be amended, modified, supplemented or replaced.

**Catered Event** means an Event that is not open to members of the general public and involves use of banquet, dining or other areas of the Facility.

**Catered Event Host** has the meaning set forth in Section 2.1.2.

**Catering** means the sale of Products by the Concessionaire to any Event that is not open to members of the general public and involves use of banquet, dining or other areas of the Facility.

**Centerplate** has the meaning set forth in Section 3.1.

**Club** means Arizona Cardinals Football Club LLC, a Delaware limited liability company, and any successor owner of the Arizona Cardinals NFL franchise.

**Club Seat Concessions** means the sale of Products by the Concessionaire to the area identified as "Club Seats" located in the Facility, as designated on Exhibit 1.1(a).

**Concessionaire** means [\_\_\_\_\_], a \_\_\_\_\_, its successors and assigns (as permitted by this Agreement).

**Concession Improvements** has the meaning set forth in Section 5.1.

**Concession Services** means all Concession Services to be provided hereunder, including without limitation, General Concessions, Club Seat Concessions, Executive Suite Catering, Catering, Restaurants, Private Catered Functions and other hospitality and services at or through fixed locations in the Facility or Portables, Branded Providers, roving vendors, snack bars, liquor bars, or any other Concession Spaces at the Facility where Products are permitted by the Manager to be sold.

**Concession Space or Concession Spaces** means the locations in the Facility to be used by the Concessionaire for the rendering of Concession Services as more fully described in Section 2.4 and Exhibit 2.4.

**Culinary Event** means any Event that primarily features or has a theme or focus on food, cuisine, beverages or culinary arts.

**Department Heads** means those persons designated by the Concessionaire to manage each of the General Concessions, Club Seat Concessions, Executive Suite Catering, Catering or Restaurants at the Facility, Unit Controller and the Area Warehouse Manager.

**Dispute** means any default, breach or other dispute between the parties in connection with this Agreement as more fully described in ARTICLE 17.

**Effective Date** means August 1, 2010, the date on which the Concessionaire commences to provide Concession Services.

**Equipment** means the Portables, Smallwares, and all other equipment or machines used or useful to the Concessionaire in the rendering of the Concession Services under this Agreement and installed or located in the Concession Spaces at the Facility.

**Event** means all events held in the Facility that are open to the public for attendance.

**Event Participants** means the actual participants in an Event (e.g., for Home Games, Event Participants would be the NFL team members, coaches, trainers, officials and other similar employees).

**Executive Suites** means the luxury suites with seats for viewing Home Games, the Fiesta Bowl Game and other Events at the Facility that are generally designated as such in promotional, marketing or other documents or publications of the Facility.

**Executive Suite Catering** means the sale of Products and the provision of Concession Services by the Concessionaire to licensees of the Executive Suites.

**Expiration Date** means the date on which the Term expires.

**Facility** means the multipurpose stadium facility in Glendale, Arizona currently known as University of Phoenix Stadium, but excluding the areas surrounding the outside of the Facility building including any plazas, parking areas, the area underlying the roll out field or the pedestrian areas.

**Facility Property** means the Facility and that real property owned by the Authority contiguous to the Facility, including those areas excluded from the above definition of Facility.

**Facility Systems** means electrical, gas, sewer, air conditioning, telephone, sound, public address, mechanical, plumbing, heating, life-safety, drainage, structural and any other systems now, or hereafter, used in the operation or maintenance of the Facility.

**FB Pre-Game Party** has the meaning set forth in Section 2.2.5.

**Fiesta Bowl** means the Arizona Sports Foundation doing business as the Fiesta Bowl.

**Fiesta Bowl Game** means the annual college football bowl game commonly known as the Fiesta Bowl.

**Fiesta Bowl Use Agreement** means that certain Amended and Restated Fiesta Bowl Use Agreement dated August 15, 2005 by and between the Authority and Fiesta Bowl, as the same may be amended, modified, supplemented or replaced.

**General Concessions** means the sale of Products and the provision of Concession Services by the Concessionaire to the Patrons at the Concession Spaces, Portables, through roving vendors at the Facility that is not Club Seat Concessions, Executive Suite Catering, Catering, Restaurants or through Branded Providers.

