

## SECOND AMENDED AND RESTATED STADIUM LEASE AGREEMENT

This Second Amended and Restated Stadium Lease Agreement ("Lease") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the **CITY OF CORPUS CHRISTI, TEXAS** ("City"), a Texas home rule municipal corporation, and **CORPUS CHRISTI BASEBALL CLUB, LP** ("Lessee"), a limited partnership organized and existing under the laws of the State of Texas (the City and Lessee are sometimes referred to herein individually as a "Party" and collectively as the "Parties");

### WITNESSETH:

WHEREAS, City and Round Rock Baseball, Inc. (RRB) entered into a stadium lease agreement, approved by Corpus Christi City Council by Ordinance No. 025662 on April 24, 2004, ("Original Lease") under which RRB leased from City the Leased Premises (hereinafter defined) for a base lease term of fifteen (15) years from the Commencement Date (hereinafter defined) plus two (2) additional optional five (5) year lease extensions; and

WHEREAS, the Parties entered into an amendment to the Original Lease, approved by Corpus Christi City Council by Ordinance No. 027476 on November 13, 2007;

WHEREAS, Lessee is the successor-in-interest to RRB under the Original Lease pursuant to that certain Assignment from RRB to Lessee dated June 3, 2011; and

WHEREAS, the Parties entered into a First Amended and Restated Stadium Lease Agreement, approved by Corpus Christi City Council by Ordinance 029941 on August 27, 2013; and

WHEREAS, the Baseball Stadium (Leased Premises) needs enhancements, upgrades and repairs; and

WHEREAS, Lessee previously agreed to spend no less than Three Hundred Fifty Thousand Dollars (\$350,000) annually on such Capital Repair Work, capital improvements, facilities maintenance, enhancements, upgrades and repairs to the Leased Premises, to be approved by City as described herein, beginning in the year 2013 and through the end of this amended Lease's Term, and further agreed to extend the base Lease Term from fifteen (15) years to thirty (30) years, and to make corresponding rent payments, in consideration for City reimbursing Lessee up to One Hundred Seventy Five Thousand Dollars (\$175,000) annually after completion of and Lessee's payment for such enhancements, upgrades and repairs to the Leased Premises; and

WHEREAS, City and Lessee now wish to amend the Original Lease (as amended November 13, 2007 and August 27, 2013) and to fully restate in this Lease the terms and conditions therein in order to provide additional funding for proper maintenance, enhancements and upgrades necessary to ensure the long-term sustainability of the City property which comprise the Leased Premises.

NOW THEREFORE, in consideration of the rents herein required to be made by Lessee, and the covenants and agreements hereinafter contained to be kept and performed by the City and Lessee, the City does by these presents demise, lease and let unto Lessee, for the term and upon and subject to the terms and conditions hereinafter stated, the Leased Premises:

### ARTICLE I DEFINITIONS

**Section 1.1. Definitions.** In addition to terms defined elsewhere in this Lease, the following terms, for the

purposes of this Lease, shall have the meanings set forth below:

(a) “Abandonment of Leased Premises” means that the Leased Premises become vacant or deserted for a continuous period of sixty (60) days.

(b) “Act of Bankruptcy” means the commencement of a bankruptcy or similar proceeding by or against the City or Lessee, including, but not limited to, the following: the making of a general assignment for the benefit of creditors, the commencing of a voluntary or involuntary case under the Federal Bankruptcy Code or the filing of a petition thereunder, petitioning or applying to any tribunal for the appointment of, or the appointment of, a receiver, or any trustee for a substantial part of the assets of such person, commencing any proceeding under any bankruptcy, reorganization, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; provided, however, that with respect to the filing of an involuntary petition in Bankruptcy or other involuntary commencement of a bankruptcy or similar proceeding, such petition or proceeding shall fail to be dismissed within ninety (90) days of its filing or commencement.

(c) “Affiliate” means a Person who (i) directly or indirectly controls, is controlled by or under common control with, Lessee; (ii) owns directly or indirectly ten percent (10%) or more of the equity interests of Lessee; or (iii) is a general partner, officer, director, non-financial institution trustee or fiduciary of Lessee or of any person described in clauses (i) or (ii). For purposes of this definition, the term “control” (including the terms “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract, or otherwise.

(d) “Approved Procurement Practices” means purchasing of goods and services conducted in a manner that assures the City that the funds are being spent prudently and in accordance with the Purchasing Policy . Any goods or services purchased shall be done so in accordance with the Purchasing Policy. Purchasing processes shall be subject to audit by the City. All purchases of fixtures and capital improvements shall be purchased by Lessee as purchasing agent for the City, and such purchases shall be in the name of the City.

(e) “Architect” means HKS, Inc.

(f) “Architect’s Contract” means the services contract between the City and the Architect, and approved by Lessee, for, among other things, the design of the Project Improvements, the preparation of the Project Plans, and construction administration services, as the same may be amended, supplemented, modified, renewed, extended or replaced from time to time with the consent of the City and Lessee.

(g) “Authorized Representatives” means such officers, employees or other representatives of the City and Lessee, respectively, authorized by such party to act on its behalf under Section 13.14 of this Lease as certified to the other in writing.

(h) “Baseball Stadium” means the baseball stadium, which was constructed on the Land.

(i) “Business Day” means any day which is not a Sunday, a Saturday, or a legal holiday of the City.

(j) “Capital Repair Work” shall have the meaning ascribed to it in Section 7.1.

(k) “City” means the City of Corpus Christi, Texas, a home-rule city organized and existing under the laws of the State.

- (l) "City Default" shall have the meaning ascribed to it in Section 11.1.
- (m) "City's Contribution" shall mean the maximum sum of \$21,500,000.00 toward the payment of Project Costs. Notwithstanding anything herein to the contrary, the Parties understand that the City is under no obligation to spend more than \$21,500,000.00 for Project Costs.
- (n) "City's Remedial Work" shall have the meaning ascribed to it in Section 13.13.
- (o) "Commencement Date" means April 4, 2005, that being the date on which Lessee opened the Baseball Stadium for an open to the public general admission event.
- (p) "Comparable Facilities" means the minor league baseball stadiums in Round Rock, Texas (Dell Diamond), and Frisco, Texas; provided, however, that in determining compliance with any "Comparable Facilities" standard or requirement set forth in this Lease (i) such stadiums shall be looked at together and no one stadium nor any individual system or component at any such stadium shall be looked at alone and (ii) if the standards applicable to such stadiums or substantially similar quality stadiums taken as a whole should materially change during the Term in such a manner as to result in a material variation in the manner in which the stadiums had previously been operated or maintained and such change has a material and adverse impact on Lessee's costs to operate and maintain the Leased Premises, then Lessee shall not be required to adopt such increased standards.
- (q) "Corporation" means the Corpus Christi Business and Job Development Corporation, a nonstock, nonprofit industrial development corporation created by the City under the laws of the State, including specifically Section 4A of Article 5190.6 Texas Revised Civil Statutes.
- (r) "Corporation Project Agreement" means the Project Agreement dated September 30, 2003, between the City and the Corporation executed in connection with the issuance of obligations by the Corporation to fund the City's Contribution.
- (s) "Concession Improvements" means the interior and exterior improvements, build out and equipment required or desired by Lessee for concession operations.
- (t) "Controversy" shall have the meaning ascribed to it in Section 13.14.
- (u) "Default Rate" means the lesser of (i) the Prime Rate plus three percent (3%) and (ii) the maximum per annum rate of interest permitted to be charged either party by applicable law.
- (v) "Dispute" shall have the meaning ascribed to it in Section 13.14.
- (w) "Effective Date" means April 24, 2004.
- (x) "Event of Default" shall have the meaning ascribed to it in Article XI.
- (y) "Final Completion" means the final completion of all aspects of such work and improvements in accordance with all Governmental Rules and in accordance with the requirements for the same contained in this Lease and the Project Construction Documents and Minimum Stadium Requirements, including,

but not limited to, the completion of all punch-list items. Substantial Completion of such work and improvements is a prerequisite to Final Completion of the same.

(z) “Final Notice” shall have the meaning ascribed to it in Section 11.5.

(aa) “Force Majeure” means the occurrence of any of the following, but only for the period of time, if any, that the performance of a Party’s material obligations under this Lease are actually delayed or prevented thereby: Acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States of America, or of any state thereof, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tornadoes, storms, floods, washouts, droughts, arrests, restraining of government and people, civil disturbances, explosions, nuclear accidents, wars, part or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other cause not reasonably within the control of the party claiming inability to perform due to such cause.

(bb) “Governmental Authority” means any federal, state or local government, agency, court, commission or other body with jurisdiction of the matter in question.

(cc) “Hazardous Materials” means any substance or material, including asbestos, now or hereafter defined or listed by any Governmental Authority as a regulated or hazardous substance, material, or waste and shall include, without limitation, petroleum products.

(dd) “Land” means the land described as “Lot 2” on Exhibit “A” attached hereto and made a part hereof.

(ee) “Lease Year” means each consecutive twelve (12) month period commencing on the Commencement Date and thereafter on each anniversary of the Commencement Date.

(ff) “Leased Premises” means (i) the Land; (ii) the Baseball Stadium; and (iii) any other buildings, structures, additions, improvements, equipment, fixtures and facilities directly related to the Baseball Stadium, and all appurtenances to the same, which are in the future constructed on the Land, pursuant to the terms and conditions herein.

(gg) “Lessee” means Corpus Christi Baseball Club, L.P., a limited partnership duly organized and validly existing under the laws of the State and authorized to do business in the State, or any successor thereto or assignee thereof permitted by this Lease.

(hh) “Lessee Default” shall have the meaning ascribed to it in Section 11.3.

(ii) “Lessee Requested Modifications” shall have the meaning ascribed thereto in Section 3.6.

(jj) “Lessee’s Contribution” means the aggregate sums, up to \$3,000,000, that Lessee shall contribute to the Project which will first be used for construction of Concession Improvements, the equipping of the Project and other build out obligations of Lessee hereunder (including, but not limited to, the Minimum Lessee Improvement Requirements) and thereafter, at Lessee’s option, for Project construction in general. Notwithstanding anything herein to the contrary, the Parties understand that Lessee is under no obligation to contribute more than \$3,000,000.00 for such purposes, provided such limit shall not apply to the Minimum Lessee Improvement Requirements. For purposes hereof, the term “contribute” shall mean and include, without limitation, monies paid to third parties by Lessee for build out and Concession Improvements, the fair value of equipment, machinery, tools and other property now owned by Lessee that is relocated to the Baseball Stadium and the value of equipment, furnishings and Concession

Improvements provided to the Baseball Stadium by Lessee's concessionaires or by Lessee's other vendors. Upon completion of Lessee's build out work or any termination of this Lease prior to completion of such work, Lessee shall notify the City in writing of the total amount of the Lessee's Contribution and provide the City with supporting documentation reasonably necessary to verify Lessee's determination of such amount.

(kk) "Lessee's Remedial Work" shall have the meaning ascribed to it in Section 13.12.

(ll) "Minimum Lessee Improvement Requirements" means all improvements, fixtures, equipment, systems, facilities, features and amenities which are described and specifically identified as Lessee's responsibility in the Project Plans approved by Lessee as of the Effective Date and, whether or not shown on such Project Plans, the items described on Exhibit "B" attached hereto and made a part hereof.

(mm) "Minimum Stadium Requirements" means all improvements, fixtures, equipment, systems, facilities, features and amenities which are described in the Project Plans approved by Lessee as of the Effective Date and which are not specifically identified as Lessee's responsibility and, whether or not shown on such Project Plans, the items described on Exhibit "C" attached hereto and made a part hereof.

(nn) "Mortgage" shall have the meaning ascribed to it in Section 10.5.

(oo) "Operating Expenses" shall mean the costs to operate, repair, and maintain the Project Improvements.

(pp) "Parking Area" means the lands adjacent to the Land identified as "Lot 1" and the "South Parking Area" on Exhibit "A" attached hereto and made a part hereof.

(qq) "Parking Area Master Lease" means that certain lease from the Port (as lessor) to the City (as lessee) covering the Parking Area.

(rr) "Parking Area Sublease" means the sublease from the City (as sublessor) to Lessee (as sublessee) covering the Parking Area.

(ss) "Person" means any association, individual, corporation, governmental entity, partnership, joint venture, business association, estate or any other organization or entity.

(tt) "Port" means the Port of Corpus Christi Authority and its successors and assigns.

(uu) "Prime Rate" means the per annum rate of interest from time to time published by the *Wall Street Journal* as the "prime rate".

(vv) "Project" means the Baseball Stadium, together with all the other Project Improvements.

(ww) "Project Budget" shall mean the total Project budget approved by Lessee, as from time to time amended with Lessee's approval, for all Project Costs, broken down in reasonable detail by "hard" and "soft" cost categories, including, but not limited to, separate line items for debt service requirements (net of earned interest on invested funds), the amount payable under each of the Project Construction Documents, allowances, contingencies, and pre-opening expenses.

(xx) "Project Change Order" shall have the meaning ascribed to it in Section 3.9.

(yy) “Project Completion Date” means the later of (i) the date of Final Completion of all of the Project Improvements Work in accordance with all of the requirements of this and other transaction documents, (ii) payment in full of all Project Costs, and (iii) the Lease Commencement Date.

(zz) “Project Construction Contract” means the construction contract between the City and the Project Contractor, and approved by Lessee, for the construction of the Project Improvements, as the same may be amended, supplemented, modified, renewed, extended or replaced from time to time with the consent of the City and Lessee.

(aaa) “Project Contractor” means the general contractor selected by the City and approved by Lessee.

(bbb) “Project Construction Documents” means any and all contracts, documents or other instruments entered into by or on behalf of the City, and approved by Lessee, for the design, management, monitoring or performance of the Project Improvements Work, including, but not limited to, the Architect’s Contract, Project Plans, and Project Construction Contracts.

(ccc) “Project Costs” means all of the costs incurred or to be incurred on behalf of the City in order for the City to fulfill its obligations under this Lease to cause Final Completion of the Project Improvements Work, including, but not limited to: (a) Land acquisition costs; (b) all amounts payable under any of the Project Construction Documents; (c) costs to obtain necessary easements or rights of way; (d) the following City development costs and fees: structural steel inspection fee, oversize fee, regional detention fee, and water meter fee; (e) legal costs; (f) costs for project management services; (g) all other costs incurred by the City and paid to third parties to fulfill its obligations under the Lease and Project Construction Documents to develop, construct, equip or furnish the Project including management fees and fees and expenses of architects, engineers, testing firms, accountants, attorneys, and other consultants necessary to complete the design, development, construction, equipping and furnishing of the Project Improvements, including Project Change Orders approved by Lessee; (h) all other costs in connection with the operation and maintenance of the Land prior to the Commencement Date, including all remediation and abatement costs arising from removal of Hazardous Materials or addressing environmental conditions; (i) all financing costs incurred by the Corporation on behalf of the City with respect to the Project including any reserve funds or capital or repair accounts; and (j) all insurance premiums on all policies of insurance required to be carried by the City under this Lease. Notwithstanding anything herein to the contrary, the City’s overall contribution to Project Costs shall not exceed \$21,500,000.00. The term “Project Costs” excludes, however, any costs paid from the proceeds of insurance recoveries.

(ddd) “Project Improvements” means the Baseball Stadium, the parking improvements and all other improvements, amenities and appurtenances to be situated on the Land (including the Minimum Stadium Requirements), all as described more fully in the Project Plans prepared by the Architect and approved by Lessee.

(eee) “Project Improvements Work” means the design, development, construction, furnishing, equipping and placement in service and Final Completion of the Project Improvements at and within the Land in accordance with this Lease, the Project Construction Documents, the Minimum Stadium Requirements, all applicable Governmental Rules and the Project Plans.

(fff) “Project Plans” means individually and collectively, the concept drawings, schematic drawings, design development drawings and detailed working drawings and specifications for the Project Improvements (including the Minimum Stadium Requirements) prepared by the Architect in the form approved by the City and Lessee.

(ggg) “Purchasing Policy” means the policy attached hereto as Exhibit D.

(hhh) “Rentals” shall have the meaning ascribed thereto in Section 4.3.

(iii) “Removables” shall have the meaning ascribed thereto in Section 5.5.

(jjj) “Sanctioning Association” means the Texas League, and the National Association of Professional Baseball Leagues, Inc., and their respective successors, if any, and any replacement or additional baseball association that Lessee certifies to the City is a nationally recognized baseball association that sanctions professional baseball teams affiliated with major league baseball.

