

**TEAM NON-RELOCATION AGREEMENT**

between

CITY OF SACRAMENTO

and

SACRAMENTO KINGS LIMITED PARTNERSHIP

Dated as of: May 20, 2014

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**LIST OF EXHIBITS AND SCHEDULES**

EXHIBIT A	Liquidated Damages
SCHEDULE 7.14(B)	Existing Liens

## TEAM NON-RELOCATION AGREEMENT

This TEAM NON-RELOCATION AGREEMENT (this "**Agreement**") is made and entered into as of May 20, 2014 (the "**Effective Date**") between the City of Sacramento, a municipal corporation of the State of California (the "**City**"), and Sacramento Kings Limited Partnership, a California limited partnership ("**TeamCo**"). The City and TeamCo are sometimes referred to herein as the "**Parties**" and each as a "**Party**."

### **BACKGROUND**

TeamCo owns and operates the National Basketball Association ("NBA") franchise currently known as the Sacramento Kings (the "Team").

Concurrently with the Parties' execution of this Agreement, the City, TeamCo, Sacramento Downtown Arena LLC, a Delaware limited liability company ("ArenaCo"), and Sacramento Basketball Holdings, LLC, a Delaware limited liability company ("HoldCo"), have entered into the Comprehensive Project Agreement for the Sacramento Entertainment and Sports Center (the "Comprehensive Agreement"), which, together with the other "Project Agreements" (as such term is defined in the Comprehensive Agreement), set forth the agreements of the Parties, ArenaCo, and HoldCo with respect to the ownership, financing, design, development, construction, lease, occupancy, use, maintenance, and operation of a multipurpose entertainment and sports center to be located in downtown Sacramento (the "Arena").

The Team, TeamCo, and TeamCo's Affiliates (expressly including ArenaCo and HoldCo) will substantially benefit from the transactions contemplated in the Project Agreements, including the construction of the Arena and the licensing of the Arena to TeamCo.

The City has agreed to invest, in accordance with the Project Agreements and subject to the tax treatment to be taken by HoldCo and ArenaCo as set forth in the Comprehensive Agreement, approximately \$255,200,000 for the design, development, and construction of the Arena. The City has a significant interest in ensuring that, upon substantial completion of the Arena, the Team will play all of its Home Games (as defined herein) at the Arena.

As a material inducement to the City entering into the Comprehensive Agreement and each of the other Project Agreements to which the City is a party, and in consideration of the City's agreement to invest approximately \$255,200,000 for the design, development, and construction of the Arena, TeamCo has agreed to enter into this Agreement to ensure that the Team will play all Home Games at the Arena on the terms and conditions set forth herein.

**With these background facts in mind, the Parties agree as follows:**

#### **1. Home Games to be Played at Arena**

- 1.1 *Covenant to Play.*** TeamCo covenants and agrees that, during the Term, the Team will play all of its Home Games at the Arena, except that TeamCo may

cause the Team to play, at an alternate, neutral site: (A) up to two NBA Pre-Season Home Games (as defined in the Team Agreement) during each Basketball Season; (B) up to two NBA Regular Season Home Games (as defined in the Team Agreement) during each Basketball Season; and (C) any number of NBA Playoff Home Games (as defined in the Team Agreement) during any Basketball Season (i) so long as the Team's opponent in any post-season series is scheduled to play an equal or greater number of its home games in such series outside of the city, municipality, or similar local jurisdiction in which such opponent's NBA regular season home venue is located (except as otherwise provided under NBA Rules applicable generally to all members of the NBA which are intended to deal with the different number of home games played by opposing teams in a post-season series (e.g., in a post-season series consisting of an odd number of games, the Team may be scheduled to play one more NBA Playoff Home Game at an alternate, neutral site than the number of games the Team's opponent is scheduled to play outside of the city, municipality, or similar local jurisdiction in which such opponent's NBA regular season home venue is located)) and (ii) only if required by NBA Rules applicable generally to all members of the NBA; it being agreed, for the avoidance of any doubt, that TeamCo shall not have the right to elect or otherwise voluntarily decide to play any of its post-season Home Games at any alternate site.

**1.2 Exceptions.** Notwithstanding Section 1.1, if an Alternate Site Condition exists, TeamCo shall be entitled to make arrangements for an alternate site and the Team shall be entitled to temporarily play its Home Games at such alternate site, on the following terms and conditions:

- (A) Promptly after TeamCo first learns of such Alternate Site Condition, TeamCo shall deliver written notice to the City identifying the Alternate Site Condition and stating the number of days such Alternate Site Condition is expected to persist and the number of Home Games expected to be played at the alternate site.
- (B) TeamCo shall use its commercially reasonable efforts to obtain an alternate site within the City of Sacramento or, failing that, as close to the City of Sacramento as is reasonably possible.
- (C) Prior to the Team playing any of its Home Games at an alternate site, TeamCo shall reasonably make available to the City for its review a copy of the agreement, contract, or other commitment made by TeamCo with respect to the Team's use of such alternate site (an "**Alternate Site Commitment**"); provided, however, that if any Alternate Site Commitment contains a confidentiality provision that prevents TeamCo from delivering all or any portion of such Alternate Site Commitment to the City, then ArenaCo may satisfy its obligations under this Section

1.2(C) by reasonably making available to the City for its review only those portions of such Alternate Site Commitment that relate, directly or indirectly, to the number of Home Games to be played at such alternate site or otherwise relate, directly or indirectly, to the term (including any extensions thereof) of such Alternate Site Commitment. Without limiting the generality of the foregoing, if such Alternate Site Commitment includes any provisions that would incentivize TeamCo to cause the Team to play more games at such alternate site than absolutely necessary (including by way of decreasing charges), then TeamCo shall reasonably make available to the City for its review all such provisions.