**Gross Revenue** means the total amount of money and gratuities received by the Concessionaire or any agent or employee of the Concessionaire from all sales of Products or rendering of Concession Services, whether received by cash, check or credit, and including any and all product rebates from vendors or suppliers on any Products sold by the Concessionaire in the Facility, but excluding (i) sales taxes or use taxes collected by the Concessionaire (or in the event of prepayment of sales taxes, any amounts so prepaid by the Concessionaire), (ii) any service charges, discount charges or premiums collected or imposed on sales of Product at the Facility if they are imposed by the third party credit card or debit card provider, (iii) bad debts, but only when credit was extended at the specific request of the Cardinals, the Authority or the Manager, (iv) sales made at the Concessionaire's cost, and (v) any royalties or franchise fees paid by the Concessionaire in connection with Branded Products or Branded Providers at the Facility at the written request of the Manager. Notwithstanding any policy against soliciting gratuities, any gratuities that are given by Patrons of the Facility to the Concessionaire's employees shall be excluded from Gross Revenue to the extent paid out to the Concessionaire's employees excluding management and full-time, salaried employees. Any gratuities not paid out as defined above shall be included as Gross Revenue.

**Home Games** means those NFL Pre-Season, NFL Regular Season and NFL Post Season football games in which the Cardinals are identified as the "home team" under the NFL Governing Documents; provided that preseason football games sponsored by the NFL at an otherwise neutral site outside of the "home territory" of the Cardinals or NFL championship games (i.e., Super Bowl or equivalent) where the Cardinals have been designated the "home team" shall not be "home games" within this definition.

**Licenses** means any person or entity that may, from time to time, enter into any agreement for the use of the Facility for a particular purpose, including the Cardinals.

**Manager** means Global Spectrum, L.P. or that successor individual or entity, selected by both the Authority and the Cardinals, who shall be fully authorized to represent the interests of the Authority and the Cardinals with respect to this Agreement.

**Monthly Accounting Period** means each monthly period (or portion thereof) in accordance with Concessionaire's accounting calendar, which is arranged on a four-week, four week, five-week basis for each calendar quarter. For purposes of calculating commissions and reporting by the Concessionaire (except as noted to the contrary herein), a calendar year fiscal year shall apply.

**Neutral** means neutral person mutually acceptable to the parties who is not affiliated with any of the parties as more fully described in Section 17.1.

**Patrons** mean those individuals that attend any Events at the Facility as a spectator.

**Plans** means the plans and specifications for the Facility currently existing as the same may be amended and supplemented from time to time by the Authority.

**Portables** means any temporary stand, cart or similar apparatus installed by the Concessionaire within the Facility on which such stand, cart or apparatus is situated for the purpose of selling Products.

**Prior Agreement** has the meaning set forth in Section 3.1.

**Private Catered Functions** has the meaning set forth in Section 2.1.2(b).

**Products** means all food, alcoholic and nonalcoholic beverages and candy but specifically excludes novelties and non-food items sold at the Facility.

**Request** has the meaning set forth in Section 17.1.1.

**Restaurants** means any restaurants or other seated dining facilities that may be open to Patrons during Events by virtue of the purchase of an admission to the Facility.

**RMCP** means the repair, maintenance and cleaning plan more fully described in Section 9.18.4.

**Smallwares** means dishware, glassware, flatware, utensils and similar items and other tools of the trade used or useful in rendering of the Concession Services.

**Special Facility Event** means an Event where, in order to book the Event, the Manager is required to relinquish, in whole or in part, the direction and control of the sale of Products or the rendering of some or all of the Concession Services to a third-party.

**Sponsorship Agreement** means any advertising, sponsorship, pouring rights, naming rights or similar agreement entered into from time to time pertaining to the Facility.

**Sportsman's Park Events** means events at Sportsman's Park occurring under that certain letter agreement dated the date of this Agreement between the Authority and Rojo Event Management LLC.

**Stadium LLC** means New Cardinals Stadium, LLC, an Arizona limited liability company.

**Statement** means the written monthly statement to be provided by the Concessionaire to the Manager, the Authority and the Cardinals as more fully described in Section 4.3.