(kkk) “Seat Rights” shall have the meaning ascribed thereto in Section 7.10.

(lll) “State” means the State of Texas.

(mmm) “Substantial Completion” (or “Substantially Complete”) means the stage in the progress of the Project Improvements Work when the Project Improvements Work is (i) sufficiently complete in accordance with the Project Construction Documents and Minimum Stadium Requirements so that Lessee can occupy and use the Project Improvements for their intended purpose, (ii) the Minimum Stadium Requirements and all other improvements, equipment and systems included in the Project Improvements are operational as designed and scheduled, (iii) all designated or required governmental inspections and certifications have been made and posted, (iv) the Project Contractor’s instruction of Lessee’s designated personnel in the operation of equipment and systems has been completed, (v) all final finishes contemplated by the Project Construction Documents and Minimum Stadium Requirements are in place and (vi) the only Project Improvements Work that remains is minor in nature, has been identified on a punch list approved by Lessee, and may be completed without interfering with Lessee’s operation of the Leased Premises.

(nnn) “Target Substantial Completion Date” shall have the meaning ascribed thereto in Section 3.5.

(ooo) “Targeted Tax” means any admission tax, parking tax, facility use tax and any other tax imposed by the City not in effect as of the date hereof that either by its terms or effect of its application is not of general application but is designed to be applicable to Lessee, the revenues from Lessee’s conduct of its business, the activities on the Leased Premises, or Lessee’s personnel.

(ppp) “Team” means a minor league baseball franchise owned by Lessee or its Affiliate and approved by the Sanctioning Association to play baseball in the Baseball Stadium and which has a player development contract associated with a Major League Baseball franchise.

(qqq) “Term” shall have the meaning ascribed thereto in Section 4.2.

(rrr) “Unamortized Portion of the Lessee’s Contribution” shall mean, as of the date of determination thereof, the unamortized portion of the Lessee’s Contribution based on a ten (10) year straight line amortization of the actual total amount of the Lessee’s Contribution, prorated based on the number of days in the Lease Year to the extent the date of determination is not at the end of a Lease Year [i.e., the Unamortized Portion of Lessee’s Contribution shall be nine-tenths (9/10ths) of the actual total amount of the Lessee’s Contribution at the end of the first Lease Year and shall be eight-tenths (8/10ths) at the end of the second Lease Year and so on until the end of the tenth Lease Year at which time the Unamortized Portion of the Lessee’s Contribution shall be zero].

(sss) “Untenantable Condition” shall mean the existence of any one of the following conditions but only to the extent the same is not the result of the failure of Lessee to perform its obligations as required under this Lease:

(i) The Leased Premises are not in compliance with rules and regulations in effect on the Effective Date of the applicable Sanctioning Association for any reason, the result of such non-compliance is that the Sanctioning Association, or its rules, prohibit Lessee or its Affiliate from conducting sanctioned games or authorizes the Sanctioning Association to assess fines or penalties, and the City fails to cause the same to be placed into compliance within a reasonable time following the City’s receipt of written notice of such non-compliance (the City hereby agreeing to perform such work as necessary to keep the Leased Premises in compliance, subject to the limitation on the City’s Contribution as provided herein);

(ii) The use or occupancy of the Leased Premises for baseball games is not permitted under applicable governmental rule or is restricted in any material respect under applicable governmental rule, including, but not limited to, denial of access; or

(iii) The use or occupancy of thirty percent (30%) or more of any of the public seating areas, other public areas, or parking areas, within the Leased Premises during the Team’s season is materially restricted by the City or are unusable (and not replaced by suitable temporary accommodations) for a period of ninety (90) consecutive days or ninety (90) days out of any consecutive one hundred eighty (180) day period; or

(iv) The use or occupancy of thirty percent (30%) or more of the private suites or fifteen percent (15%) or more of the concession areas within the Leased Premises is materially restricted by the City or unusable during the Team’s season for a period of sixty (60) consecutive days or ninety (90) days out of any consecutive one hundred eighty (180) day period.

(ttt) “Warranty Claim” shall have the meaning ascribed to it in Section 3.3 hereto.

## **ARTICLE II REPRESENTATIONS AND WARRANTIES**

**Section 2.1. Representations and Warranties by the City.** The City makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The City is a home rule municipal corporation, existing and in good standing under the laws of the State, and has the power to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. By written ordinance, the City has duly approved the execution and delivery of this Lease.

(b) The City has taken all action and has complied with all provisions of law with respect to the execution, delivery and performance of this Lease and each of the Project Construction Documents to which it is a party and the due authorization of the consummation of the transactions contemplated hereby and thereby, and this Lease and each of the Project Construction Documents to which it is a party have been duly executed and delivered by, and constitute the valid and legally binding obligation of, the City, enforceable against the City in accordance with their respective terms.

(c) Neither the execution and delivery of this Lease or the Project Construction Documents to which the City is a party, the consummation of the transactions contemplated hereby or thereby, nor the fulfillment



of or compliance with the terms and conditions of this Lease or such Project Construction Documents, violate any law or regulation, or any judicial order, judgment, decree, or injunction, conflict with or results in a breach of any of the terms, conditions or provisions of any restriction, ordinance or any agreement or instrument to which the City is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City under the term of any instrument or agreement.

(d) There is no litigation now pending or, to the City's knowledge, threatened challenging the powers of the City or in any way affecting this Lease.

(e) The execution and delivery of this Lease and each of the Project Construction Documents to which the City is a party, the consummation of any of the transactions contemplated hereby or thereby or compliance with the terms and provisions hereof or thereof do not and will not (i) violate any law or regulation or any order or decree of any court or governmental instrumentality applicable to the City, which violation would materially and adversely affect the ability of the City to perform its obligations under this Lease or any of the Project Construction Documents; (ii) conflict with or would result in the breach of, or constitute a default under, this Lease or any of the Project Construction Documents, or any other contract, lease, indenture, loan agreement, mortgage, deed of trust or other agreement or instrument to which the City is a party or by which the City or its property may be bound, which conflict, breach or default would materially and adversely affect the ability of the City to perform its obligations under this Lease or any Project Construction Document; or (iii) violate the charter, articles of incorporation or bylaws of the City. No consent, approval authorization or order of any governmental or regulatory authority, agency, commission or board of arbitration was or will be required in connection with the execution and delivery by the City of this Lease and the Project Construction Document to which it is a party or the consummation of the transactions contemplated hereby or thereby or compliance with the terms and provisions hereof or thereof, except such as have been obtained and are in full force and effect.

(f) To the best of the City's knowledge, no event has occurred and no condition currently exists, which constitutes or may, with the passage of time or the giving of notice, or both, constitute an Event of Default with respect to or on the part of the City under this Lease or any of the Project Construction Documents to which it is a party or that could materially adversely affect the ability of the City to perform its obligations hereunder or thereunder.

(g) The Corporation has been duly created by the City, is in good standing under the laws of the State, and has the authority under State law to issue debt to fund the City's Contribution.

**Section 2.2. Representations and Warranties by Lessee.** Lessee makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Lessee is a limited partnership duly organized under the laws of the State and duly qualified to do business in the State, is in good standing in the State, has power to execute and enter into this Lease and by proper corporate action has been duly authorized to execute and deliver this Lease.

(b) Each of the agreements to which it is a party including this Lease, have been duly executed and delivered by duly authorized officers of Lessee, and constitute valid and binding obligations of Lessee, enforceable against Lessee in accordance with their respective terms.

(c) Neither the execution and delivery of this Lease, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Lease, violate any law

or regulation, or any judicial order, judgment, decree, or injunction, conflict with or results in a breach of any of the terms, conditions or provisions of any restriction, ordinance or any agreement or instrument to which Lessee is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Lessee under the term of any instrument or agreement.

(d) No approvals or consents, other than those that have been or will in normal course be obtained, are necessary in order for Lessee to execute and deliver this Lease.

(e) There is no litigation now pending or, to Lessee's knowledge, threatened, challenging the corporate existence of Lessee and there is no pending, or to Lessee's knowledge, threatened action or proceeding before any court or administrative agency that individually (or in the aggregate in the case of any group of related lawsuits) is expected to have a material adverse effect on the financial condition of Lessee or the ability of Lessee to perform its obligations under this Lease.

(f) The execution and delivery of this Lease, the consummation of any of the transactions contemplated hereby or compliance with the terms and provisions hereof do not and will not (i) violate any law or regulation or any order or decree of any court or governmental instrumentality applicable to Lessee or any of its Subsidiaries, which violation would materially and adversely affect the ability of Lessee to perform its obligations under this Lease; (ii) conflict with or would result in the breach of, or constitute a default under, this Lease, or any other contract, lease, indenture, loan agreement, mortgage, deed of trust or other agreement or instrument to which Lessee is a party or by which Lessee or its property may be bound, which conflict, breach or default would materially and adversely affect the ability of Lessee to perform its obligations under this Lease; or (iii) violate the charter, articles of incorporation or bylaws of Lessee. No consent, approval authorization or order of any governmental or regulatory authority, agency, commission or board of arbitration was or will be required in connection with the execution and delivery by Lessee of this Lease or the consummation of the transactions contemplated hereby or compliance with the terms and provisions hereof, except such as have been obtained and are in full force and effect.

(g) Lessee has duly and validly obtained all material certificates, licenses and permits from all public authorities, both federal and state, required as of the Effective Date to enable Lessee to carry on its business as it is now conducted and to enter into this Lease.

(h) To the best of Lessee's knowledge, no event has occurred and no condition currently exists, which constitutes or may, with the passage of time or the giving of notice, or both, constitute an Event of Default with respect to or on the part of Lessee under this Lease or that could materially adversely affect the ability of Lessee to perform its obligations hereunder.

(i) Lessee or its Affiliate owns and will continue to own a AA minor league baseball team approved by a Sanctioning Association that is affiliated with a major league baseball team; Lessee or its Affiliate shall locate such team in the City and play its regularly scheduled home games and post-season play-off home games at the Baseball Stadium (subject to temporary changes in "home" vs. "away" status as may be directed from time to time by the Sanctioning Association).

### **ARTICLE III PROJECT DEVELOPMENT – COMPLETED**

The Parties acknowledge that construction of the Baseball Stadium has been completed and the Lessee has taken possession of the Leased Premises. To the extent that any provision in this Article III or elsewhere in

this Lease references actions related to construction of the Baseball Stadium, apart from annual maintenance, Capital Repair Work, enhancements and upgrades contemplated by Article VII and any Alterations, or additional Improvements contemplated by Article V, the Parties agree that such provision has been performed and such work has been completed.

**Section 3.1. Project Design.** The City will enter into the Architect's Contract and shall be solely responsible for the payment of all fees and reimbursable expenses due and payable from time to time under the Architect's Contract notwithstanding any contrary provision hereof. Subject to Force Majeure, the City shall be responsible for the timely completion of the design of the Project. The Project Plans shall be in compliance with applicable written rules and regulations of the Sanctioning Association in effect on the Effective Date and permit Final Completion of the Project Improvements Work for an amount not to exceed the City's Contribution. Lessee shall have the right to approve the Architect's Contract and the Project Plans and agrees to assist the City with respect to ensuring such compliance with the applicable rules and regulations of the Sanctioning Association.

**Section 3.2. Project Improvements.** The City agrees to fund the Project Improvements in an amount not to exceed the City's Contribution. Should Lessee require any changes to the Minimum Stadium Requirements or any changes to Project Plans that have been previously approved by Lessee in writing and such changes result in the Project Costs exceeding the City's Contribution, Lessee agrees to be solely responsible for the payment of such amounts in excess of the City's Contribution, and shall timely deposit with the City in such manner as the City and Lessee shall determine such additional amounts for the purpose of funding the Project Improvements. The City, with Lessee's approval, shall enter into a Project Construction Contract with the best value for the Project Improvements Work for the Project Improvements, in accordance with this Lease, the Project Plans, the Minimum Stadium Requirements and all applicable Governmental Rules. The Project Plans (including detailed plans and specifications) shall be developed and prepared by the Architect at the City's expense and direction and in cooperation with Lessee and submitted by the City to Lessee for its approval which will not be unreasonably withheld, conditioned or delayed (it being understood, however, that Lessee may withhold its approval in its sole discretion to the extent it believes that the City's Contribution will not be sufficient to fully fund the construction of and cause the Final Completion of the Project Improvements in accordance with the Minimum Stadium Requirements). Lessee shall have ten (10) days to review the Project Plans and if they do not object within such time, they are deemed approved. In the event there is a dispute between the City and Lessee regarding the Project Plans, provided they (i) are in compliance with applicable written rules and regulations of the Sanctioning Association in effect on the Effective Date and (ii) include all of the Minimum Stadium Requirements, the City shall have the final approval of the Project Plans. Any changes to the final Project Plans shall be subject to the prior approval of the City and Lessee. Any replacement of the Project Contractor following a default by the Project Contractor shall be subject to the approval of Lessee.

**Section 3.3. Contract Requirements and Warranty Claims.** The City shall ensure that the Project Construction Contract for the Project Improvements and all subcontracts for the supply of equipment or systems to the Project Contractor for the Project Improvements shall provide for the assignment of all warranties, maintenance agreements thereunder to Lessee and give Lessee the independent right to enforce the same as an express third party beneficiary thereunder, and permit Lessee to use (but not own) any plans and specifications to which the City is then entitled pursuant to any such contracts. The City covenants and agrees that without the prior consent of Lessee, which consent shall not be unreasonably withheld, conditioned or delayed, the City will not (i) voluntarily, involuntarily, by operation of law or otherwise, sell, assign or transfer any of the maintenance and warranty contracts to any person other than Lessee; (ii) terminate any of the maintenance and warranty contracts; (iii) waive or release any of the respective obligations of any person under any of the maintenance and warranty contracts; or (iv) in any way voluntarily modify or amend any of the maintenance and warranty contracts. Further, the City agrees

that Lessee is a third-party beneficiary of the warranty contracts and hereby conveys, transfers and assigns to Lessee the nonexclusive right to enforce any and all of the respective obligations of any person under the maintenance and warranty contracts, including, but not limited to, any and all representations and warranties thereunder. The City and Lessee shall cooperate with each other in prosecuting any and all warranty and similar claims under any and all contracts or other agreements with third parties for the design, construction, supply, alteration, improvement, maintenance or renewal of the Project Improvements and Leased Premises, including, but not limited to, any and all such claims under the Project Construction Contract (each a "Warranty Claim"). All recoveries from any such Warranty Claims shall be applied, first, to the cost of collection, second, on a proportional basis to the City and Lessee to (x) reimburse Lessee for the cost and expenses incurred in order to repair, restore, renew or replace any part of the Project Improvements or Leased Premises as to which such Warranty Claim relates and which have not been paid out of the Capital Repair Work Account and (y) to reimburse the City for amounts paid to Lessee as the City's expenses relating to such Warranty Claim.

**Section 3.4. Access to the Project.** Lessee and its agents, contractors, sublessees, licensees, and concessionaires shall have the right of access at normal construction hours during the construction period, for themselves and their authorized representatives, to the Land and the Project Improvements and all portions thereof for the following purposes, without charges or fees or the commencement of rent under this Lease, provided Lessee and all such agents, contractors, sublessees, licensees, and concessionaires (i) notify the City in advance of such proposed entry by any of Lessee's subtenants, licensees or concessionaires, (ii) do not hinder or interfere with the Project Improvements Work or the activities of the City's contractors, (iii) take such reasonable protective precautions or measures as the City or the Project Contractor may reasonably request, given the stage of the Project Improvements Work at the time of such entry; and (iv) comply with the provisions of the Project Construction Contract relating to the City's rights to access: (a) Conducting inspections for purposes of determining compliance with this Lease; (b) Construction and installation of any Concession Improvements and any other improvements permitted by the Lease so long as, in either case, Lessee does not unreasonably interfere with the construction of the Project Improvements Work by the Project Contractor; (c) Construction and installation of any interior tenant finish work, construction and installation of offices for Lessee, use of its offices for ticket sales and promotions and other normal and customary business, and equipping locker room and related facilities for Lessee; (d) Installation of any additional fixtures or equipment desired by Lessee; (e) Tours of the Land and Project Improvements sponsored by Lessee; and (f) The erection and maintenance of billboards and signs during the construction period consistent with Lessee's naming rights and advertising rights under this Lease. Prior to RSR starting any work on the Leased Premises, it shall obtain and cause all of its contractors and subcontractors to obtain separate builder's risk insurance coverage and comprehensive general liability insurance in amounts and upon terms acceptable to the City (but not exceeding the requirements the City imposes on contractors working on City property). Subject to compliance with the City's ordinances related to occupancy of buildings, Lessee shall have the right to take possession of its offices (subject to the terms hereof) and use the same for the conduct of Lessee's normal and customary business. Any entry, access or occupancy provided to Lessee pursuant to the terms of this Section 3.4 shall not be deemed to be acceptance of the Project Improvements Work or commence the Term. Lessee shall be responsible for all utility and other costs associated with taking possession of its offices. Lessee shall cooperate with the City in all aspects of the development and construction of the Baseball Stadium and not unreasonably hinder, delay or interfere with the development and construction of the Project Improvements.