- (D) The Team may play its Home Games at such alternate site only during the period of time that such Alternate Site Condition exists. Notwithstanding the foregoing, if the circumstances giving rise to such Alternate Site Condition do not allow TeamCo or its Affiliates to reasonably determine when such Alternate Site Condition will end (an "**Indeterminate Condition**"), then TeamCo may honor an Alternate Site Commitment reasonably made by TeamCo with respect to such Indeterminate Condition even if such Alternate Site Commitment extends beyond the expiration of such Indeterminate Condition; provided, that the Team recommences playing its Home Games at the Arena no later than 20 days after such Indeterminate Condition ends unless the following circumstances apply:
- (i) If an Indeterminate Condition exists (x) prior to the commencement of any Basketball Season and is reasonably expected to still exist 60 days after the commencement of such Basketball Season or (y) after the commencement of any Basketball Season, but before December 1 of such Basketball Season, and is reasonably expected to still exist 60 days thereafter, then the associated Alternate Site Commitment may extend through the final Home Game prior to the "All-Star" break of such Basketball Season; and
  - (ii) If an Indeterminate Condition exists as of or after December 1 of any Basketball Season and is reasonably expected to still exist at the later of (x) 30 days thereafter and (y) the "All-Star" break of such Basketball Season, then the associated Alternate Site Commitment may extend through the duration of such Basketball Season.
- (E) TeamCo shall use its commercially reasonable efforts to mitigate and overcome any Alternate Site Condition (whether an Indeterminate Condition or otherwise) to the extent the applicable event or condition

giving rise thereto is within the reasonable control of TeamCo and not a responsibility of ArenaCo under the Team Agreement or the City under any Project Agreement, but which efforts shall include, to the extent relevant to the Alternate Site Condition, enforcing TeamCo's rights against ArenaCo under the Team Agreement.

## **2. Maintenance of the Franchise; Non-Relocation**

### **2.1 Entity Existence, Franchise, Headquarters, and Team Name.** At all times during the Term:

- (A) TeamCo shall maintain its existence as an entity organized under the laws of the State of California or any other state of the United States, and shall not dissolve or liquidate without the prior written consent of the City.
- (B) TeamCo shall (i) maintain the membership of the Team in the NBA in good standing, (ii) hold, maintain, and defend the right of the Team to play basketball as a member of the NBA, and (iii) oppose the adoption of any NBA Rule that contradicts any of the terms of this Agreement; provided, however, that the foregoing shall not prohibit TeamCo from voting in favor of adoption of such an NBA Rule if it is (x) not specifically targeted at the Team and (y) bundled or packaged with any other NBA Rule that is unrelated to the subject matter of this Agreement (though in such a situation TeamCo shall register its objection to such NBA Rule if compliance with such NBA Rule would cause a default under this Agreement). Without limiting the generality of the foregoing, TeamCo shall not volunteer for contraction of the Team by the NBA or vote in favor of its contraction. In any event, contraction of the Team by the NBA shall be deemed to be a default by TeamCo of the Non-Relocation Covenants.
- (C) TeamCo shall maintain its corporate headquarters and its principal place of business within the city limits of Sacramento, California.
- (D) TeamCo shall cause the name "Sacramento" to be included in the first part of the Team's name (i.e., the "Sacramento \_\_\_\_\_") and TeamCo shall not include any other geographic, city, county, state, or country reference in the Team's name.

### **2.2 Negative Covenants.** Subject to Sections 1.1 and 1.2, at all times during the Term, TeamCo, its Affiliates and their respective representatives shall not:

- (A) (i) Relocate, attempt to relocate, or permit the relocation of, the Team outside the boundaries of the City, (ii) change or move the home territory of the Team set forth under NBA Rules in any manner that would exclude

the City, or (iii) permit or cause to occur any other event that could reasonably be expected to result in the occurrence of an event described in the foregoing clause (i) or (ii).

- (B) (i) Enter into any contract that obligates the Team to play Home Games at any location other than the Arena or (ii) take any other action that causes or could reasonably be expected to cause the Team's right to play professional basketball in the Arena after the Commencement Date and for the remainder of the Term to be lost or materially impaired; provided, however, that the foregoing shall not prevent TeamCo or any of its Affiliates from (x) enforcing its rights, and the applicable other party's obligations, under the Team Agreement, (y) enforcing its rights, and the City's obligations, under the Project Agreements, and (z) taking any action with respect to any strike, lockout, or other labor dispute (provided the Team is not playing Home Games elsewhere during any such period).
- (C) Solicit, enter into, or participate in any negotiations or discussions with, or apply for or seek approval from, third parties, including the NBA, with respect to any agreement, legislation, or financing that contemplates, or could reasonably be expected to result in, any action that would contravene or result in contravention of any Non-Relocation Covenant.
- (D) The prohibitions set forth in this Section 2.2 shall not apply to TeamCo's, its Affiliates' and their respective representatives' actions, negotiations, discussions, applications, or agreements during the last seven Operating Years of the Term with respect to a proposed relocation, change, or move that would not take effect during the Term