**Taxes** means all taxes required by federal, state and local authorities as more fully described in Section 12.7.

**Term** has the meaning set forth in Section 3.2, including the period of any extensions pursuant to Section 3.2.

**EXHIBIT 1.1(A)**  
**LOCATION OF CLUB SEATS**

REFERENCE:

Architectural Conformance Set - HOK Bulletin #075 September 15, 2004, drawing X2-5 club level seating reference plan.

**EXHIBIT 2.4**  
**CONCESSION SPACES**

**REFERENCE:**

Architectural Conformance Set - HOK Bulletin #075 September 15, 2004, drawings A1-01 (service level reference plan ),A1-03 (main concourse reference plan), A1-04 (club level reference plan), A1-05 (suite level reference plan), and A1-06 (upper concourse reference plan).

**EXHIBIT 2.4.3**  
**PORTABLES**

REFERENCE:

Portable food and beverage carts are provided by the Concessionaire. The Stadium includes electrical power receptacles that are designated for portable carts. These are shown on the following drawings on HOK Bulletin 075: E2-03A thru D, E2-04A thru D, E2-06A thru D.

**EXHIBIT 4.1.1**  
**PERCENTAGE OF GROSS REVENUE ALLOCATIONS**

The Concessionaire shall pay the Cardinals for Home Games, on a monthly basis, percentages of Gross Revenues generated at the Facility in accordance with the payment schedule set forth below:

<b><u>Concession Category</u></b>	<b><u>Gross Revenue –From:</u></b>	<b><u>Gross Revenue - To:</u></b>	<b><u>Payment as % of Gross Revenue by Category</u></b>
General Concessions	\$0	\$5,000,000	47%
	\$5,000,001	\$7,000,000	48.5%
	\$7,000,001	\$7,000,001 and greater	50%
Club Seat Concessions			34%
Executive Suites Catering			25%
Catering			22.5%
Restaurant			20%
Branded Provider(s) <sup>1</sup>			50%
Private Catered Functions			56%

[1] Percentage of amounts received by the Concessionaire from Branded Provider(s)

**EXHIBIT 4.1.2**  
**PERCENTAGE OF GROSS REVENUE ALLOCATIONS**

The Concessionaire shall pay to the Fiesta Bowl for the Fiesta Bowl Game, percentages of Gross Revenues generated at the Facility in accordance with the payment schedule set forth below:

<b><u>Concession Category</u></b>	<b><u>Gross Revenue –From:</u></b>	<b><u>Gross Revenue - To:</u></b>	<b><u>Payment as % of Gross Revenue by Category</u></b>
General Concessions	\$0	\$5,000,000	47%
	\$5,000,001	\$7,000,000	48.5%
	\$7,000,001	\$7,000,001 and greater	50%
Club Seat Concessions			34%
Executive Suites Catering			25%
Catering			22.5%
Restaurant			20%
Branded Provider(s) <sup>1</sup>			50%
Private Catered Functions			56%

[1] Percentage of amounts received by the Concessionaire from Branded Provider(s)

**EXHIBIT 4.1.3**  
**PERCENTAGE OF GROSS REVENUE ALLOCATIONS**

The Concessionaire shall pay to the Authority for its Events (other than Home Games and the Fiesta Bowl Game), on a monthly basis, percentages of Gross Revenues generated at the Facility in accordance with the payment schedule set forth below:

<b><u>Concession Category</u></b>	<b><u>Gross Revenue –From:</u></b>	<b><u>Gross Revenue - To:</u></b>	<b><u>Payment as % of Gross Revenue by Category</u></b>
General Concessions	\$0	\$5,000,000	47%
	\$5,000,001	\$7,000,000	48.5%
	\$7,000,001	\$7,000,001 and greater	50%
Club Seat Concessions			34%
Executive Suites Catering			25%
Catering			22.5%
Restaurant			20%
Branded Provider(s) <sup>1</sup>			50%
Private Catered Functions			56%

[1] Percentage of amounts received by the Concessionaire from Branded Provider(s)

**EXHIBIT 4.3**  
**FORM OF MONTHLY STATEMENT**

To be agreed upon by the parties no later than sixty (60) days prior to the Effective Date.

**EXHIBIT 9.2**  
**CUSTOMER PROGRAM**

To be agreed upon by the parties no later than sixty (60) days prior to the Effective Date.