**Section 3.5. Schedule for Substantial Completion and Liquidated Damages.** The City shall cause Substantial Completion of the Project Improvements Work to occur on or before March 24, 2005 (the "Target Substantial Completion Date"). In addition, the City agrees to include in the Project Construction Contract a provision whereby the Project Contractor agrees to pay liquidated damages (i) in the amount of \$1,000 per day for each day beyond the Target Substantial Completion Date that the

Project Contractor fails to achieve Substantial Completion, and (ii) in the amount of \$100,000 for each scheduled baseball game which Lessee is unable to conduct in the Project Improvements due to the failure of the Project Contractor to have achieved Substantial Completion on or before the Target Substantial Completion Date. For purposes hereof, Lessee will be deemed to be unable to conduct its first scheduled baseball game if Substantial Completion has not been achieved at least ten (10) days prior to the scheduled date of such opening or subsequent game and the \$100,000 liquidated damages shall be due and payable for each such game even if the game is in fact played. Notwithstanding anything in this Lease, the Project Construction Documents or any other agreements related hereto to the contrary, Lessee agrees that Lessee's sole remedy for any delay in Substantial Completion of the Project Improvements Work beyond the Target Substantial Completion Date is to obtain the liquidated damages from the Project Contractor; provided, however, that if Lessee does not actually receive the liquidated damages from the Project Contractor as contemplated hereby within ten (10) days of Lessee's demand therefore, then Lessee shall have the right to offset all liquidated damage amounts that are due but not received by Lessee as contemplated hereby against the Rentals and/or any other amounts due or to become due to the City pursuant to this Lease; and provided, further, however, that if Substantial Completion has not occurred on or before April 24, 2005, Lessee shall have the right and option to terminate this Lease by written notice to the City and upon delivery of any such notice the City shall pay to Lessee the Unamortized Portion of Lessee's Contribution (measured as of the date of termination) and Lessee shall have no further liability or responsibility to the City under or in connection with this Lease.

**Section 3.6. Lessee Requested Additions or Modifications.** In the event that Lessee determines that it desires any additions or modifications to the Minimum Stadium Requirements or any changes to Project Plans that have been previously approved in writing by Lessee ("Lessee Requested Modifications"), Lessee shall submit a written request along with plans and specifications for the Lessee Requested Modifications to the City for its approval. In the event that the Lessee Requested Modification results in an increase in the Project Cost over and above the City's Contribution, such increase shall be the sole responsibility of Lessee, and it will be the sole responsibility of Lessee to timely pay the cost of the Lessee Requested Modifications. After confirming Lessee's commitment to pay such increase, the City shall direct the Project Contractor to perform the same.

**Section 3.7. Lessee Build Out.** Lessee covenants and agrees that Lessee shall design, construct, and place in service the Concession Improvements, the suites and related build out obligations set forth herein (including the Minimum Lessee Improvement Requirements), or cause the same to be designed, constructed, and placed in service in accordance with the Project Plans and applicable Governmental Rules, all at Lessee's sole cost and expense. Lessee agrees that when complete such improvements and facilities will be of a quality generally consistent with those contained in Comparable Facilities.

**Section 3.8. Performance and Payment Bonds.** Prior to Lessee commencing any construction project estimated to cost greater than \$500,000, Lessee shall provide to the City for its approval a statutory form payment and performance bond for such project.

**Section 3.9. Change Orders.** No changes in plans or specifications shall be made to the Project, the Project Construction Contract, the Project Plans or Minimum Stadium Requirements unless agreed to in a written change order ("Project Change Order") approved in writing by the City and Lessee. Unless otherwise agreed with respect to any specific Project Change Order, the Party submitting the proposed Project Change Order shall be responsible for all costs relating to such Project Change Order.

## **ARTICLE IV LEASE OF LEASED PREMISES**

### **Section 4.1. Grant.**

(a) In consideration of and pursuant to the covenants, agreements, and conditions set forth herein, the City does hereby lease, let, demise, and rent exclusively unto Lessee, and Lessee does hereby rent and lease from the City, the Leased Premises. On the Commencement Date, the City will give and deliver to Lessee exclusive possession and occupancy of the Leased Premises free of all tenancies and parties in possession of such Leased Premises (other than those arising by, through or under Lessee) and free of Hazardous Materials. (For the purpose of this section and Section 13.26, the Leased Premises is considered free of Hazardous Materials, if it has been remediated to the satisfaction of the appropriate Governmental Authority.) The City, if necessary, will provide Lessee with the appropriate consent of the Governmental Authority that the Leased Premises meets the requisite standards of being free of Hazardous Materials. The City shall deliver the Leased Premises to Lessee on the Commencement Date in good condition and repair and in a clean and orderly condition.

(b) The City covenants for the Term that Lessee, upon paying the Rentals and upon keeping, observing and performing the terms, covenants and condition of this Lease to be kept, observed and performed by Lessee, including, without limitation, the terms, covenants and conditions set forth in Article VI of this Lease, shall and may quietly and peaceably hold, occupy, use, and enjoy the Leased Premises without ejection or interference by or from the City, subject only to the terms and provisions set forth herein.

(c) The City covenants that Lessee's leasehold interest in, and other rights to, the Leased Premises arising under this Lease shall be senior and prior to any lien, lease or other encumbrance existing, created or arising in connection with the acquisition, development, construction or financing of the Leased Premises or the Project Improvements Work or any portion thereof. The foregoing does not extend to any liens, leases or encumbrances arising by, through or under Lessee or its agents acting in such capacity.

**Section 4.2. Term.** The term (the "Term") of this Lease shall commence upon the Commencement Date and shall continue for a period of thirty (30) years thereafter, unless earlier terminated in accordance with the terms hereof; provided, however, that if the expiration date of the Term shall fall during a baseball season, then the Term shall be automatically extended to the day that is sixty (60) days after the last home game (regular or post-season) of such season and the rental shall be prorated for such extension period based on the rental then in effect for such final Lease Year.

**Section 4.3. Rent.** (a) Lessee agrees to pay annual rental for each Lease Year during the base Lease Term on or before the first day of each such Lease Year, as follows:

Lease Years 1 – 5	- \$50,000.00 per Lease Year
Lease Years 6 – 10	- \$60,000.00 per Lease Year
Lease Years 11 – 15	- \$70,000.00 per Lease Year
Lease Years 16 – 20	- \$80,000.00 per Lease Year
Lease Years 21 – 25	- \$90,000.00 per Lease Year
Lease Years 26 – 30	- \$100,000.00 per Lease Year

(b) Lessee shall timely pay to the City the Rentals to be paid by Lessee to the City under this Lease, without deduction or setoff (except as otherwise expressly provided in this Lease), at the City's address provided for in this Lease or as otherwise specified by the City in writing. Notwithstanding the foregoing, if tax-exempt debt is issued to fund the City's Contribution, the City may reduce the Rentals if necessary to ensure compliance with the federal income tax laws applicable to tax-exempt debt.

**Section 4.4. Permitted Uses.** Throughout the Term, Lessee shall occupy and use the Leased Premises for the primary purposes of conducting regularly scheduled and post-season home games played by the Team (including radio and television broadcasting or other transmission of same) in accordance with the rules and regulations of the Sanctioning Association. In addition to the foregoing, the permitted uses shall

include the conducting of meetings, trade shows, exhibitions, concerts, public entertainment events, other baseball games and sporting events, and other similar traditional baseball functions that will encourage economic development and tourism in the City of Corpus Christi; and for purposes related and incidental thereto including, without limitation, operation of restaurants and concession facilities in and adjacent to the Baseball Stadium (during games and events and at other times), sale of food and beverages (alcoholic and non-alcoholic), conducting tours, storage, and office uses), and for any other lawful purpose that is not a prohibited use described in Section 4.7.

#### **Section 4.5. Compliance with Laws.**

(a) Lessee shall, throughout the Term, and at no expense to the City, promptly comply or cause compliance in all material respects with all laws, ordinances, orders, rules, regulations and requirements of duly constituted Governmental Authorities, which may be applicable from time to time to its use of the Leased Premises and its operation, repair and alteration thereof.

(b) Lessee shall not, however, be required to comply or cause compliance with such laws, ordinances, orders, rules, regulations or requirements, if Lessee is, after prior written notice to the City, contesting the same or the validity thereof in good faith, at Lessee's expense by appropriate proceedings; and provided further, such noncompliance will not have a material adverse effect on the Leased Premises or Lessee or the performance of its obligations hereunder. Such contest may be made by Lessee in the name of the City or Lessee, or both, as Lessee shall reasonably determine, and the City shall, at Lessee's expense, cooperate with Lessee in any such contest to such extent as Lessee may reasonably request; provided, however, that Lessee may not contest in the name of the City any law, ordinance, rule, regulation, order or requirement of the City, and the City has no obligation to cooperate in any such contest against the City. The City shall not, however, be subject to any liability for the payment of any costs or expenses in connection with any such proceedings brought by Lessee, and Lessee covenants to pay, and to indemnify and save the City harmless from, any such costs or expenses, including, but not limited to, court costs and attorneys' fees.

**Section 4.6. Obligations of Lessee Unconditional.** The obligations of Lessee under this Agreement including, but not limited to, the obligations to pay the Rentals, to maintain the Leased Premises and to pay the premiums or charges necessary to maintain or cause to be maintained the insurance required herein, and to provide the indemnity required herein shall be absolute and unconditional and shall not be subject to any defense (other than payment) or any right of set-off, counterclaim, abatement or otherwise except as expressly permitted by this Lease.

#### **Section 4.7 Prohibited Uses.**

(a) Lessee shall not allow the Leased Premises to be used for any of the following purposes: public nuisance; any use violating law; use as a sexually oriented business as defined in the City Code; or use as an industrial site or waste disposal facility.

(b) Lessee shall not knowingly use the Leased Premises for any use that would cause the bonds used to finance the Baseball Stadium to lose their tax-exempt status. The City shall be responsible to notify Lessee of any prohibited uses that could cause such a result. If any of the permitted uses expressly described in Section 4.4 above shall be or become prohibited uses under this Section 4.7(b), then Lessee may terminate this Lease and the City shall promptly pay to Lessee the Unamortized Portion of the Lessee's Contribution (measured as of the date of termination).

### **ARTICLE V BEGINNING CONDITION, ALTERATIONS AND IMPROVEMENTS**

**Section 5.1. Beginning Condition.** On the Commencement Date, the City shall deliver exclusive and vacant possession of the Leased Premises to Lessee with all Project Improvements Work being

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Substantially Complete and in good working order and condition and having been accepted in writing by Lessee (subject only to minor punch list items which can be completed by the City or the Project Contractor without interfering with Lessee's operation of the Leased Premises). - **COMPLETED**

**Section 5.2. Alterations.** Any subsequent alterations, additions, or construction of new improvements on or in the Leased Premises must be consistent with the permitted uses of the Leased Premises as set forth in Section 4.4 and must be consistent with the then appearance of the Leased Premises and the uses being made thereof; and must be approved in advance in writing by the City, such approval not to be unreasonably withheld; provided, however, that Lessee is not required to obtain the City's prior approval for (a) non-structural remodeling or installation or removal of Removables or other trade fixtures and equipment; (b) temporary improvements or alterations to accommodate particular events; (c) alterations required to comply with any applicable law or any requirements of the Sanctioning Association; (d) alterations resulting from restorations or repairs of existing facilities; or (e) any nonstructural alterations costing less than \$100,000, with respect to any single alteration, or \$500,000 in any calendar year with respect to a series of alterations. For the purposes of this Section, routine maintenance, repairs, and capital improvements of any kind that do not exceed the sum of \$100,000 do not require the prior consent or approval of the City. Notwithstanding the foregoing, Lessee shall have the right to construct additional facilities upon the Land so long as the same are consistent in exterior appearance with the architectural theme of the Baseball Stadium, Lessee provides the City reasonable evidence of Lessee's ability to pay for the same, and so long as the same, when completed, will not have reduced the overall utility of the Baseball Stadium or weakened or impaired the structural integrity of the Baseball Stadium. For work requiring the City's approval, Lessee shall submit the plans, specifications and construction drawings to the City with Lessee's request for approval. Anything to the contrary herein notwithstanding, no such alterations, additions or improvements shall cause the facilities within the Leased Premises to cease to qualify as a "project" under Section 4A(i) of Article 5190.6, Texas Revised Civil Statutes.

**Section 5.3. Compliance with Regulatory Requirements.** Lessee agrees that all additions and alterations on or to the Leased Premises constructed by it shall be constructed in accordance with all applicable ordinances and statutes of Governmental Authority as well as the codes of the City. Lessee shall, at its sole cost and expense, procure or cause to be procured all necessary building permits, other permits, licenses and other authorizations required for the lawful and proper addition to or alteration, use, occupation, operation, and management of the Leased Premises (the City agrees to cooperate with Lessee's efforts with respect to obtaining such permits, licenses or other authorizations).

**Section 5.4. Ownership of Improvements.** Provided and for so long as no Event of Default has occurred hereunder, title to and ownership of the Leased Premises during the Term of this Lease shall be and remain in the City, except for trade fixtures, furniture, equipment, furnishings and their personal property installed in or affixed to the Leased Premises by or on behalf of Lessee (collectively, the "Removables"), all of which shall remain Lessee's sole property. At the expiration or other termination of the Lease, all alterations, additions, and improvements to the Leased Premises (except for the Removables) must remain upon and be surrendered with the Leased Premises. Notwithstanding any of the above, so long as the City consents to assume the obligations of Lessee under any concession agreements, any concession equipment (other than Removables) shall remain in the Leased Premises.

**Section 5.5. The City's Right of Inspection.** Prior to the City giving or withholding its consent to any proposed construction, alteration, addition or Capital Repair (as defined herein) to the Leased Premises requiring such consent as set forth in Sections 5.2 and 7.3 herein, the City may review Lessee's conceptual design drawings and construction drawings for such construction work, the reasonable, out-of-pocket costs paid to third parties therefore to be paid by Lessee. Upon completion of any new construction or alteration or addition to existing improvements for which the City's approval is needed under the terms of this Lease, Lessee shall obtain a written certification addressed to the City from a licensed



architect or engineer reasonably acceptable to the City stating that the construction has been completed substantially in accordance with the construction drawings and that, to the best of each professional's knowledge, the completed improvements are in compliance with all applicable ordinances, statutes, and the requirements of all Governmental Authority. Additionally, the City may, at its sole discretion, cost and expense, have the Leased Premises inspected by an inspector qualified to determine compliance with Major League Baseball facilities' standards and regulations, in order to determine whether or not Lessee is maintaining the Leased Premises commensurate with Major League Baseball facilities' standards and regulations and/or whether or not Lessee is maintaining the Leased Premises at a level commensurate with the Comparable Facilities, as required in Section 6.1.5 herein.