### 3. Transfers and Liens

- 3.1 *Transfers and Liens.*** Subject to this Section 3, TeamCo may, from time to time, make a Transfer or grant a Lien; provided, however, that any such Transfer or grant of a Lien shall be (A) conditioned on the Person who acquires the Team or holds any Lien being approved by the NBA in accordance with the NBA Rules as an owner of the Team or the holder of a Lien and (B) made or granted subject to the requirements and obligations of TeamCo under this Agreement, including compliance in all respects with the Non-Relocation Covenants, so that any Person who acquires the Team (including, if applicable, the NBA), either pursuant to any such Transfer or pursuant to any foreclosure or other action against any such Lien, shall acquire and take the Team therein subject to all of the Non-Relocation Covenants and the other terms of this Agreement. Such Person shall thereafter be deemed to be "TeamCo" for purposes of this Agreement. No Transfer (including, if applicable, to the NBA) shall change, limit, release, or otherwise effect the obligations of TeamCo under this Agreement.

Any Transfer made or Lien granted contrary to this Section 3 is void.

**3.2 Prior Notice and Documentation.**

- (A) TeamCo shall give the City at least 15 days' prior written notice of any Transfer and any sale, transfer, assignment, or other disposition of any direct or indirect controlling ownership interests in the Team (or prompt written notice after a death or similar circumstance that results in such a disposition of any direct or indirect controlling ownership interests in the Team).
- (B) In connection with any Transfer, the transferee must agree in writing, in form and substance reasonably acceptable to the City, to assume, in full and without qualification, TeamCo's obligations under this Agreement, specifically including the Non-Relocation Covenants and any then-unperformed obligations of TeamCo under this Agreement whether accrued or due before or after the effective date of such Transfer (with such agreement having been executed and delivered to the City simultaneously with, or prior to, such Transfer).
- (C) TeamCo shall not grant any Lien, unless the documents and other instruments implementing the Lien expressly provide, and the pledgee agrees in writing for the intended third-party benefit of the City and its successors and assigns, that (i) such Lien is subject to this Agreement, and (ii) any Transfer upon foreclosure or other enforcement of the Lien shall be subject to this Agreement. Concurrently with the execution of any Lien (or, if such Lien exists on the Effective Date, prior to the execution of this Agreement), TeamCo shall reasonably make available to the City for its review a copy, certified as true and complete by an officer of TeamCo, of the express agreement of the pledgee and the thirty party beneficiary language as required by this section. The Parties acknowledge and agree that this Section 3.2(C) shall not apply with respect to the Liens set forth on Schedule 7.14(B) attached hereto (or any refinancing thereof); provided, however, TeamCo represents and warrants that the collateral agent under the NBA's League-Wide Credit Facility, pursuant to the NBA consent letter executed with respect thereto, has agreed that to the extent it wishes to foreclose on any portion of the Team's assets (including its membership in the NBA), it must foreclose on and sell all of the Team's assets as a package and not attempt to foreclose upon or sell any of the Team's assets (other than its cash and cash equivalents) individually.

**3.3 Restrictive Covenants.** The Non-Relocation Covenants shall be deemed to be restrictive covenants that attach to and bind the Team As Property.

#### 4. Specific Enforcement; Liquidated Damages; Team Heritage

(A) The Parties acknowledge that: (i) TeamCo's obligations under the Non-Relocation Covenants are unique, are the essence of the bargain, and are essential consideration for this Agreement and the other Project Agreements being entered into by the City; (ii) the Team is extraordinary and unique and that under the organization of professional basketball by and through the NBA, the City may not be able to replace the Team; and (iii) the determination of damages caused by a Non-Relocation Default, the effects of which would be suffered by the City and its surrounding communities, would be difficult, if not impossible, to ascertain. Therefore, the Parties acknowledge and agree that there exists no adequate and complete remedy at law to enforce this Agreement against TeamCo, and that equitable relief by way of a decree of specific performance or an injunction (such as a prohibitory injunction barring the Team from relocating or playing its Home Games at any location other than the Arena in violation of this Agreement or a mandatory injunction requiring the Team to play its Home Games at the Arena in accordance with this Agreement) is the only appropriate remedy for the enforcement of this Agreement notwithstanding the provisions for liquidated damages set forth in Section 4(B). Consistent with the Parties' intent that the equitable relief of this Section 4(A) is the preferred relief for a Non-Relocation Default, the City hereby covenants that, in the event of a Non-Relocation Default, or the threat of a Non-Relocation Default, the City shall seek equitable relief as provided by this Section 4(A) before attempting to avail itself of the liquidated damages provisions set forth in Section 4(B) (provided that equitable relief is a remedy available and enforceable at the time of such Non-Relocation Default). Furthermore, based on the foregoing, TeamCo hereby agrees as follows (and TeamCo shall not assert or argue otherwise in any action or proceeding):

- (1) Significant obligations are being incurred by the City to make the Arena available for Home Games and any Non-Relocation Default shall constitute irreparable harm to the City for which monetary damages or other remedies at law will not be an adequate remedy.
- (2) The City is entitled to obtain injunctive relief prohibiting action, directly or indirectly, by TeamCo that causes or could reasonably be expected to cause a Non-Relocation Default, or mandating action that averts or will avert a Non-Relocation Default, or enforcing any covenant, duty, or obligation of TeamCo hereunder through specific performance. The City is further entitled to seek

declaratory relief with respect to any matter under this Agreement.

- (3) The rights of the City to injunctive relief as a result of a Non-Relocation Default, as set forth in this Section 4(A) and as otherwise allowed under Applicable Law, shall not constitute a claim pursuant to Section 101(5) of the United States Bankruptcy Code, as it may be amended from time to time, or any substitute therefor, and shall not be subject to discharge or restraint of any nature in any bankruptcy, reorganization, or insolvency proceeding involving TeamCo or the Team, and this Agreement is not an "executory contract" as contemplated by Section 365 of the United States Bankruptcy Code.
  - (4) In any proceeding seeking relief for a Non-Relocation Default, any requirement for the City to (i) post any bond or other security or collateral, or (ii) make any further showing of irreparable harm, balance of harms, consideration of the public interest, or inadequacy of money damages, as a condition of any relief sought or granted is hereby waived.
  - (5) BY OPERATION OF THE PROVISIONS OF THIS SECTION 4(A), TEAMCO IS KNOWINGLY AND INTENTIONALLY RELINQUISHING OR LIMITING CERTAIN IMPORTANT RIGHTS AND PRIVILEGES TO WHICH IT OTHERWISE MIGHT BE ENTITLED, INCLUDING THE RIGHT TO OBJECT TO A GRANT OF SPECIFIC PERFORMANCE OR INJUNCTIVE RELIEF, AND TEAMCO'S RELINQUISHMENT AND LIMITATION THEREOF IS VOLUNTARY AND FULLY INFORMED.
- (B) TeamCo acknowledges and agrees that upon the occurrence of a Type I Non-Relocation Default or a Type II Non-Relocation Default, if the equitable relief described in Section 4(A) is not granted by a court of competent jurisdiction for any reason, or is otherwise unavailable, the payment by TeamCo of liquidated damages is the next most appropriate remedy. Therefore, if both of the following conditions are satisfied: (i) a court of competent jurisdiction determines, in a final order (including all appeals) (a "**Final Order**"), that TeamCo has committed a Type I Non-Relocation Default or a Type II Non-Relocation Default and (ii) a court of competent jurisdiction declares that the equitable relief described in Section 4(A) will not be granted, or is otherwise unavailable, to the City, then TeamCo shall pay liquidated damages to the City in the applicable amount set forth on Exhibit A attached hereto, which payment must be paid as a lump sum, in immediately available funds, no later than 30 days after the last of such conditions is satisfied. In determining the amount

of such liquidated damages, the Parties have exercised great care to make a reasonable forecast of direct damages allowable by Applicable Law that may arise from a Type I Non-Relocation Default or a Type II Non-Relocation Default, taking into due consideration: (i) the substantial costs the City has agreed to incur in connection with the design, development, and construction of the Arena; (ii) the extraordinary involvement, covenants, and expense of the public in securing TeamCo's commitment to cause the Team to play its Home Games at the Arena during the Term on the terms and conditions set forth herein; (iii) the loss of taxes attributable to the Team's operations; (iv) the consequent reduction in value of the Arena arising from the absence of the Team; (v) the substantial economic benefit conferred upon the Team, TeamCo, and TeamCo's Affiliates, expressly including ArenaCo and HoldCo, through the Project Agreements; (vi) the detrimental effects of a Type I Non-Relocation Default or a Type II Non-Relocation Default, as applicable, on the City and its surrounding communities, including the loss of intangible civic, social, and quality of life benefits; and (vii) the City's and its surrounding communities' loss of (1) national and international exposure, and (2) revenues and other direct and indirect economic and fiscal benefits. The Parties acknowledge that the reasonable forecast of direct damages provided in this section is not an exact measure of damages, as such an exact measure would be infeasible or impossible to estimate with precision due, in part, to the intangible nature of some of such damages and the large number of citizens and businesses that rely upon and benefit from the presence of the Team in the City.

- (C) Upon a Final Order being entered by a court of competent jurisdiction, if the equitable relief described in Section 4(A) is not granted by a court of competent jurisdiction for any reason, or is otherwise unavailable, TeamCo, for itself and its successors, assigns, and Affiliates, hereby waives any right, arising hereunder, at law, in equity, or otherwise, to object to or otherwise challenge the validity, appropriateness, or legitimacy of liquidated damages as the remedy for a Type I Non-Relocation Default or a Type II Non-Relocation Default.
- (D) Upon any Type I Non-Relocation Default that results in the contraction, dissolution, or relocation of the Team during the Term, TeamCo shall transfer, to the extent it has the rights thereto (and shall use its commercially reasonable efforts to cause the NBA to cooperate in the transfer of), the Team's heritage and records to the City, including the Team's name, logo, colors, history, playing records, trophies, and memorabilia.