## **ARTICLE VI THE OPERATOR'S RIGHTS AND OBLIGATIONS**

**Section 6.1. Management.** Lessee shall be the exclusive manager and operator of the Baseball Stadium and shall have the exclusive right to contract for its license or use during the Term in a manner that will promote and further the purposes for which the Baseball Stadium has been constructed. Lessee shall do all things and take all commercially reasonable actions necessary for the operation and maintenance of the Baseball Stadium as a baseball stadium and entertainment facility in accordance with this Lease and in a manner generally consistent with the operation and maintenance of the Comparable Facilities as of the Effective Date, subject to normal wear and tear. Without limiting the generality of the foregoing, Lessee is authorized to and shall:

- 6.1.1** charge and collect all operating revenue, parking use charges, concession revenue, and seat and suite use charges for the Baseball Stadium and leased Premises and, in connection therewith, use all commercially reasonable efforts to obtain all fees, rents and other amounts due from licensees, concessionaires and other users of the Baseball Stadium and Leased Premises; and shall cause notices to be served upon such licensees and other users to quit and surrender space occupied or used by them where desirable or necessary in the opinion of Lessee and shall ask for, demand, collect and give receipts for all amounts which at any time may be due from any licensees and other users of the Baseball Stadium and Leased Premises;
- 6.1.2** commence, defend and settle in good faith such legal actions and proceedings concerning the operation of the Baseball Stadium (except for City events) as are necessary or required in the opinion of Lessee and shall retain counsel in connection therewith;
- 6.1.3** employ, pay and supervise all personnel that Lessee determines to be necessary for the operation of the Baseball Stadium (such personnel, during the course of such employment, shall be employees of Lessee and shall not be employees of the City); determine all matters with regard to such personnel, including without limitation, compensation, bonuses, fringe benefits, hiring and replacement and shall prepare, on its own behalf and file when due, all forms, reports and returns required by law relating to the employment of such personnel;
- 6.1.4** purchase and maintain all materials, tools, machinery, equipment and supplies deemed necessary by Lessee for the operation of the Baseball Stadium;
- 6.1.5** maintain the Baseball Stadium in accordance with Comparable Facilities subject to normal wear and tear, and maintain and operate the Baseball Stadium in compliance with all requirements necessary for the conduct of all home games;

- 6.1.6** prepare, coordinate, implement, revise as necessary and administer a preventative maintenance plan and program for the Baseball Stadium, its machinery and equipment, and provide a maintenance log for each prior Lease Year;
- 6.1.7** from and after the Commencement Date, arrange for and provide all utility and other services for the Baseball Stadium and pay or cause to be paid when due all charges for water, sewer, gas, light, heat, telephone, electricity, and other utilities and services rendered to or used on or about the Baseball Stadium (the City and/or the Project Contractor shall be responsible for arranging and paying for all utility services necessary for the construction and Final Completion of the Project Improvements Work and for providing permanent utility services infrastructure and hook-ups for Lessee's use); provided, however, that the City and Lessee shall cooperate in an effort to obtain the most favorable rates for electricity and other utility services and, in that regard, if the City is able to procure such utility services at more favorable rates than Lessee, then the City and Lessee shall in good faith negotiate and amendment to this Lease whereby the City will agree to provide such utility services and Lessee will agree to reimburse the City for all such charges on a pass through basis (and without mark-up by the City);
- 6.1.8** maintain or cause to be maintained all necessary licenses, permits and authorizations for the operation of the Baseball Stadium;
- 6.1.9** furnish to the City such reports and other information concerning the condition of the Baseball Stadium and operation thereof (excluding any financial operating results or other information deemed commercially sensitive by Lessee) as may be reasonably requested from time to time by the City, it being understood, however, that Lessee shall not be required to generate any special reports but rather just make available to City any reports already prepared by Lessee in the normal conduct of its business;
- 6.1.10** procure and negotiate contracts with concessionaire(s) for the operation of consumable and/or non-consumable concessions at the Baseball Stadium (unless Lessee shall self-operate such concessions); and
- 6.1.11** control the issuance of and issue all credentials for events at the Baseball Stadium.

**Section 6.2. Promotions and Marketing.** Lessee's obligation to operate the Baseball Stadium generally consistent with Comparable Facilities shall not apply to promotional, event, or marketing activities, and Lessee shall have the discretion to adopt and implement such promotional and marketing practices as Lessee deems appropriate for the operation of its business at the Leased Premises.

## **ARTICLE VII ADDITIONAL COVENANTS OF LESSOR AND LESSEE**

**Section 7.1. Maintenance, Operation and Capital Repair Work Expenses of the Leased Premises.** Subject to Section 7.4 herein, Lessee shall, at its sole cost and expense, perform all Capital Repair Work (as defined herein), maintenance and routine repairs required to keep, maintain, and operate the Leased Premises, including the interior and exterior, structural and nonstructural portions of the improvements, in as good repair as exists on the Commencement Date and in compliance with all applicable laws, regulations, orders and other governmental requirements of Governmental Authority applicable to the Leased Premises from time to time, and generally consistent with the operation and maintenance practices of the Comparable Facilities, subject to ordinary wear and tear, uninsured catastrophes, Force

Majeure events, acts of God and events of condemnation. “Capital Repair Work” includes all work performed and expenses incurred for routine maintenance of the facilities, for capital improvements, and to repair, restore, replace, enhance, or refurbish any equipment, facility, structure or other component of the Leased Premises. The City has no maintenance and repair obligations under this Lease and, subject to the City’s obligations as set forth in Section 7.4 below, the City has no obligation to pay any maintenance, repair, Capital Repair, capital or operating expenses of the Leased Premises.

**Section 7.2. Lessee’s obligation to pay for maintenance, Capital Repair Work, enhancements and upgrades of the Leased Premises.** Lessee shall spend no less than Three Hundred Fifty Thousand Dollars (\$350,000) annually on maintenance, Capital Repair Work, enhancements and upgrades to the Leased Premises, as required in Section 7.1 herein, beginning in the year 2013 and through the end of this amended Lease’s Term. Notwithstanding the preceding statement, Lessee shall spend an amount greater than \$350,000 annually if necessary in order to maintain the Leased Premises commensurate with Major League Baseball facilities’ standards and regulations and/or at a level commensurate with the Comparable Facilities, whichever level is determined to be a higher standard by a qualified inspector, as referenced in Section 5.5 herein.

**Section 7.3. Lessee’s obligation to provide reports relating to maintenance, Capital Repair Work, enhancements and upgrades.** In addition to Lessee’s requirements under Section 5.5 herein, Lessee agrees annually, on or before October 1, to provide the City (i) a written accounting of all maintenance, Capital Repair Work, enhancements and upgrades to the Leased Premises paid for and completed by Lessee in the previous Lease Year pursuant to Section 7.2 herein, for which Lessee requests reimbursement from City pursuant to Section 7.4 herein, as well as (ii) a proposed detailed capital improvement plan for City review and approval which shall consist of a schedule for and estimated budget for proposed maintenance, Capital Repair Work, enhancements and upgrades for the upcoming year. Such written accounting of all maintenance, Capital Repair Work, enhancements and upgrades paid for and completed by Lessee in the previous Lease Year shall be subject to the written approval of the City, such approval not to be unreasonably withheld, conditioned or delayed. Lessee’s proposed schedule for and estimated budget of proposed maintenance, Capital Repair Work, enhancements and upgrades for the upcoming year also shall be subject to the written approval of the City, such approval not to be unreasonably withheld, conditioned or delayed.

**Section 7.4. City’s obligation to reimburse Lessee.** Upon City’s written approval of Lessee’s written accounting of all maintenance, Capital Repair Work, enhancements and upgrades paid for and completed by Lessee in the previous Lease Year pursuant to Section 7.2 herein, subject to appropriation by the Corpus Christi City Council, and subject to Lessee’s compliance with Approved Procurement Practices and all applicable statutory requirements, City shall reimburse Lessee for such approved expenditures in the amounts set forth in 7.4.1 and 7.4.2, which shall be paid to Lessee no later than thirty (30) days following the last game or event held at the Leased Premises of the year following completion of such approved enhancements and upgrades.

**7.4.1. City’s reimbursement obligation for the 2019-2020 City fiscal year.** Regarding the maintenance, Capital Repair Work, enhancements and upgrades paid for and completed by Lessee in the 2019-2020 City fiscal year, City agrees to reimburse Lessee a 2 to 1 match of Lessee’s payment, subject to availability of Corporation funds, with City reimbursement not to exceed two million dollars, with actual reimbursement amount limited by the amount actually expended by Lessee during the fiscal year for enhancements and upgrades. Corporation funds are available and the funding for the 2019-2020 fiscal year was approved by the Corporation on December 9, 2019 and the Corpus Christi City Council on \_\_\_\_\_, 2020. City and Lessee agree that, at a minimum City shall reimburse Lessee One Hundred Seventy Five Thousand Dollars (\$175,000) so

long as Lessee complies with Section 7.2 requiring the expenditure of at least \$350,000.

**7.4.2 City's annual reimbursement obligation beginning the 2020-2021 City fiscal year.**

Regarding the maintenance, Capital Repair Work, enhancements and upgrades paid for and completed by Lessee for each year beginning the 2020-2021 City fiscal year, City agrees to reimburse Lessee a minimum amount of One Hundred Seventy Five Thousand Dollars (\$175,000) annually so long as Lessee complies with Section 7.2 requiring expenditure of at least \$350,000. Any request from Lessee for additional funding beyond the \$175,000 provided in this Section will require approval of the Corpus Christi City Council.

**Section 7.5. Taxes and Other Charges.** Lessee shall pay prior to delinquency, in addition to the payment of Rentals, each and every lawful cost, expense and obligation of every kind and nature, foreseen or unforeseen, by reason of Lessee's estate or interest in the Leased Premises or any portion thereof or by reason of or in any manner connected with or arising out of Lessee's possession, operation, maintenance, alteration, repair, rebuilding, use or occupancy of the Leased Premises, or any part thereof. Lessee shall pay and discharge, prior to the delinquency thereof, all lawful assessments, ad valorem taxes, sales taxes, business and occupation taxes, occupation license taxes, water charges, sewage disposal charges, or other utility charges imposed on the Leased Premises and Lessee's use and occupancy of the Leased Premises, and all other governmental taxes, impositions, and charges of every kind and nature, ordinary or extraordinary, general or special, foreseen or unforeseen, whether similar or dissimilar to any of the foregoing, and all applicable interest and penalties, if any, which at any time during the Term becomes due and payable by Lessee because of its rights or obligations under this Lease and which is lawfully levied, assessed or imposed on Lessee or its interest in the Leased Premises under or by virtue of any present or future law, statute, ordinance, regulation or other requirement of any Governmental Authority, whether federal, state, county, city, municipal, school or otherwise. Lessee, upon written notice to the City, may contest in good faith any such tax, imposition, charge or assessment levied by any Governmental Authority (other than water charges or sewage disposal charges), and in such event may permit such tax, imposition, charge or assessment (other than water charges or sewage disposal charges) to remain unsatisfied during the period of such contest and any appeal, provided, however, that prior to the commencement of such contest Lessee shall demonstrate to the City either (a) that Lessee will have sufficient funds to pay such assessment if the contest is unsuccessful (as determined to be acceptable in the sole discretion of the City) or (b) that Lessee has deposited into a separate escrow account funds equal to the contested amount, together with the anticipated interest and penalties, if any, that would be incurred in the event of an unfavorable disposition. Lessee also shall pay or cause to be paid all lawful charges for gas, water, sewer, electricity, light, heat, power, telephone, and other utilities and services used, rendered or supplied to, upon or in connection with the Leased Premises (Lessee to pay or cause to be paid all of such charges directly to the provider thereof except to the extent any of the same are provided by the City as contemplated by Section 6.1.8 above). Lessee shall furnish to the City promptly upon request, proof of the payment or timely contest of any such tax, assessment or other governmental or similar charge, or any utility charge which is payable by Lessee, or evidence of the deposit of such funds into a reserve account, all as set forth above. Notwithstanding the foregoing, in the event the Leased Premises is not exempt from property taxation due to any failure of the City, then the City shall be solely responsible for such tax. Furthermore, in the event a Targeted Tax is ever imposed by the City, then Lessee shall be entitled to a credit against all Rentals then due and thereafter becoming due so as to enable Lessee to recapture the amount of the Targeted Tax paid by Lessee; provided, that, in the event there are insufficient Rentals due and to become due hereunder to enable Lessee to recapture through offset against the Rentals the amount of Targeted Tax paid by Lessee, the City shall directly pay to Lessee the amount of such excess Targeted Tax within thirty (30) days following Lessee's submittal to the City of the payment of the Targeted Tax and an invoice for the reimbursement therefore. The provisions of this paragraph shall expressly survive the expiration or sooner termination of this Lease.

**Section 7.6. Liens and Encumbrances.** Lessee covenants and agrees that, except for this Lease, it will not create or suffer to be created by, through or under Lessee any lien, encumbrance or charge upon the Leased Premises. Lessee shall satisfy or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same occurs, all such claims and demands for labor, materials, supplies or other items which, if not satisfied, might by law become a lien upon the Leased Premises or any part thereof. If any such lien is filed or asserted against Lessee or the Leased Premises by reason of work, labor, services or materials supplied or claimed to have been supplied on or to Lessee or the Leased Premises at the request or with the permission of Lessee or of anyone claiming under it, Lessee shall, within sixty (60) days after it receives notice of the filing thereof or the assertion thereof against the Leased Premises, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure thereof, by contest, payment, deposit, bond, order of court or otherwise.

**Section 7.7 Franchise Liens.** Lessee may, at any time or from time to time, grant liens upon the Team and/or any and all ownership or franchise rights Lessee has in or with respect to the Team; provided, however, that to ensure the continued compliance with the Non-Relocation Agreement (and the other Project related documents to which Lessee or the Team is a party), by Lessee or the Team or any other person who acquires the franchise by transfer, foreclosure, or otherwise at any time during the term of the Lessee license agreement, any such liens shall (i) be made or granted in compliance with and subject to the requirements and obligations of Lessee pursuant to this Lease and the Non-Relocation Agreement and (ii) provide that any person who acquires the franchise pursuant to any foreclosure or other transaction under any such liens shall take the franchise strictly subject to and assume the requirements and burdens imposed on Lessee pursuant to this Lease and the Non-Relocation Agreement. Upon any such granting of such liens, Lessee shall obtain from each such lien holder a written acknowledgment and acceptance of the terms, provisions, and restrictions contained herein and shall provide an executed copy thereof to the City and shall state in the instruments creating and perfecting such lien that any transfer is subject to the terms herein. In the event involuntary liens or material encumbrances are placed on the franchise that, upon foreclosure, would result in a violation hereof, Lessee will use its good faith efforts to promptly remove such liens or material encumbrances after reasonable contest periods.

**Section 7.8. Surrender of Possession.** Upon the termination of this Lease, Lessee shall surrender the Leased Premises (including all improvements thereon) to the City in a condition which would have been in compliance with the maintenance requirements of Section 7.1 of this Lease had the Lease not terminated, reasonable wear and tear and damage by casualty and condemnation excepted.

**Section 7.9. Operation.** Lessee agrees to operate and maintain the Leased Premises throughout the Term in a condition necessary to conduct the permitted uses described in Section 4.4, consistent with the general quality of operations at Comparable Facilities. Except as provided herein, Lessee may not assign any rights, duties or obligations to operate and maintain the Leased Premises throughout the Term to any party, other than its Affiliates, without the prior written consent of the City. The City acknowledges that the foregoing does not prohibit Lessee from contracting with third parties to provide services such as concessions, security, janitorial and similar services.

**Section 7.10. Right of Lessee to Revenues.** Except as provided in Section 7.16, Lessee shall be entitled to, and is hereby granted the exclusive right to, contract for, collect, receive and retain all gross income and revenues and other consideration of whatever kind or nature realized by, from or in connection with the Leased Premises, including, without limitation, all gross revenues, royalties, license fees, concession fees and income and receipts of any nature, including, without limitation, those arising from (a) all advertising rights, (b) all broadcast rights, (c) parking, (d) promotion of events at the Leased Premises, (e) the sale of food, beverages, merchandise, programs and other goods and wares of any nature whatsoever at the Leased Premises, (f) all naming rights, and (g) all telecommunications rights. Lessee shall have the right, without the prior consent of the City, to sell or grant rights to purchase future tickets for reserved

seats, club seats and luxury suites, including personal seat licenses (collectively, "Seat Rights"). All Seat Rights shall be subject and subordinate to the provisions of this Lease and shall not survive the termination or expiration of this Lease. The Lessee shall have no responsibility or obligation to sell Seat Rights and the City shall not have any liability or responsibility to assure the sale of Seat Rights. Lessee shall be entitled to, and is hereby granted the exclusive right to, collect, receive and retain all gross income and revenues and other consideration of whatever kind or nature (but excluding any Targeted Taxes) realized by, from or in connection with the sale or other distribution of Seat Rights, tickets or passes (including general admission) for any seats in the Leased Premises.