(E) If the City collects liquidated damages hereunder for a Type I Non-Relocation Default or a Type II Non-Relocation Default (i) the City hereby waives the right to collect, and shall not seek to collect, any additional monetary or other damages from TeamCo or its Affiliates with respect to such Non-Relocation Default (whether under this Agreement or another Project Agreement), and (ii) if such Non-Relocation Default is a Type I Non-Relocation Default, then each of the City, TeamCo, and ArenaCo shall have the right to terminate the Comprehensive Agreement (and thus all of the Project Agreements) pursuant to Section 7.2 of the Comprehensive Agreement by delivering written notice thereof to all of the parties thereto.

5. **All Other Remedies.** Upon a Non-Relocation Default, if the equitable relief and, with respect to a Type I Non-Relocation Default or a Type II Non-Relocation Default, the liquidated damages provided for in Section 4 are unavailable for any reason, the City shall be entitled to pursue all other legal and equitable remedies against TeamCo, whether or not such other remedies are specifically set forth in this Agreement; provided, however, that any damages or money judgment obtained in any such legal or equitable proceedings shall not exceed the amount of liquidated damages that the City would have been entitled to receive pursuant to Section 4(B) but for such unavailability. All such other legal and equitable remedies are cumulative and may be exercised concurrently, successively, or in any order.

## 6. **Term**

6.1 **Term.** The term of this Agreement (the "**Term**") commences on the Effective Date and, along with the obligations of the Parties hereunder, terminates on the Initial Expiration Date (or upon the effectiveness of any earlier termination of the Team Agreement that is expressly permitted thereunder, including, for example, an early termination pursuant to Section 2.3.4 (with the understanding that termination of the Comprehensive Agreement will result in termination of this Agreement and all other Project Agreements) or Article XVII of the Team Agreement). Notwithstanding the foregoing, early termination of this Agreement shall not relieve TeamCo of any obligation for damages for breaches of this Agreement occurring prior to the effective date of such termination.

6.2 **Effectiveness.** Notwithstanding anything in this Agreement to the contrary, the effectiveness of this Agreement shall be conditioned upon the NBA's approval of the Team Agreement and the Arena Agreement (as defined in the Team Agreement), which approval is required for the effectiveness of both such agreements pursuant to the terms thereof.

**7. Miscellaneous**

**7.1 Additional Agreements.** In addition to this Agreement and the other Project Agreements, the Parties agree to cooperate in good faith to negotiate, execute, and deliver any additional documents reasonably required by any Party, from time to time, to effectuate the purposes and intent of this Agreement and the other Project Agreements.

**7.2 Notices.** Any notice or other communication under this Agreement must be in writing and will be considered properly given and effective only when mailed or delivered in the manner provided by this section to the persons identified below. A notice or other communication that is mailed will be effective or will be considered to have been given on the third day after it is deposited in the U.S. Mail (certified mail and return receipt requested), addressed as set forth below, with postage prepaid. A notice or other communication sent in any other manner will be effective or will be considered properly given when actually delivered.

<p>If to the City:</p> <p>John Dangberg Assistant City Manager City of Sacramento 915 I Street, Fifth Floor Sacramento, CA 95814</p> <p>With copies to:</p> <p>Matthew Ruyak Assistant City Attorney City of Sacramento 915 I Street, Fourth Floor Sacramento, CA 95814</p> <p>Jeffrey Massey Senior Deputy City Attorney City of Sacramento 915 I Street, Fourth Floor Sacramento, CA 95814</p>	<p>If to TeamCo:</p> <p>John Rinehart, CFO Sacramento Basketball Holdings LLC One Sports Parkway Sacramento, CA 95834 Facsimile: (916) 928-6983</p> <p>With copies to:</p> <p>Mark Friedman, Owner 1530 J Street, Suite 200 Sacramento, CA 95814</p> <p>Jeffrey Dorso, Esq. Pioneer Law Group, LLP 1122 S Street Sacramento, CA 95811 Facsimile: (916) 496-8500</p> <p>Adam R. Klein, Esq. Katten Muchin Rosenman LLP 525 W. Monroe Street Chicago, IL 60661-3693 Facsimile: (312) 902-1061</p>
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Any Party may from time to time designate a different address or persons for notices by giving notice to that effect to the other Party in accordance with the terms and conditions of this section.

- 7.3 Force Majeure.** Failure in performance by either Party under this Agreement due to a Force Majeure Event shall not be deemed a breach of this Agreement. In addition, when this Agreement provides a time for the performance of any obligation other than the payment of a sum certain, the time provided is extended if compliance is not possible due to a Force Majeure Event. The extension lasts only as long as the Force Majeure Event prevents compliance. "**Force Majeure Event**" means any act, event, or condition that is beyond the reasonable control of the Party asserting the Force Majeure Event, if it prevents or delays such Party from performing any obligation under this Agreement, including, without limitation, the following: any act of public enemy, terrorism, blockade, war, insurrection, civil disturbance, explosion, or riot; epidemic; landslide, earthquake, fire, storm, flood, or washout, or other catastrophic weather event; any other act of God; and strike, lockout, or other industrial disturbance.
- 7.4 Severability.** If a court with jurisdiction rules that any nonmaterial part of this Agreement is invalid, unenforceable, or contrary to law or public policy, then the rest of this Agreement remains valid and fully enforceable.
- 7.5 Obligations of the Parties.** The obligations and undertakings of the Parties under or in accordance with this Agreement are obligations solely of the Parties themselves and no recourse shall be had, whether in contract, in tort, or otherwise against any officer, director, employee, agent, member, volunteer, or representative of any Party in his or her individual capacity on account of any obligation or undertaking of or any act or omission by any Party under or pursuant to this Agreement.
- 7.6 Time of the Essence.** Time is of the essence in the performance of this Agreement.
- 7.7 Binding Effect.** This Agreement binds and inures to the benefit of the Parties' successors and permitted assigns.
- 7.8 Waiver.** A Party's failure to insist on strict performance of this Agreement or to exercise any right or remedy upon breach of this Agreement will not constitute a waiver of the performance, right, or remedy. A Party's waiver of another Party's breach of any provision in this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provision. A waiver is binding only if set forth in a writing signed by the waiving Party.

- 7.9 Interpretation.** This Agreement is to be interpreted and applied in accordance with California law, except that that the rule of interpretation in California Civil Code section 1654 will not apply. The term "including" shall mean "including, without limitation" and "including, but not limited to" and shall not be interpreted to imply any limitation on the more general preceding provision unless otherwise expressly stated. All references in this Agreement to Sections, Exhibits, or Schedules refer to the Sections, Exhibits, and Schedules of this Agreement unless otherwise expressly stated. Each Exhibit and Schedule referenced in this Agreement is incorporated herein by reference and made a part hereof. The headings and captions of the Sections, Exhibits, and Schedules are included for convenience only and shall have no effect upon the construction or interpretation of this Agreement.
- 7.10 Integration and Modification.** This Agreement, the other Project Agreements, and any other documents executed by the City and one or more Kings Parties (as such term is defined in the Comprehensive Project Agreement) in connection herewith, collectively set forth the Parties' entire understanding regarding the matters set forth above and are intended to be their final, complete, and exclusive expression of those matters. Without limiting the generality of the foregoing, this Agreement, the other Project Agreements, and any other documents executed by the City and one or more Kings Parties in connection herewith, collectively supersede the non-binding Sacramento Entertainment and Sports Center Term Sheet dated March 23, 2013 in its entirety. This Agreement may be modified only by another written agreement signed by all Parties.
- 7.11 Conflicts among Project Agreements.** To the extent of any conflict or inconsistency between or among any of the Project Agreements, such conflict or inconsistency shall be resolved pursuant to Section 11.12 of the Comprehensive Agreement.
- 7.12 Relationship of the Parties.** The Parties do not intend to create any agency, partnership, joint venture, trust, or other relationship with duties or incidents different from those of parties to an arm's-length contract.
- 7.13 No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Parties and is not intended to benefit any third parties; provided, however, that Affiliates of TeamCo (including ArenaCo and HoldCo) shall be third-party beneficiaries of the last sentence of Section 4(C).
- 7.14 Representations, Warranties, and Covenants.**
- (A) *Mutual Representations.* Each Party hereby represents and warrants to the other that it has all necessary right, power, and authority to enter into this Agreement. Additionally, each Party represents and warrants that the execution and delivery of this Agreement and the performance

and observance of all obligations and conditions to be performed or observed by each Party hereunder (expressly including, as to TeamCo, each of the Non-Relocation Covenants) have been duly authorized by all necessary action of such Party. This Agreement, when fully executed and delivered by each Party, shall constitute the legal, valid, and binding obligation of the Parties, enforceable in accordance with the terms hereof.

(B) *Additional Representations and Covenants of TeamCo.* TeamCo hereby represents and warrants to the City that: (i) TeamCo is the record and beneficial owner of the Team As Property and owns the Team As Property free and clear of any Lien, except for those Liens set forth on Schedule 7.14(B) attached hereto; and (ii) TeamCo is a member in good standing of the NBA and is in compliance with all NBA Rules that are relevant to the Non-Relocation Covenants and the Parties' other rights and obligations hereunder.

**7.15 Attorneys' Fees.** Each Party shall bear its own costs and attorneys' fees incurred in connection with the negotiation and execution of this Agreement.

**7.16 Alternative Delivery.** When a Party is obligated to deliver a document or similar item to another Party, the recipient may, in its sole discretion, opt for a review of that item without taking physical or electronic delivery thereof.

**7.17 Counterparts.** The Parties may sign this Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same Agreement. Facsimile signatures or signatures transmitted by email or other electronic means shall be effective to bind each of the Parties hereto.

**7.18 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event of any proceedings regarding this Agreement, the Parties agree that the venue shall be the state courts of California located in Sacramento County or the U.S. District Court for the Eastern District of California.

**7.19 Disclosure of Records.** All non-public documents shared by the Parties hereunder shall be treated as confidential to the extent permitted by Applicable Law. All documents submitted to the City may be subject to disclosure pursuant to the California Public Records Act. If the City receives a request for disclosure under the California Public Records Act or is served with a legal or administrative demand for disclosure (e.g., by subpoena, civil investigative demand, or court-ordered or court-sanctioned discovery) of any document set apart and clearly marked "trade secret" or "confidential" when provided by TeamCo to the City, then the City shall notify TeamCo as soon as practicable before disclosure is required so that TeamCo may seek an appropriate protective order or may

consent in writing to disclosure. Absent a protective order or written consent to disclosure, received before the time disclosure is required, the City may disclose the documents as required by law. The City is not obligated to defend against any litigation brought to compel disclosure of documents, but the City may defend against the litigation as the real party in interest, subject to the following: TeamCo shall indemnify and hold the City harmless against all damages and costs awarded against the City in the litigation, including reasonable attorneys' fees and litigation costs through final resolution on appeal. TeamCo shall have sole responsibility for defense of the actual "trade secret" or "confidential" designations.