**Section 7.11. Naming and Other Rights.** Lessee shall have the full right to provide a name or names for the Baseball Stadium during the Term of this Lease; provided, however, that, except for city names which are incorporated into the brand name of any nationally or regionally offered product or service (such as, by way of example and not limitation, "Seattle's Best" coffee, "Milwaukee's Best" beer or "Boston Market" foods), Lessee shall display no reference to any county or to any city other than the City in any signage, advertising, and other identification monuments or visible media containing the name used by or identifying the Baseball Stadium facility on the Leased Premises. Lessee agrees to use a name for the Baseball Stadium that is appropriate for a City-owned facility. Within ten (10) days after the Lessee's disclosure to the City of the name of the Baseball Stadium, the City shall have the right to disapprove and thus prohibit such name for the Baseball Stadium (including the name for the concourses or other part of the Baseball Stadium) if the City Council reasonably deems such name to be in bad taste or offensive to the City's image or a potential source of embarrassment to the City. Any advertising, documents or media information prepared by or within the control of Lessee describing any event at the Baseball Stadium shall identify the City as the location of the Baseball Stadium. Without limiting the foregoing, Lessee shall have the exclusive right to contract with any person with respect to use and enjoyment of such name for the Baseball Stadium and the exclusive right to enter into agreements with others whereby such others may display names, logos, trademarks, advertisements, slogans, emblems, brand names, and the like in or about the Leased Premises. Lessee reserves the right to change the name of the Baseball Stadium from time to time. Lessee also retains exclusive rights of control over, and the right to grant to others, the rights to broadcasts to and from the Leased Premises, regardless of the medium used (e.g., television, radio, internet, satellite) and all revenues therefrom. Any agreement executed by Lessee that sells the right to name the Baseball Stadium shall provide that should the party to whom said right has been sold perform or be the subject of any Act of Bankruptcy, Lessee shall have the right to immediately terminate such agreement and have the right to seek a new agreement with respect to the naming rights for the Baseball Stadium. Any expenses incurred by Lessee in the marketing or sale of naming rights shall not be considered an operation or maintenance expense of the Baseball Stadium. Notwithstanding anything herein to the contrary, the naming rights shall be subject to and subordinate to this Lease.

**Section 7.12. Advertising Content.** Lessee agrees that no advertising shall be allowed on the Leased Premises for sexually oriented businesses as defined in the City Code or for political candidates or issues.

**Section 7.13. Notification of Events of Default.** Lessee covenants and agrees that it will promptly notify the City of the occurrence of an Event of Default specifying the details of such Event of Default and the action that Lessee proposes to take with respect thereto.

**Section 7.14. The City to Provide Scoreboard.** The City shall provide and install at the Baseball Stadium, at its cost and expense and as part of the City's Contribution, a scoreboard approved by Lessee and meeting the Minimum Stadium Requirements and the requirements of the Sanctioning Association and of at least the quality of scoreboards at Comparable Facilities. - COMPLETED

**Section 7.15. The City's Right of Entry and Inspection.** Upon reasonable prior notice to Lessee (and not less than 48 hours in non-emergency situations), the City shall have the unrestricted right to enter

upon the Leased Premises, for the purpose of inspecting the same and verifying Lessee's compliance with the terms and conditions of this Lease.

**Section 7.16. Use of Leased Premises.** Lessee will allow local baseball teams, on terms acceptable to Lessee to use the Leased Premises. Lessee will also allow the City, from time to time (but not more often than 10 times per Lease Year or 5 times during any single baseball season), the use of the Leased Premises for the conduct of City sponsored programs free of charge except that the City shall be responsible for all costs of operating the Baseball Stadium for such City sponsored programs and for all damage caused thereby and all janitorial, security, traffic control, and other services needed as a consequence thereof. These dates shall be determined in advance through negotiation of Lessee and the City. It is agreed that baseball games of the Team will be given priority if there is a conflict in dates (in no event shall the City have the right to use the same on any day during which a baseball game of the Team is scheduled). Additionally, the City shall be entitled to use the meeting facilities in the Baseball Stadium on an as available basis and free of charge except that the City shall reimburse Lessee for any and all direct expenses associated with such use. The City and Lessee agree to use commercially reasonable efforts to coordinate the scheduling of non-sports events at the Baseball Stadium and the City's Multi-Purpose Arena, both City tax supported facilities, to the maximum extent practicable. Notwithstanding the foregoing, the City shall be entitled to the free use of the Nights at the Cotton Club meeting room three times per year, as scheduling allows. In addition, the Lessee shall provide a suite at the Leased Premises free of charge for City's exclusive use throughout the entire term of this Lease. Lessee will also provide a \$500 food voucher for use in the City suite during one half of the home games each year.

**Section 7.17. Sales Taxes; Location of Ticket Office.** The City and Lessee intend for all municipal sales taxes arising from ticket sales for taxable amusement services at the Baseball Stadium are to be allocated to the City, as specifically required by 34 Texas Administrative Code § § 3.298(a)(1)(C) and 3.374; provided, however, nothing herein shall be deemed to prohibit or restrict Lessee for effecting sales of tickets through offices or services which are not located in the City. Should Lessee do so, Lessee shall in good faith attempt to do so in a manner which permits the City to collect the sales taxes generated therefrom. In all events, all telephone solicitations and sales shall be made in a manner which permits the City to collect the sales taxes generated therefrom.

**Section 7.18. Obligation to Provide Professional Baseball Team.** Lessee agrees that during the Term of this Lease that it will ensure that the Team continuously uses the Leased Premises for all of its home games (subject to temporary changes in "home" vs. "away" status as may be directed from time to time by the Sanctioning Association). The Team will initially be either a double-A or triple-A team (or the equivalent thereof sanctioned by the Sanctioning Association) which is affiliated with a Major League Baseball team. All home games of the Team during the Term shall be played at the Leased Premises (subject to temporary changes in "home" vs. "away" status as may be directed from time to time by the Sanctioning Association). If Lessee shall lose or relinquish its baseball franchise, league affiliation, or player development contract, the Lessee shall continue to be obligated to field a team sanctioned by a Sanctioning Association which is affiliated with Major League Baseball at the Leased Premises. Failure to provide said Team will be considered as a Lessee Default under Section 11.3.

**Section 7.19. Concession Improvements; Access.** Lessee shall cause the Concession Improvements to be constructed at Lessee's sole cost and expense and as part of Lessee's Contribution. Concession Improvements shall be of a quality generally consistent with concession improvements at Comparable Facilities. The City agrees that Lessee and its agents, contractors, sublessees, licensees, and concessionaires shall, subject the requirements of the City's insurers, have the right of access, for themselves and their authorized representatives, to the Leased Premises, without charges or fees or the commencement of Rentals hereunder, and at normal construction hours during the construction period,

for the purposes of determining compliance with this Lease, construction and installation of any Concession Improvements, construction and installation of any interior tenant finish work and other normal and customary construction related business, and equipping locker room and related facilities for Lessee. Lessee agrees not to hinder or interfere with the Project Improvement Work or the activities of the City's contractors.

**Section 7.20. Security and Traffic Control.** Lessee shall provide such on-site traffic control and security as is reasonable necessary to direct traffic to and from events at the Baseball Stadium. Subject to Lessee's payment of the City's customary charges for similar activities, the City will provide such off-site traffic control and security as is reasonably necessary to direct traffic to and from events at the Baseball Stadium at a level of service comparable to that provided to other venues within the City. The Parties shall cooperate in good faith to develop a traffic control management plan to facilitate the ingress and egress of traffic to and from events at the Baseball Stadium; provided, however, that the Parties are under no obligation under the preceding clause to incur any costs in excess of costs otherwise required by this Lease.

**Section 7.21. Records.** For a period of three (3) years after the end of the Lease Year to which they pertain, Lessee shall keep and maintain in the City complete and accurate attendance records for the Baseball Stadium. The City (including accountants and attorneys designated by the City) shall be entitled to inspect such records during the Term of this Lease and three (3) years thereafter at Lessee's office, at all reasonable times upon not less than forty-eight (48) hours' notice.

**Section 7.22. City Tickets to Events.** Lessee agrees that the City shall be provided with 12 tickets and customary parking passes to events held at the Baseball Stadium, the location of such tickets are to be at a mutually agreeable place within the highest priced general admission seating in the stadium. The use of such tickets shall be administered by the City's Convention and Visitors Bureau and shall be provided without cost.

**Section 7.23. Hurricane Preparedness.** If the Corpus Christi area is threatened by a hurricane or some other emergency situation, Lessee shall comply with all lawful orders of the City Manager under the City's hurricane preparedness plan.

**Section 7.24. Sanitary Sewer.** Provided the systems incorporated into the Project Improvements permit it to do so, Lessee shall operate its sanitary sewer facilities in accordance with the City Code of Ordinances, Section 13-201 and City Code of Ordinances, Chapter 55, Article XI, Commercial and Industrial Waste Disposal and Pretreatment, as the same may be amended.

**Section 7.25. Parking Area Sublease.** The City covenants and agrees that it will enter into the Parking Area Sublease covering the Parking Area in form and substance acceptable to Lessee and will cause the Parking Area improvements described in the Parking Area Sublease to be complete and available for Lessee's use on or before the Target Substantial Completion Date.

## **ARTICLE VIII INSURANCE AND CONDEMNATION**

**Section 8.1. Lessee's Insurance.** Unless otherwise expressly provided below, commencing on the Commencement Date or any earlier occupation of the Leased premises by Lessee or its contractors as provided herein, Lessee covenants that it shall maintain in effect at all times during the full Term of this Lease, insurance coverages with limits not less than those set forth below with insurers licensed to do business in the State of Texas and acceptable to the City and under forms of policies satisfactory to the City. Lessee shall maintain such insurance coverages at its sole cost and expense. The City shall be



under no obligation to maintain any such insurance coverage should Lessee be found to be in default under this Article VIII. None of the requirements contained herein as to types, limits or the City's approval of insurance coverage to be maintained by Lessee are intended to and none shall in any manner limit, qualify or quantify the liabilities and obligations assumed by Lessee under this Lease or otherwise provided by law.

**Section 8.2. Workers' Compensation Insurance.** Lessee shall provide Workers' Compensation insurance in the limits required by State law.

**Section 8.3. Employers' Liability Insurance.** Lessee shall provide Employers' Liability insurance in minimum coverage amounts of \$500,000. This policy shall include a waiver of subrogation in favor of the City.

**Section 8.4. Commercial General Liability: Bodily Injury/Property Damage.** Lessee shall provide Commercial General Liability: Bodily Injury/Property Damage insurance coverage in the amount of \$1,000,000 for each occurrence or equivalent; subject to a \$2,000,000 aggregate. Such commercial general liability policy shall be on an occurrence form reasonably acceptable to the City, endorsed to include the City as an additional insured, contain cross-liability and severability of interest endorsements, state that this insurance is primary insurance as regards any other insurance carried by the City, and shall include the following coverages: (a) Premises/Operations; (b) Independent Contractors; (c) Broad Form Contractual Liability specifically in support of, but not limited to, the Indemnification section of this Lease; and (d) Personal Injury Liability with the employee and contractual exclusions removed.

**Section 8.5 Builder's Risk.** Lessee shall provide Builder's Risk Insurance covering all insurable risks with respect to its build out obligations with limits reasonably acceptable to the City (with such limits to in no event exceed the replacement value of all insurable improvements comprising the Minimum Lessee Improvement Requirements).

**Section 8.6. Comprehensive Automobile Liability.** Lessee shall provide Comprehensive Automobile Liability insurance for bodily injury and property damage in the amount of \$1,000,000 combined single limit of liability. This policy shall be on a standard form written to cover all owned, hired and non-owned automobiles.

**Section 8.7. Umbrella Excess Liability Insurance.** Lessee shall provide Umbrella Excess Liability Insurance; Bodily Injury/Property Damage (Occurrence Basis) in the amount of \$10,000,000 per occurrence and aggregate. This policy shall be written on a following form umbrella excess basis above for the coverages described in Sections 8.3, 8.4, 8.5, 8.6 and 8.7 above and shall be endorsed to include the City as additional insured (to the extent such additional insured designation is commercially available for such umbrella excess liability coverage).

**Section 8.8. The City's Property.** The City shall, at its expense, procure and keep in force, at all times during the term of this Lease with an insurer or insurers licensed to do business in the State a hazard and casualty insurance policy on the Leased Premises insuring it against loss and damage by fire, collapse, aircraft and all other perils which may be insured against under multi-peril policies available on commercially reasonable terms. Such policy shall be in an amount of not less than one hundred percent (100%) of the insurable replacement cost of the Leased Premises and all improvements therein (excluding, however, all of Lessee's personal property).

**Section 8.9. Evidence of Insurance.** Evidence of the insurance coverage required under this Article VIII, represented by Certificates of Insurance issued by the insurance carrier, must be furnished to the requesting party prior to the commencement of the Term of this Lease. Certificates of Insurance shall specify the

additional insured status required above as well as the waivers of subrogation. Such Certificates of Insurance shall state that the parties will be notified in writing thirty (30) days prior to cancellation, material change or non-renewal of insurance. Each party shall provide to the other a certified copy of any and all applicable insurance policies upon request.

**Section 8.10. Insurance Requirements for Lessee's Contractors and Subcontractors.**

(a) General Requirements. Subject to the City's right to waive such requirements for a contractor or subcontractor at the City's sole discretion, insurance similar to that required of Lessee with limits reasonably acceptable to the City shall be provided by or on behalf of all contractors and their subcontractors to cover their operations performed for Lessee. The Commercial General Liability policy outlined in Section 8.4 will be extended to include Completed Operations coverage for any contractor doing construction work on the Leased Premises. Lessee shall consult with the City with respect to such matters to determine if the City desires to waive such requirements for a contractor or subcontractor. Lessee shall maintain Certificates of Insurance from all contractors and their subcontractors enumerating, among other things, the waivers in favor of, and insured status of, the City as required herein, and Lessee shall provide to the City a copy of each Certificate of Insurance from each contractor and subcontractor if requested by the City.

(b) Subcontractors. The term "subcontractor(s)" for the purposes of this Lease shall include subcontractors, consultants, or sub-operators of any tier.

**Section 8.11. Release and Waiver. TO THE EXTENT PERMITTED BY LAW, AND WITHOUT AFFECTING THE INSURANCE COVERAGE REQUIRED TO BE MAINTAINED HEREUNDER, THE LESSOR AND LESSEE EACH WAIVE ALL RIGHTS OF RECOVERY, CLAIM, ACTION OR CAUSE OF ACTION AGAINST THE OTHER FOR ANY (A) DAMAGES FOR INJURY OR DEATH OF PERSONS, (B) DAMAGE TO PROPERTY, OR (C) CLAIMS ARISING BY REASON OF ANY OF THE FOREGOING, TO THE EXTENT THAT SUCH DAMAGES AND/OR CLAIMS (i) ARE COVERED (AND ONLY TO THE EXTENT OF SUCH COVERAGE WITHOUT REGARD TO DEDUCTIBLES) BY INSURANCE ACTUALLY CARRIED BY THE PARTY HOLDING OR ASSERTING SUCH RIGHT OF RECOVERY, CLAIM, ACTION OR CAUSE OF ACTION OR (ii) WOULD BE INSURED AGAINST UNDER THE TERMS OF ANY INSURANCE REQUIRED TO BE CARRIED UNDER THIS LEASE BY THE PARTY HOLDING OR ASSERTING SUCH RIGHT OF RECOVERY, CLAIM, ACTION OR CAUSE OF ACTION. THIS PROVISION IS INTENDED TO (i) RESTRICT EACH PARTY (IF AND TO THE EXTENT PERMITTED BY LAW) TO RECOVERY AGAINST INSURANCE CARRIERS TO THE EXTENT OF SUCH COVERAGE AND TO WAIVE (TO THE EXTENT OF SUCH COVERAGE), FOR THE BENEFIT OF EACH PARTY, RIGHTS AND/OR CLAIMS WHICH MIGHT GIVE RISE TO A RIGHT OF SUBROGATION IN ANY INSURANCE CARRIER AND (ii) GIVE EACH PARTY THE BENEFIT OF THE FOREGOING NOTWITHSTANDING ANY FAILURE BY THE OTHER PARTY TO MAINTAIN THE INSURANCE REQUIRED UNDER THIS LEASE. THE PROVISIONS OF THIS ARTICLE 8.11 ARE NOT INTENDED TO LIMIT THE CLAIMS OF THE LESSOR OR LESSEE TO THE FACE AMOUNT OR COVERAGE OF THE INSURANCE POLICIES HEREIN PROVIDED FOR OR TO EVIDENCE THE WAIVER BY EITHER PARTY OF ANY CLAIM FOR DAMAGES IN EXCESS OF THE FACE AMOUNT OR COVERAGE OF ANY OF SUCH INSURANCE POLICIES. NEITHER THE ISSUANCE OF ANY INSURANCE POLICY REQUIRED UNDER, OR THE MINIMUM LIMITS SPECIFIED IN, ARTICLE VIII WITH RESPECT TO LESSEE'S OR LESSOR'S INSURANCE COVERAGE SHALL BE DEEMED TO LIMIT OR RESTRICT IN ANY WAY LESSEE'S OR LESSOR'S LIABILITY ARISING UNDER OR OUT OF THIS LEASE. Lessee shall cause each of its contractors entering upon the Leased Premises for the purpose of conducting**

work thereon or therein to similarly waive its rights of recovery and subrogation against the City.