**8. Definitions and Terms.** Capitalized terms in this Agreement have the definitions set forth in this section.

**"Affiliate"** means, with respect to any Person, any individual, trust, estate, partnership, joint venture, company, corporation, association, limited liability company, or other legal entity, business organization, or enterprise that is directly or indirectly controlling, controlled by, or under common control with, such Person.

**"Agreement"** is defined in the introductory paragraph of this Agreement.

**"Alternate Site Commitment"** is defined in Section 1.2(C).

**"Alternate Site Condition"** means the existence of one of the following conditions, but only to the extent that such condition(s) is not primarily the result of TeamCo's (nor, so long as TeamCo and ArenaCo are Affiliates, ArenaCo's) failure to perform its obligations as required under any of the Project Agreements:

- (A) the NBA determines that the condition of the Arena is such that the NBA Rules (consistently applied and without discrimination in application to TeamCo or the Team) prohibit the playing of Home Games at the Arena and such determination is confirmed in writing by TeamCo with reference to the applicable NBA Rule (and a copy of the applicable written communication from the NBA, if any);
- (B) a Governmental Authority, Applicable Law, Force Majeure Event, or Condemnation Action (as defined in the Team Agreement) prevents the use or occupancy of any portion of the Arena that is reasonably necessary for the playing, exhibiting, or viewing of Home Games; or
- (C) a legitimate scheduling conflict exists with respect to a given Home Game that, pursuant to Section 2.2.4 of the Team Agreement, permits TeamCo to hold such Home Game at an alternate site.

**"Annual Adjustment"** is defined in the Team Agreement.

"**Applicable Laws**" means any law, statute, ordinance, rule, regulation, order, or determination of any Governmental Authority.

"**Arena**" is defined in the Background.

"**ArenaCo**" is defined in the Background.

"**Basketball Season**" is defined in the Team Agreement.

"**City**" is defined in the introductory paragraph of this Agreement.

"**Commencement Date**" is defined in the Team Agreement.

"**Comprehensive Agreement**" is defined in the Background.

"**Effective Date**" is defined in the introductory paragraph of this Agreement.

"**Final Order**" is defined in Section 4(B).

"**Force Majeure Event**" is defined in Section 7.3.

"**Governmental Authority**" means any federal, state, or local entity, political subdivision, agency, department, commission, board, bureau, administrative, or regulatory body, or other instrumentality having jurisdiction over the Parties, the Arena, or any other properties or rights that are the subject of the Project Agreements.

"**HoldCo**" is defined in the Background.

"**Home Games**" means all Home Games (as defined in the Team Agreement) occurring after the Commencement Date.

"**Indeterminate Condition**" is defined in Section 1.2(D).

"**Initial Expiration Date**" is defined in the Team Agreement.

"**Lien**" means, with respect to the Team As Property, any pledge, security interest, lien, charge, or mortgage.

"**NBA**" is defined in the Background.

"**NBA Rules**" is defined in the Team Agreement.

"**Non-Relocation Covenants**" means the collective covenants made by, and obligations imposed on, TeamCo pursuant to Sections 1, 2, and 3 of this Agreement.

**"Non-Relocation Default"** means a breach by TeamCo of any of the Non-Relocation Covenants (whatever the reason for such breach and whether it is voluntary or involuntary or effected by the NBA Rules or operation of Applicable Law).

**"Operating Year"** is defined in the Team Agreement.

**"Party"** and **"Parties"** are defined in the introductory paragraph of this Agreement.

**"Per Home Game Amount"** means (A) for the first Operating Year, \$1,000,000 and (B) for each subsequent Operating Year, the Per Home Game Amount for the immediately prior Operating Year, as increased by the Annual Adjustment for such subsequent Operating Year.

**"Person"** means any individual, trust, estate, partnership, joint venture, company, corporation, association, limited liability company, or other legal entity, business organization, or enterprise.

**"Project Agreements"** is defined in the Background.

**"Team"** is defined in the Background.

**"Team Agreement"** means the Team Use Agreement entered into contemporaneously herewith by TeamCo and ArenaCo, pursuant to which ArenaCo is agreeing to operate, maintain, and repair the Arena for, and license the Arena to, TeamCo.

**"Team As Property"** means all of the following taken as a whole, whether the same are now owned or hereafter acquired, and wherever located, together with all accessions thereto, replacements and substitutions therefor, and proceeds thereof: (A) all of TeamCo's right, title, and interest in and under the franchise agreement pursuant to which TeamCo was granted the right to operate the Team as an NBA franchise, as such agreement may be modified, supplemented, or amended from time to time; (B) all goods, fixtures, inventory, equipment, supplies, and other tangible personal property of every nature now owned or hereafter acquired by TeamCo and used, intended for use, or reasonably required in the operation of the Team; (C) the right to use all trademarks and trade names and symbols or logos used in connection with the Team; and (D) all accounts, chattel paper, instruments, investment property, letters of credit, documents, contract rights, and general intangibles of TeamCo, relating in any way to, or arising in any manner from, TeamCo's ownership, use, operation, or sale of all or any part of the Team or the Team As Property.