Section 8.12. Insurers and Policies. Each insurance policy required by Article VII shall be issued by an insurer (or insurers) which is financially responsible, of recognized standing and rating acceptable to the City (but not exceeding the requirements the City imposes on contractors working on City property) and authorized to issue such policy of insurance in the State of Texas; (b) shall be in such form and with such provisions as are reasonably acceptable to the City and Lessee for the type of insurance involved; and (c) shall prohibit cancellation or substantial reduction of coverage by the insurer without at least thirty (30) days prior written notice to the parties. Evidence of these coverages represented by certificates of insurance issued by the insurance carrier must be furnished prior to commencement of the Term and must be kept current throughout the Term. None of the requirements contained herein as to types, limits or approval of insurance coverage are intended to and shall not in any manner limit, qualify, or quantify the liabilities and obligations assumed by the parties under this Lease or otherwise provided by law.

## **ARTICLE IX INDEMNIFICATION**

### **Section 9.1. Indemnification.**

(a) Lessee shall, except as provided in the following paragraph of this Section 8.1(a) defend, protect, indemnify and hold the City and its officers, directors, employees, and agents harmless from and against any and all liabilities, damages, suits, claims and judgments of any nature (including, without limitation, reasonable attorneys' fees and expenses), arising from or in connection with any injury to or death of a Person or any damage to property resulting from, arising out of or in connection with (i) the use or occupancy of the Leased Premises on or after the Commencement Date or (ii) the negligence or willful act of Lessee or Lessee's contractors, employees, officers, directors, agents or invitees. Notwithstanding the provisions of the preceding paragraph, Lessee shall not be liable for any liabilities, damages, suits, claims and judgments of any nature (including, without limitation, reasonable attorneys' fees and expenses) arising from or in connection with:

- (1) Any injury to or death of a person or any damage to property (including loss of use) to the extent of the negligence or willful act of the City, its employees, officers, directors, contractors, agents or invitees;
- (2) The City's violation of any provisions of this Lease or any applicable Governmental Authority or deed restriction or insurance policy, now or hereafter in effect and applicable to the City;
- (3) The existence of any Hazardous Materials in, on or under the Leased Premises prior to the Commencement Date; or
- (4) Any environmental event caused by the City or any of its employees, officers, directors, contractors, agents or invitees.

(b) To the maximum extent permitted by State law, the City shall, except as provided in the following paragraph of this Section 9.1(b), defend, protect, indemnify and hold Lessee and its officers, directors, employees, and agents harmless from and against any and all liabilities, damages, suits, claims and judgments of any nature (including, without limitation, reasonable attorneys' fees and expenses), arising from or in connection with any injury to or death of a person or any damage to property resulting from, arising out of or in connection with (i) the use or occupancy of the Leased Premises prior to the Commencement Date, except to the extent any such liability, damage suit, claim or judgment arises from the use or occupancy of the Leased Premises by Lessee for constructing and installing any Concession Improvements or any other Lessee improvements as required under this Lease, (ii) the use or occupancy of the Leased Premises for City events subsequent to the Commencement Date as contemplated by

Section 7.16 hereof, or (iii) the negligence or willful act of the City or the City's contractors, employees, officers, directors, agents or invitees. Notwithstanding the provisions of the preceding paragraph, the City shall not be liable for any liabilities, damages, suits, claims and judgments of any nature (including, without limitation, reasonable attorneys' fees and expenses) arising from or in connection with:

- (1) Any injury to or death of a person or any damage to property (including loss of use) to the extent of the negligence or willful act of Lessee, its employees, officers, directors, contractors, agents or invitees;
- (2) Lessee's violation of any provisions of this Lease or any applicable Governmental Rules or deed restriction or insurance policy, now or hereafter in effect and applicable to Lessee;
- (3) Any Hazardous Materials that are introduced to the Leased Premises after the Commencement Date by Lessee, or any of its employees, officers, directors, contractors, or agents; or
- (4) Any environmental event caused by Lessee or any of its employees, officers, directors, contractors, or agents.

The provisions of this Section 9.1 are solely for the benefit of the City and Lessee and are not intended to create or grant any rights, contractual or otherwise, to any other person.

**Section 9.2. Indemnification Procedures.** In case any claim shall be brought or, to the knowledge of any indemnitee, threatened against any indemnitor in respect of which indemnity may be sought, such indemnitee shall promptly notify the other in writing; provided, however, that any failure so to notify shall not relieve the indemnitor of its obligations under Section 9.1 unless (i) such failure so to notify precludes investigation and defense of such claims as a matter of law, and (ii) the indemnitor does not otherwise have knowledge, either actual or constructive, of such claim. The indemnitor shall have the right (and obligation, subject to the terms below) to assume the investigation and defense of all claims, including the employment of counsel, reasonably acceptable to the indemnitee, and the payment of all expenses. Each indemnitee shall have the right to employ separate counsel in any such action and participate in the investigation and defense thereof, but the fees and expenses of such counsel shall be paid by such indemnitee unless (i) the employment of such counsel has been specifically authorized by indemnitor, in writing, (ii) indemnitor has failed after receipt of notice of such claim to assume the defense and to employ counsel, or (iii) the named parties to any such action (including any impleaded parties) include both parties, and the indemnitee, after consultation with its counsel, reasonably believes that there may be one or more legal defenses available to it which are different from or additional to those available to the indemnitor (in which case, if such indemnitee notifies the indemnitor in writing that it elects to employ separate counsel at indemnitee's expense, indemnitor shall not have the right to assume the defense of the action on behalf of such indemnitee; provide, however, that indemnitor shall not, in connection with any one action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegation or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys for the indemnitee, which firm shall be designated in writing by the indemnitees). Each indemnitee shall cooperate with the indemnitor in the defense of any action or claim. The indemnitor shall not be liable for any settlement of any action or claim without its consent, but if any such action or claim is settled with the consent of the indemnitor or there be final judgment or agreement for the plaintiff in any such action or with respect to any such claim, the indemnitor shall indemnify and hold harmless the indemnitees from and against any damages by reason of such settlement or judgment.

**Section 9.3. Survival Right to Enforce.** The provisions of this Article IX shall survive the termination of this Lease. In the event of failure by an indemnitor to observe the covenants, conditions and agreements contained in this Article IX, any indemnitee may take any action at law or in equity to collect amounts then

due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the indemnitor under this Article IX. Except as otherwise provided in Article X below, the obligations of the parties under this Article IX shall not be affected by any assignment or other transfer of its rights, titles or interests under this Lease and will continue to inure to the benefit of the indemnitees after any such transfer.

## **ARTICLE X ASSIGNMENTS; LEASEHOLD MORTGAGES**

### **Section 10.1. Assignment and Subleasing.**

(a) Except as provided below, Lessee shall not assign or sublet its interest in this Lease or any of its rights or obligations hereunder without the prior written consent of the City, which consent may be granted or withheld if in the City's sole judgment such assignment or subletting might materially and adversely affect the financial condition or operations of the Baseball Stadium.

(b) Notwithstanding the foregoing, without the City's consent Lessee shall have the right upon thirty (30) days prior written notice to the City to assign its interest in this Lease (i) to any Affiliate of Lessee, or (ii) in connection with a merger or consolidation of Lessee with another entity so long as, following such transaction, the successor entity's financial creditworthiness is equal to or greater than that of Lessee as of the Commencement Date.

(c) Notwithstanding the foregoing, without the City's consent, Lessee shall have the right upon thirty (30) days prior written notice to the City to assign its interest in this Lease in connection with a sale of the Team or a sale by Lessee of all or substantially all of its assets, in a single transaction or a series of transactions, and where such purchaser's net worth (determined in accordance with generally accepted accounting principles) is, following such purchase, equal to or greater than that of the Lessee as of the Commencement Date and where such purchaser's acquisition of the Team (or of all or substantially all of Lessee's assets) has been approved by the Sanctioning Association.

(d) Upon any assignment or transfer as described in paragraphs (b) or (c) above, the assignor shall be released from liability under this Lease (other than any liabilities arising or accruing prior to the date of assignment).

**Section 10.2. Notice of Intent.** If Lessee shall, at any time during the Term, desire to assign this Lease or sublet all or part of the Leased Premises to a party (other than as permitted without the City's consent under Section 10.1 above), Lessee shall give notice thereof to the City, which notice shall be accompanied by: (a) a conformed or photo static copy of the proposed assignment or sublease; (b) a statement setting forth, in reasonable detail, the identity of the proposed assignee or sublessee and the nature of its business; (c) current financial information with respect to the proposed assignee or sublessee, including its most recent financial statement (which may take into account the effects of the transfer); (d) banking and business references of the proposed assignee or sublessee; and (e) evidence satisfactory to the City that the proposed assignee or sublessee has been approved by a Sanctioning Association to own and operate a minor league baseball team and have its home games played at the Baseball Stadium.

**Section 10.3. Conditions Upon the City's Consent to Assignment.** In the event that Lessee complies with all of the provisions of Section 10.2 and provided no Event of Default then exists, the City's consent to a proposed assignment shall not be unreasonably withheld or delayed, provided and upon condition that: (a) The proposed assignee or sublessee is a reputable person or entity of good standing in the business community and with financial worth (after giving effect to the transfer) not less than that of Lessee as of the date hereof, and the City has been furnished with reasonable proof thereof; (b) The proposed assignment shall be in a form reasonably satisfactory to the City and shall comply with the

provisions of this Lease; and (c) Lessee shall reimburse the City on demand for any costs and overhead that may be incurred and substantiated by the City in connection with said assignment or sublease, including the costs of making investigations as to the acceptability of the proposed transferee and reasonable legal costs incurred in connection with the granting or withholding of any requested consent. If the foregoing conditions to an assignment are satisfied and the assignment is made, then upon such assignment the named Lessee herein shall be released herefrom with respect to obligations, covenants, and agreements to be observed and performed by the Lessee under this Lease after such date.

**Section 10.4. Subleases and Concession Arrangements.** Notwithstanding the foregoing, Lessee shall have the right to enter into such subleases of portions of the Leased Premises and concession arrangements as Lessee may desire, all without consent from the City so long as each such sublease or concession arrangement provides that it is expressly subject and subordinate to this Lease.

**Section 10.5. Leasehold Mortgages.** Lessee shall have no right to encumber by mortgage, deed of trust, security agreement or other instrument in the nature thereof (collectively, a “Mortgage”) or otherwise to encumber or affect in any way the titles, interests, or estates of the City in or to the Land or the Leased Premises, but Lessee may encumber Lessee's right to use and occupy the Leased Premises, the leasehold estate created hereby, any right, title and interest in and to any and all improvements constructed on the Leased Premises, or Lessee's receivables, accounts, or revenue streams from, and equipment and fixtures in, the Leased premises, all without the need for obtaining the City's consent.

## **ARTICLE XI DEFAULT**

**Section 11.1. City Default.** The occurrence of any of the following shall be an “Event of Default” by the City or a “City Default”: (a) The failure of the City to pay any of its monetary obligations under this Lease when due and payable under this Lease if such failure continues for thirty (30) days after Lessee gives notice to the City that such amount was not paid when due; (b) Abandonment of the Project by the City or any termination, in whole or in part, of any of the Project Construction Contract or any of the work thereunder by the City without the consent of Lessee unless pursuant to a right of termination based upon the existence of an event of default under such Project Construction Contract; (c) Any suspension of the Project Improvements Work by the City for longer than sixty (60) consecutive days or one hundred twenty (120) days in any three hundred sixty-five (365) day period for any reason other than Force Majeure; (d) The failure of the City to substantially perform or substantially observe any of the obligations, covenants or agreements to be performed or observed by City under this Lease within thirty (30) days after notice from Lessee of such failure; provided, however, that if such performance or observance cannot reasonably be accomplished within such thirty (30) day period, then no Event of Default by the City shall occur unless the City fails to commence such performance or observance within such thirty (30) day period and fails to diligently prosecute such performance or observance to conclusion thereafter; provided further, however, that if such performance or observance has not been accomplished within one hundred twenty (120) days after notice from the Lessee to the City of such failure (notwithstanding the City's diligent prosecution of its curative efforts), then such failure shall constitute an Event of Default by the City hereunder; (e) the occurrence of an event of default, however denominated, by the City under the Parking Sublease; or (f) The occurrence of an Act of Bankruptcy with respect to the City.

**Section 11.2. Lessee's Remedies.** If a City Default shall have occurred and be continuing, Lessee may, at its sole discretion, have the option to pursue any one or more of the following remedies without any notice or demand whatsoever, other than any notice expressly provided in this Lease: (a) Lessee may terminate this Lease, as provided in Section 11.5 (except that the notice requirements of Section 11.5 shall not be required with respect to the City Default specified in Section 11.3(c) above) and the City

shall pay to Lessee the Unamortized Portion of the Lessee's Contribution; (b) In the case of a City Default described in either of Section 11.1(b) or (c), Lessee may (but shall not be obligated) enter the Land and direct completion of the Project Improvements Work and the City agrees to provide to Lessee the unutilized proceeds from the debt incurred by the Corporation and made available to the City under the terms of the Corporation Project Agreement to pay the costs and expenses incurred by Lessee in completing the Project Improvements Work; and (c) Lessee may exercise any and all other remedies available to Lessee at law or in equity, but subject to any limitations thereon set forth in this Lease.

**Section 11.3 Lessee Default.** The occurrence of the following shall be an "Event of Default" by Lessee or a "Lessee Default": (a) The failure of Lessee to pay any of its monetary obligations to the City under this Lease when due and payable if such failure continues for thirty (30) days after the City gives notice to Lessee that such amount was not paid when due; (b) The failure of Lessee to substantially perform or substantially observe any of the obligations, covenants or agreements to be performed or observed by Lessee under this Lease within thirty (30) days after notice from the City of such failure; provided, however, that if such performance or observance cannot reasonably be accomplished within such thirty (30) day period, then no Event of Default by Lessee shall occur unless Lessee fails to commence such performance or observance within such thirty (30) day period and fails to diligently prosecute such performance or observance to conclusion thereafter; provided further, however, that if such performance or observance has not been accomplished within one hundred twenty (120) days after notice from the City to Lessee of such failure (notwithstanding Lessee's diligent prosecution of its curative efforts), then such failure shall constitute an Event of Default by Lessee hereunder; (c) the occurrence of an event of default, however denominated, by Lessee under the Parking Sublease; (d) the occurrence of an Act of Bankruptcy with respect to Lessee; (e) Abandonment of Leased Premises by Lessee; (f) failure to maintain location in the City of the Team owned by Lessee and located in the City, as required in Section 2.2(i), Section 4.4, and Section 7.18 herein; (g) failure to maintain approval by a Sanctioning Association of the Team owned by Lessee and located in the City, as required in Section 2.2(i) and Section 7.18 herein; or (h) failure to maintain the Leased Premises commensurate with Major League Baseball facilities' standards and regulations and/or at a level commensurate with the Comparable Facilities, whichever level is determined to be a higher standard by a qualified inspector, as referenced in Section 5.5 herein.

**Section 11.4. The City's Remedies.** If any Lessee Default shall have occurred and be continuing, the City may, at its sole discretion, have the option to pursue any one or more of the following remedies without any notice or demand whatsoever, other than any notice expressly provided in this Lease: (a) The City may terminate this Lease as provided in Section 11.5 (except that the notice requirements of Section 11.5 shall not be required with respect to the Lessee Default specified in Section 11.3(c) above); (b) Seek another professional baseball team under the governance of a Sanctioning Association to conduct its regularly scheduled home games at the Baseball Stadium; (c) the City may, in its own name and for its own account, without impairing the ability of the City to pursue any other remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute, institute such action against Lessee as may appear necessary or desirable to collect such Rentals and any other amounts then due under this Lease, or to enforce performance and observance of such covenant, condition or obligation of Lessee hereunder, or to recover damages for Lessee's non-payment, non-performance or non-observance of the same; (d) the City may exclude Lessee from possession of the Leased Premises and reenter the same and take whatever action at law or in equity as may appear necessary or desirable to collect the Rentals and any other amounts then due, to enforce performance and observance of any covenant, condition or obligation of Lessee hereunder, or to recover damages for Lessee's non-payment, nonperformance or non-observance of the same; provided that the City shall be required to mitigate its damages to the extent required by law and Section 11.6(b) hereof; and (e) The City may exercise any and all other remedies available to the City at law or in equity, but subject to any limitations thereon set forth in this Lease. Notwithstanding the remedies provided in this Section 11.4, in the case of termination of

the Lease due to Lessee Default specified in Section 11.3(e), (f), (g) or (h) above, Lessee (i) shall pay City all Rentals payable from the date of such Lessee Default through the end of the Lease Term, pursuant to Section 4.3 herein, and Lessee (ii) shall repay City the total of all reimbursements paid to Lessee by City pursuant to Section 7.4 herein from City's Hotel Occupancy Tax fund during the five year period immediately preceding Lessee's receipt of City's initial notice to Lessee of default as provided for herein, and, as to any reimbursements paid to Lessee by City from any source other than City's Hotel Occupancy Tax fund, Lessee shall pay City Two Hundred Fifty Thousand Dollars (\$250,000).

In addition to all remedies provided in this Section 11.4, should the City use funds from the City's Hotel Occupancy Tax fund for reimbursement to Lessee pursuant to Section 7.4 herein, should any use of such Hotel Occupancy Tax funds by Lessee be for a use that is found to be illegal, City shall have no liability in connection thereof and Lessee shall reimburse City for all Hotel Occupancy Tax funds paid to Lessee for such illegal use. Further, should the City use funds from the City's Hotel Occupancy Tax fund for reimbursement to Lessee pursuant to Section 7.4 herein, if City should determine that the area hotel revenues that were generated from sports events at the Leased Premises over any five year period following the payment to Lessee of the City's Hotel Occupancy Tax funds for maintenance, Capital Repair Work, enhancements or upgrades to the Leased Premises ("Lessee-generated H.O.T.") are not equal to or greater than the amount of the City's Hotel Occupancy Tax funds that were spent in that previous five year period for such maintenance, Capital Repair Work, enhancements or upgrades to the Leased Premises ("H.O.T. paid to Lessee"), then Lessee must reimburse City any deficiency between the H.O.T. paid to Lessee and the Lessee-generated H.O.T. so that City can reimburse their Hotel Occupancy Tax fund by that amount in compliance with Section 351.1076 of the Texas Tax Code.

**Section 11.5 Termination.** Upon the occurrence of a City Default as described in Section 11.1 or a Lessee Default as described in Section 11.3, the non-defaulting Party, in addition to its other remedies at law or in equity, shall have the right to give to the defaulting Party notice (a "Final Notice") of the non-defaulting Party's intention to terminate this Lease, after the expiration of a period of thirty (30) days from the date such Final Notice is delivered unless the Event of Default is cured, and upon expiration of such thirty (30) day period, if the Event of Default is not cured, this Lease shall terminate without liability to the non-defaulting Party. If, however, within such thirty (30) day period the defaulting Party cures such Event of Default, then this Lease shall not terminate by reason of such Final Notice. Notwithstanding the foregoing, no Final Notice shall be required and the non-defaulting Party may declare this Lease immediately terminated if the Event of Default with respect to the defaulting Party is an Act of Bankruptcy. In the event of a termination of this Lease by either Party under this Section 11.5, then notwithstanding anything to the contrary set forth in this Lease all obligations of the Parties hereunder automatically shall terminate also, without liability to the other Party.

**Section 11.6. The Lessee to Remain Liable for Payments; Reletting.**

(a) Notwithstanding the exercise by the City of its remedies pursuant to Section 11.4 hereof (other than termination), Lessee shall continue to be liable for the payment of all Rentals payable under Section 4.3 hereof and other amounts, if any, payable under this Lease and Lessee shall make such payments at the same times and in the same manner as provided in this Lease.

(b) In the event the City elects to exclude Lessee from possession of the Leased Premises and re-enter same, then the City shall use reasonable efforts to relet the Leased Premises for the maximum rental it may reasonably obtain, provided, however, that the City shall have no obligation to relet the Leased Premises to any person who will not use the Leased Premises for the purposes set forth in Section 4.5 hereof. Any such rentals received prior to the stated termination date of this Lease shall be applied first to the payment of expenses incurred by the City in connection with such reletting and second, to the Rentals due hereunder.



**Section 11.7. No Remedy Exclusive.** No remedy herein conferred upon either party is intended to be exclusive of any other available remedy or remedies, and each such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default granted under this Lease shall impair any right or power or shall be construed to be a waiver thereof, and any such right or power may be exercised from time to time and as often as may be deemed expedient, and the exercise of any one right or remedy shall not impair the right to any or all other remedies under this Lease. **NOTWITHSTANDING ANY CONTRARY PROVISIONS HEREOF IN NO EVENT SHALL LESSOR OR LESSEE BE LIABLE UNDER ANY PROVISION OF THIS LEASE FOR LOST PROFITS, INCLUDING LOST OR PROSPECTIVE PROFITS, OR FOR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, IN CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT CAUSED BY OR RESULTING FROM THE SOLE OR CONCURRENT NEGLIGENCE OF LESSOR OR LESSEE OR ANY OF THEIR AFFILIATES OR RELATED PARTIES. WITHOUT LIMITING THE FOREGOING, THIS LIMITATION OF LIABILITY SHALL APPLY TO CLAIMS OF LESSOR OR LESSEE ARISING OUT OF THIRD PARTY CLAIMS AGAINST LESSOR OR LESSEE FOR ANY OF THE FOREGOING.**

**Section 11.8. No Additional Waiver Implied By One Waiver; Consents to Waiver.** The waiver of either party of any breach by the other party of any covenant, condition or obligation under this Lease shall not operate as a waiver of any subsequent breach of the same or a waiver of any breach of any other covenant, condition or obligation under this Lease, nor shall any forbearance by the non-defaulting party not breaching to seek a remedy for any breach by the other party be a waiver by such non-defaulting party not breaching any of its rights and remedies with respect to such breach or any subsequent breach of the same or with respect to any other breach.

**Section 11.9. Delay not a Waiver.** No delay or omission in the exercise of any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein, and every power or remedy given by this Lease may be exercised from time to time and as often as may be deemed expedient. Either party may waive any default which in its opinion has been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Lease or before the completion of the enforcement of any other remedies under this Lease. No such waiver shall extend to or affect any other existing or subsequent default or impair any rights or remedies consequent thereon.

**Section 11.10 Declaratory or Injunctive Relief.** In addition to the remedies set forth in this Article XI the Parties shall be entitled, in any circumstances they may deem appropriate, to seek injunctive relief prohibiting or mandating action by the other Party for any Event of Default of the other Party or declaratory relief with respect to any matter under this Lease.

**Section 11.11 Interest on Overdue Obligations.** If any sum due hereunder is not paid on the due date thereof, the Party hereto owing such obligation to the other Party shall pay to the other Party interest thereon at the Default Rate, concurrently with the payment of the amount from the date such amount was due until paid. Any payment of interest at the Default Rate pursuant to this Lease shall not excuse or cure any default hereunder.

**Section 11.12 Attorney's Fees.** The defaulting Party shall pay all of the non-defaulting Party's reasonable fees and expenses, including reasonable attorneys' fees, in enforcing any covenant to be observed by the defaulting Party or pursuing any remedy upon an Event of Default with respect to such Party.

## **ARTICLE XII DAMAGE AND CONDEMNATION**

### **Section 12.1. Damage and Destruction.**

(a) If the Leased Premises are destroyed (in whole or in part) or are damaged by fire or other casualty, Lessee shall promptly give written notice thereof to the City. All applicable insurance proceeds shall be applied by the City either to repair, rebuild or restore the property damaged or, if the parties determine and mutually agree that it is impracticable to rebuild the Leased Premises, subject to the provisions of Section 12.1(b), such proceeds shall be transferred to the Corporation to effect the defeasance or prior redemption of obligations issued by the Corporation for the construction of the Baseball Stadium. Any remaining balance after payment for such repair, rebuilding or restoration, or transfer to the Corporation as herein described, shall be retained by the City. Lessee agrees to look solely to its insurance for the replacement and repair of the Removables and shall have all rights to all insurance with respect to, and shall be responsible for repair of, the concession areas to the extent, but no further, the same were equipped by Lessee or concessionaires contracting with Lessee.

(b) The City will proceed promptly to repair, rebuild or restore the property damaged or destroyed to substantially the same condition as it existed prior to the event causing such damage or destruction, with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by Lessee and the City and which will not impair productive capacity or the character of the Leased Premises. If such damage results in an Untenantable Condition, all Rentals shall abate during the period of repair and restoration. Notwithstanding the foregoing, in the event that (a) substantially all of the improvements shall be damaged or destroyed by casualty at any time during the final three (3) years of the Term or (b) any portion of the Leased Premises shall be damaged or destroyed by casualty at any time during the Term and the governmental rules then applicable to the Leased Premises do not permit the restoration of the Leased Premises so as to eliminate an Untenantable Condition, then Lessee may, at its option (exercised with reasonable promptness in the circumstances, but in all events within ninety (90) days after such damage or destruction), terminate this Lease by serving upon the City notice within such period setting forth Lessee's election to terminate this Lease as a result of such damage or destruction as of the end of the calendar month in which such notice is delivered to the City. Upon the service of such notice and the making of such payments within the foregoing time period, the City shall pay to Lessee the Unamortized Portion of the Lessee's Contribution (measured as of the date of termination) and this Lease shall cease and terminate on the date specified in such notice with the same force and effect as if such date were the date originally fixed as the expiration date of this Lease and Lessee shall have no further obligations hereunder.

### **Section 12.2. Condemnation.**

(a) In the event that title to the Leased Premises or the leasehold estate of Lessee in the Leased Premises created by this Lease or any part of either thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under Governmental Authority, or shall be conveyed in lieu thereof, this Lease shall terminate and the City shall pay to Lessee the Unamortized Portion of the Lessee's Contribution. Any condemnation award attributable to the temporary use or temporary condemnation of the Lease Premises or the leasehold estate created hereby shall be paid to Lessee. If only a part of the Leased Premises or leasehold estate is taken the City will cause any proceeds received by it from any award made in such eminent domain proceedings with respect to the Leased Premises, to be applied towards the restoration of the Leased Premises to substantially the same condition as existed prior to the exercise of the said power of eminent domain. If the City does not receive sufficient proceeds to restore the Leased Premises as set forth above, then Lessee may terminate this Lease and the City shall promptly pay to Lessee the Unamortized Portion of the Lessee's Contribution (measured as of the date of termination).

(b) The City shall cooperate fully with Lessee in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Leased Premises or any part thereof and will, to the extent it may lawfully do so, permit Lessee to litigate in any such proceedings in the name and behalf of the City and for the purpose of seeking and obtaining a separate award for damage to the Removables, the value of Lessee's leasehold estate, and damage to Lessee's business. In no event will the City voluntarily settle, or consent to the settlement of, any prospective or pending condemnation proceeding with respect to the Leased Premises or any part thereof without the written consent of Lessee. Notwithstanding the foregoing, if as a result of any condemnation, an Untenantable Condition exists or if the damage caused thereby occurs during the last three (3) years of the Term, Lessee shall have the right and option to terminate this Lease by providing written notice to the City to such effect whereupon this Lease shall terminate as of the date set forth in such notice and the City shall pay to Lessee the Unamortized Portion of the Lessee's Contribution. The provisions of this Article XII shall survive the termination of this Lease.

### **ARTICLE XIII MISCELLANEOUS**

**Section 13.1. Amendments, Changes and Modification.** No amendment, change, addition to or waiver of any of the provisions of this Lease shall be binding upon the parties hereto unless in writing signed by an Authorized Lessee Representative and the Mayor of the City.

**Section 13.2. Applicable Law Venue.** The Lease shall be governed exclusively by the provisions hereof and by the applicable laws of the State. Venue for any proceeding to enforce this Lease shall be in Nueces County, Texas.

**Section 13.3. Severability.** If any provision of this Lease is held to be illegal, invalid, or unenforceable under present or future laws effective during the Term such provision shall be fully severable and this Lease shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof, and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Lease. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Lease a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and still be legal, valid, or enforceable.

**Section 13.4. Notices and Demands.** Any notices or other communications required or desired to be given to the other party hereto shall be given in writing and delivered by courier, overnight delivery service, facsimile transaction or through the U.S. postal service, postage prepaid and by certified mail, return receipt requested, at the following addresses:

To the City:     City of Corpus Christi  
                      P.O. Box 9277  
                      Corpus Christi, Texas 78469-9277  
                      Attention: City Manager  
                      Fax: (361) 880-3839

With copy to:   City of Corpus Christi  
                      P.O. Box 9277  
                      Corpus Christi, Texas 78469-9277  
                      Attention: City Attorney  
                      Fax: (361) 880-3239

To Lessee: Corpus Christi Baseball Club, L.P.  
734 E. Port Ave.  
Corpus Christi, Texas 78401  
Attention: Wes Weigle  
[wweigle@cchooks.com](mailto:wweigle@cchooks.com)

With copy to: Dan O'Neill  
501 Crawford Street, Suite 500  
Houston, Texas 77002  
[doneill@astros.com](mailto:doneill@astros.com)

With copy to: Giles Kibbe  
501 Crawford Street, Suite 500  
Houston, Texas 77002

**Section 13.5. References.** All references in this Lease to particular Articles or sections are references to Articles or sections of this Lease, unless otherwise indicated. Article and section headings are furnished for convenience only and do not constitute a part of this Lease. References in the singular number in this Lease shall be considered to include the plural, if and when appropriate, and vice versa. Any times referred to herein shall be deemed references to Corpus Christi, Texas, time.

**Section 13.6. Successors and Assigns.** The terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**Section 13.7. Multiple Counterparts.** This Lease may be executed in multiple counterparts, each of which shall be an original but all of which together shall constitute but one and the same instrument.

**Section 13.8. Recordation.** The City and Lessee shall not record this Lease, but both parties agree, on request of the other, to execute a memorandum of lease in recordable form and complying with applicable laws of the State, which memorandum of lease may be recorded by the requesting party.

**Section 13.9. Attorneys' Fees.** The prevailing party in any litigation related to this Lease shall be entitled to recover from the non-prevailing party or parties the reasonable attorneys' fees and costs incurred by such prevailing party in connection with such litigation.

**Section 13.10. Time is of the Essence.** Time is expressly declared to be of the essence in this Lease.

**Section 13.11. Landlord/Tenant Relationship.** This Lease establishes a landlord/tenant relationship between the parties. It does not create any other type of relationship between the, such as one of agency, partnership, or joint venture. The employees or agents of either party may not be, nor be construed to be, the employees or agents of the other party for any purpose.

**Section 13.12 Lessee's Remedial Work.** Lessee shall be responsible for performing or causing to be performed, and for paying the cost of performing, any and all corrective or remedial actions required by applicable Governmental Authority to be performed with respect to any environmental event caused by Lessee, or any of its agents, contractors, or subcontractors at any time ("Lessee's Remedial Work"). Lessee shall promptly inform the City and all applicable Governmental Authorities of any environmental event or Hazardous Materials discovered by Lessee (or any agent, contractor or subcontractor of Lessee) in, on or under the Leased Premises and promptly shall furnish to the City any and all reports and other

information available to Lessee concerning the matter. Lessee shall thereafter promptly consult with the City as to the steps to be taken to investigate and, if necessary, remedy such matter. Lessee shall select an independent environmental consultant to evaluate the condition of the Leased Premises and materials thereon and therein, at Lessee's cost and expense. If it is determined pursuant to such evaluation that remediation of the same is required by this Section 13.12, then Lessee shall perform Lessee's Remedial Work at its own cost and expense and with due diligence.

**Section 13.13 The City's Remedial Work.** Subject to the limitation of the City's Contribution, the City shall be responsible for performing or causing to be performed, and for paying the cost of performing, any and all corrective or remedial actions required by applicable Governmental Authority to be performed with respect to (i) any environmental event caused by the City or any of its agents, contractors or subcontractors or (ii) any Hazardous Materials that were introduced to the Leased Premises on or before the Commencement Date (but excluding Hazardous Materials introduced by Lessee or its agents, contractors or subcontractors at any time) (the "City's Remedial Work"). The City shall promptly inform Lessee and all applicable Governmental Authorities of any such environmental event or any Hazardous Materials discovered by the City (or any agent, contractor or subcontractor of the City) in, on or under the Leased Premises and promptly shall furnish to Lessee any and all reports and other information available to the City concerning the matter. The City shall thereafter promptly consult with Lessee as to the steps to be taken to investigate and, if necessary, remedy such matter. The City shall select an independent environmental consultant to evaluate the condition of the Leased Premises and materials thereon and therein, at the City's cost and expense. If it is determined pursuant to such evaluation that remediation of the same is required by this Section 13.13, then the City shall perform, or cause to be performed, the City's Remedial Work at its own cost and expense and with due diligence.