**"TeamCo"** is defined in the introductory paragraph of this Agreement.

**"Term"** is defined in Section 6.1.

**"Transfer"** means any sale, transfer, assignment, or other disposition of the Team As Property; provided that, in the absence of a specific intent to use a Lien to effect a

relocation of the Team or otherwise violate a Non-Relocation Covenant, the granting of a Lien upon the Team is not deemed to be a Transfer, but any foreclosure or sale, transfer, assignment, or other disposition in lieu of foreclosure in connection with such Lien would constitute a Transfer.

**"Type I Non-Relocation Default"** means any Non-Relocation Default involving (A) the dissolution of the Team, (B) the contraction of the Team, (C) the Team's loss of its NBA membership, (D) the relocation of the Team, (E) the Team's failure to play at least fifty percent (50%) of the Team's Home Games at the Arena during any given Basketball Season (which for the avoidance of doubt shall not be deemed a Non-Relocation Default if such failure was due to Home Games being played at an alternate site under Section 1.2), or (F) a breach of Section 2.1(D).

**"Type II Non-Relocation Default"** means any breach of Section 1.1 that is not a Type I Non-Relocation Default.

\* \* \*

<p><b>City of Sacramento</b></p> <p>By: _____  John F. Shirey  City Manager</p> <p>Date: _____, 2014</p>	<p><b>Sacramento Kings Limited Partnership</b></p> <p>By: Royal Kings Limited Partnership, its  General Partner</p> <p>By: Sacramento Basketball Holdings GP  LLC, its General Partner</p> <p>By: Sacramento Basketball Holdings LLC,  its Sole Member</p> <p>By: _____  Chris Granger</p> <p>Date: _____, 2014</p>
<p>Approved as to Form  Sacramento City Attorney</p> <p>By: _____  Matthew D. Ruyak  Assistant City Attorney</p>	<p>Approved as to Legal Form  Pioneer Law Group, LLP</p> <p>By: _____  Jeffrey K. Dorso  Attorneys for TeamCo</p>

**Exhibit A**  
**to**  
**Team Non-Relocation Agreement**

Liquidated Damages

1. Type I Non-Relocation Default:

Date of Type I Non-Relocation Default	Liquidated Damages
Effective Date – Commencement Date*	\$580,000,000
Operating Year 1	\$580,000,000
Operating Year 2	\$567,000,000
Operating Year 3	\$554,000,000
Operating Year 4	\$541,000,000
Operating Year 5	\$528,000,000
Operating Year 6	\$515,000,000
Operating Year 7	\$502,000,000
Operating Year 8	\$489,000,000
Operating Year 9	\$476,000,000
Operating Year 10	\$463,000,000
Operating Year 11	\$450,000,000
Operating Year 12	\$437,000,000
Operating Year 13	\$424,000,000
Operating Year 14	\$411,000,000
Operating Year 15	\$398,000,000
Operating Year 16	\$385,000,000
Operating Year 17	\$372,000,000
Operating Year 18	\$359,000,000
Operating Year 19	\$346,000,000
Operating Year 20	\$333,000,000
Operating Year 21	\$320,000,000
Operating Year 22	\$307,000,000
Operating Year 23	\$294,000,000
Operating Year 24	\$281,000,000
Operating Year 25	\$268,000,000
Operating Year 26	\$255,000,000
Operating Year 27	\$242,000,000
Operating Year 28	\$229,000,000
Operating Year 29	\$216,000,000
Operating Year 30	\$203,000,000
Each Operating Year Thereafter	\$200,000,000

\*As defined in the Team Agreement. Notwithstanding the definition of "Operating Year" in the Team Agreement, if the first Operating Year under the Team Agreement commences after the NBA All-Star Game during the Basketball Season of such first Operating Year, then, for the purposes of this Exhibit A only (and for no other purpose under this Agreement or any other Project Agreement), the first Operating Year shall be automatically extended through the end of the second Operating Year under the Team Agreement.

2. Type II Non-Relocation Default:

The amount of liquidated damages payable for a Type II Non-Relocation Default shall equal the product of: (i) the number of Home Games that were played at a location other than the Arena in breach of Section 1.1, and (ii) the Per Home Game Amount; provided, however, that the amount of liquidated damages payable for a Type II Non-Relocation Default shall in no event exceed the amount of liquidated damages set forth above in this Exhibit A that are payable for a Type I Non-Relocation Default in the applicable Operating Year.

**Schedule 7.14(B)**  
**to**  
**Team Non-Relocation Agreement**

Existing Liens

1. The security interest granted by TeamCo in connection with TeamCo's participation in the NBA League-wide Credit Facility.
2. The security interest granted by TeamCo to U.S. Bank, National Association (as trustee under and pursuant to an indenture, dated as of July 1, 1997, with the Sacramento City Financing Authority) pursuant to that certain Security Agreement, dated as of July 1, 1997, as amended on April 28, 2003, between TeamCo and U.S. Bank.