**Section 13.14 Settlement By Mutual Agreement.** In the event any dispute, controversy or claim between or among the Parties arises under this Lease or is connected with or related in any way to this Lease or any right, duty or obligation arising herefrom or the relationship of the Parties hereunder (a "Dispute or Controversy"), including, but not limited to, a Dispute or Controversy relating to the effectiveness, validity, interpretation, implementation, termination, cancellation or enforcement of this Lease, the Parties shall first attempt in good faith to settle and resolve such Dispute or Controversy by mutual agreement in accordance with the terms of this Section 13.14. In the event a Dispute or Controversy arises, either Party shall have the right to notify the other that it has elected to implement the procedures set forth in this Section 13.14. Within fifteen (15) days after delivery of any such notice by one Party to the other regarding a Dispute or Controversy, the Authorized Representative of the Parties shall meet at a mutually agreed time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy. Should a mutual resolution and settlement not be obtained at the meeting of the Authorized Representatives for such purpose or should no such meeting take place within such fifteen (15) day period, then either party may by notice to the other Party submit the Dispute or Controversy to mediation.

**Section 13.15 Covenants Running with the Estates in Land.** The Parties hereto covenant and agree that all of the conditions, covenants, agreements, rights, privileges, obligations, duties, specifications, and recitals contained in this Lease, except as otherwise expressly stated herein, shall be construed as covenants running with title to the Leased Premises, and the leasehold estate hereunder, respectively, which shall extend to, inure to the benefit of and bind, the City and Lessee, and their permitted successors and assigns, to the same extent as if such successors and assigns were named as original parties to this Lease, such that this Lease shall always bind the owner and holder of any fee or leasehold interest in or to the Leased Premises, or any portion thereof, and shall bind predecessors thereof except as otherwise expressly provided herein.

**Section 13.16 Non-Appropriation.**

(a) **Current Expenses.** Except for the funds to be provided pursuant to Section 3.2, the obligations of the City for payment and other monetary obligations under this Lease are each subject to an appropriation and, accordingly, (i) shall constitute a current expense of the City in the fiscal year of the City to which an obligation applies and (b) shall not constitute an indebtedness of the City within the meaning of any applicable governmental rule. Nothing herein shall constitute a pledge by the City of any funds, other than funds designated pursuant to lawful appropriations from time to time to pay any money or satisfy any other monetary obligation under any provision of this Lease.

(b) **Result of Non-Appropriation.** If a non-appropriation occurs in response to a request for a proposed Appropriation, the City shall provide Lessee with written notice of such non-appropriation on or before the twentieth (20th) day after the non-appropriation. Any non-appropriation shall constitute a City Default hereunder.

**Section 13.17. Authority to Execute.** Each of the Parties acknowledges that the individual who has executed this Lease has been duly authorized to execute this Lease. A certified copy of the required City ordinance or action of Lessee's board of directors has been furnished by each Party to the other Party for attachment to this Lease.

**Section 13.18. Captions.** The captions in this Lease are for convenience only and are not a part of this Lease. The captions do not in any way limit or amplify the terms and provisions of this Lease.

**Section 13.19. Limitation of Leasehold.** City does not warrant its title to the Leased Premises. This Lease and the rights and privileges granted Lessee in and to the Leased Premises are subject to all covenants, conditions, restrictions, and exceptions of record or apparent. Nothing contained in this Lease may be construed to imply the conveyance to Lessee of rights in the Leased Premises that exceed those owned by City.

**Section 13.20. Non-Discrimination.** Lessee warrants that it is and will continue to be an Equal Opportunity Employer. Lessee covenants and agrees that Lessee will not discriminate nor permit discrimination against any person or group of persons, with regard to employment and the provision of services at, on, or in the Leased Premises, on the grounds of race, religion, national origin, marital status, sex, age, disability, or in any manner prohibited by the laws of the United States or the State of Texas. The City hereby reserves the right to take the action as the United States may direct to enforce this covenant.

**Section 13.21. Not for Benefit of Third Parties.** This Lease is only for the benefit of the City and Lessee, and no third party has any rights or claims under this Lease. No provision of this Lease creates a third party claim against the City or Lessee beyond that which may legally exist in the absence of any provision of this Lease.

**Section 13.22. Other City Ordinances.** This Lease and the ordinance that authorized the execution of this Lease do not operate to repeal, rescind, modify, or amend any ordinances or resolutions of the City relating to the use or obstruction of streets, the granting of permits, and any regulations relating to the preservation of order and movement of traffic, or any other ordinances, resolutions, or regulations not specifically set forth in the ordinance authorizing this Lease. Notwithstanding the foregoing, if any of such ordinances or resolutions materially and adversely affects Lessee's express rights hereunder or Lessee's ability to operate the Leased premises in accordance with the terms and conditions of this Lease, then Lessee shall have the right to terminate this Lease without further liability to the City.

**Section 13.23. Publication.** Lessee agrees to pay the costs of newspaper publication of this Lease and the ordinance authorizing the execution of this Lease, as required by the City Charter. - COMPLETED

**Section 13.24. Surrender.** Lessee acknowledges and understands that the City's agreement to lease the Leased Premises to Lessee is expressly conditioned on the understanding that the Leased Premises must be surrendered, upon the expiration, termination, or cancellation of this Lease, in as good a condition as received, reasonable use and wear, Force Majeure events, acts of God, fire and flood damage or destruction where Lessee is without fault, excepted.

**Section 13.25. Conditions Precedent.** This Lease shall not be effective or binding upon Lessee until such time, if ever, that the following conditions are satisfied: (a) City shall have acquired the Land and Leased Premises from the Port; (b) the City shall have entered into the Parking Area Master Lease with the Port; (c) Lessee's completion of and satisfaction with its due diligence investigation with respect to the condition of title to the Land and the Land's compliance with applicable environmental laws, including confirmation that the Land and Leased Premises are free from Hazardous Materials; (d) the Sanctioning Association shall have approved Lessee's application and request to relocate the Team; and (e) Lessee shall have received such assurances as may be required by Lessee to confirm that lands adjacent to the Leased premises will be restricted against development that would materially and adversely impact Lessee's operations at the Leased Premises or ability to attract customers including, but not limited to, competitive use restrictions and height restrictions on adjacent buildings so as to prevent shadows from being cast upon the Baseball Stadium's playing field. - COMPLETED

**EXECUTED IN DUPLICATE**, each of which shall be considered an original, to be effective as of the Effective Date.

**THE CITY:**

**ATTEST:**

**CITY OF CORPUS CHRISTI**

\_\_\_\_\_  
Rebecca Huerta,  
City Secretary

\_\_\_\_\_  
Jermel Stevenson,  
Director of Parks and Recreation

Date: \_\_\_\_\_

Date: \_\_\_\_\_

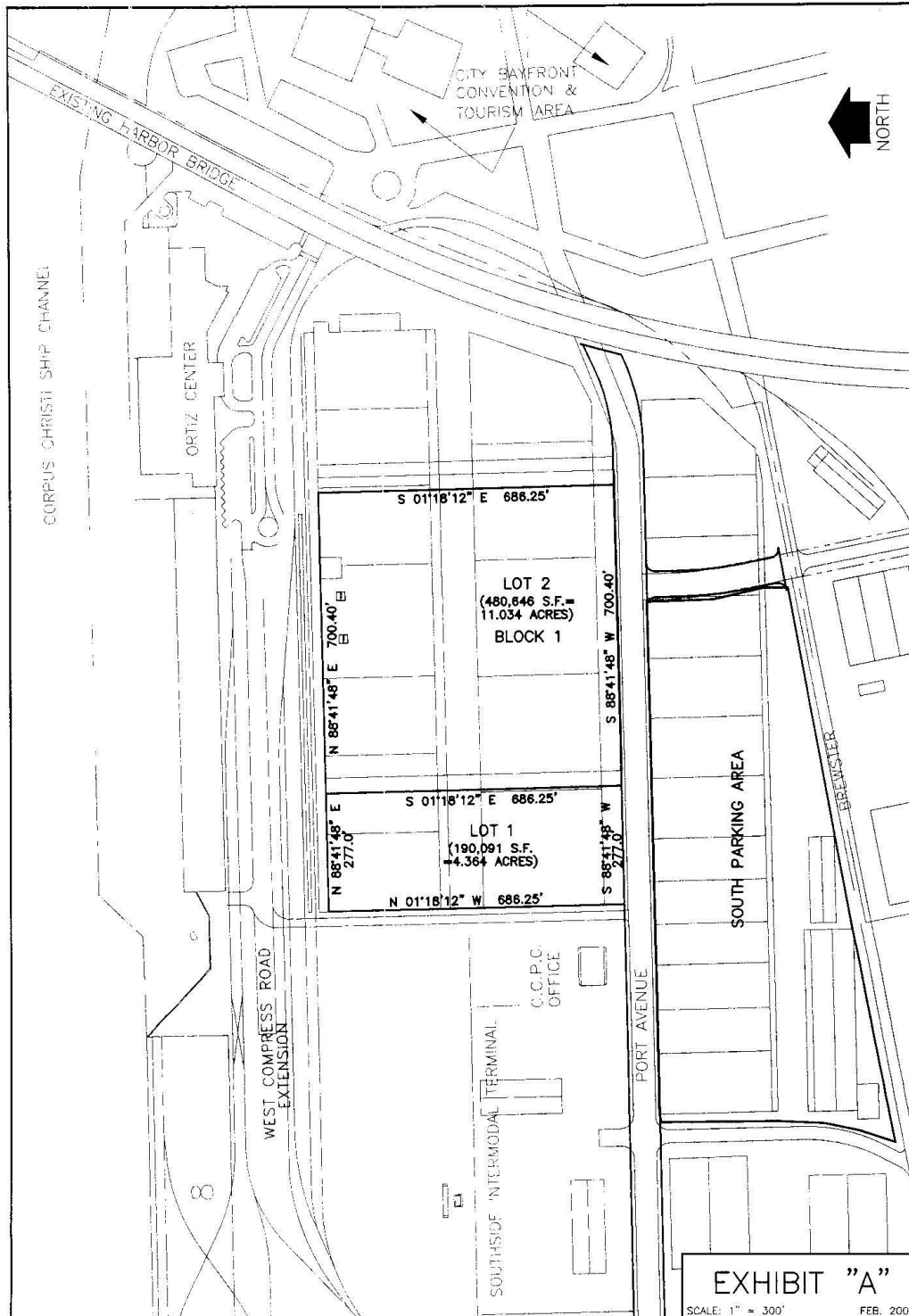
**LESSEE:**

**CORPUS CHRISTI BASEBALL CLUB, L.P.**

By: \_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT "A"





## EXHIBIT B - COMPLETED

### Lessee Buildout of Corpus Christi Ball Park

<i>Item</i>	<i>Description (or reasonable equivalent)</i>
<b>Stadium and Office Fixtures</b>	
Network/Internet Server	includes hardware, software, and installation
Admin/Ticket Office computers	includes hardware, software, based on estimate of 40 (1)
Copiers	2 Kyocera-Mita KM-4030 models (Admin and Ticket Offices)
Printers	2 Oki C9300 Color Printers, 1 Samsung SCX-5312F (Press Box)
	Various individual printers (as needed, estimate of five)
Phone System	Brookside Technology System, includes phones and installation (2)
Office televisions	8 -19 inch TV's
Office Furniture	Includes desks, chairs, cubicles, plants, various decorative items (Admin, Ticket, & Press)
Security System	Based on Diebold system installed at Dell Diamond
Refrigerator for Offices	2 Whirlpool 20.9 cubic foot (Admin and Ticket)
Microwave for Offices	2 (Admin and Ticket)
Office window shades	Basic blinds
Ticket System	Dependent on type of system implemented
Office Art	Acquisition and framing of 60 pieces (Admin, Ticket, & Press)
Point of Sale System	Based on Retail Automation Systems version at Railyard
Radios	Based on Aircom Electronic Supply system used at Dell Diamond
Maintenance materials	Vacuums/Blowers/Brooms/Hoses/Etc.
Concession equipment	Based on kitchen/stands/equipment for 6,000 seat, 20 suite stadium
Cup Holders	
Golf Carts	4 needed for maintenance / game day crew
Signage	Based on total used at Dell Diamond
Weather Computer	Based on KVUE system at Dell Diamond
EMS Defibrillator	
Wheel Chairs	Two needed
Scissor Lift for wheelchairs	
Radar Board	
Direct TV or Cable System	
Inflatables	
Sportscourt	
Swimming Pool	
Rockwall	
Basketball Goal and Rainbow Play System	
Picnic Tables	
Instant Replay-click effect	to be used with the scoreboard
Switcher	to be used with the scoreboard
3 Beta Cams	to be used with the scoreboard
AV System-click effects	based on Ford Audio & Video
Pro-AV Animation	to be used with the scoreboard
Trash Compactor	
20 Portable Concession Stands	

**Club House**

Free weights/benches/machines

Stimulation – Hi Fi System

Washers and Dryers

Refrigerators

Stereos

Furniture

Fixtures

Televisions

Garbage Bins

Whirlpools

Training Tables

Oven / Range

Microwave

Coffee Machines

Ice Machines

Skyline Equipment models in use at Dell Diamond

2 Whirlpool 20.9 cubic foot

Adjustable based on need

Stools, chairs, desks, tables for both

4 -19 inch TVs

Home & Visitor

**Field Equipment**

Batting Cages

On Deck Circles

Tarps

Lawn Mowers

Lawn care equipment

Backstop

Carts

Pitching Machine

Infield Cart

BP Materials

Scrubber

Safe

Same Fielder's Choice model used at Dell Diamond

Partac Peat Corp. Model (Includes Advertising)

By Covermaster, includes all needed (Field, Mound, etc)

Greensmaster 3050 (2) (Includes extended warranty)

Hand powered mowers, trimmers, various tools

From Sport Supply Group

Toro Workman 3200

Toro Sand Pro 2020

Screens, etc.

**Suites**

Artwork

Leather Sofas

Tables and Chairs

Refrigerators

Televisions

## **EXHIBIT C**

### **Corpus Christi Stadium Minimum Standards**

- 1) Minimum 5,000 fixed chair back seats
- 2) Berm for 1,000 Fans
- 3) 360° Concourse that can see the field
- 4) Concessions- 1 Point of Sale for every 200 fans
- 5) Press Box with 4 Media Bays, writing press area, & Scoreboard Operations area, approximately 2,000 sq. ft.
- 6) Suites to accommodate 258 people for outside seating
- 7) Area for a Pool to be constructed with a view of the field
- 8) Area for kids Play Zone and Interactive Area
- 9) Stadium Club, approximately 2,500 sq. ft.
- 10) Team Offices for 20 year round full time staff, approximately 3,000 sq. ft.
- 11) Ticket Office & Ticket Windows at Gates
- 12) Area for year round Novelty Store, approximately 1,500 sq. ft.
- 13) LED Video Scoreboard
- 14) Lighted Outside Stadium Marquee, with message changing capabilities
- 15) Kitchen/Commissary – Storage for both wet and dry food storage
- 16) Home & Visitor Clubhouses to Dell Diamond Standards
- 17) Novelty & Retail Storage, approximately 1,000 sq. ft.
- 18) Grounds Crew Garage
- 19) Batting Cages
- 20) Staff Locker Rooms, Umpire Rooms, per NAPBL Standards
- 21) Stadium Concourse above seating sections
- 22) Field Drainage System – to Dell Diamond Standards
- 23) “AAA” Lighting Standards, per NAPBL Standards
- 24) Restrooms to city-potty parity code
- 25) Parking- minimum 1,500 spaces adjacent to the stadium
- 26) Dugouts to Dell Diamond Standards
- 27) Home & Visitor Bullpens in the outfield and accessible to fans
- 28) Field access for grounds crew including trucks & tractors
- 29) Distributed Sound System
- 30) Flag Poles & Foul Poles
- 31) Advertising Signage – Cabinets & Backlit Signs includes on field and in concourse and all related wiring and data cabling

**EXHIBIT D**  
**Purchasing Policy**  
[To Be Attached]