

Execution

LEASE AND MANAGEMENT AGREEMENT

By and Between

**GATEWAY ECONOMIC DEVELOPMENT
CORPORATION OF GREATER CLEVELAND**

and

CAVALIERS OPERATING COMPANY, LLC

Dated as of October 12, 2017

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LEASE AND MANAGEMENT AGREEMENT

THIS LEASE AND MANAGEMENT AGREEMENT (this “Agreement” or “Lease”) is made as of October 12, 2017 (the “Effective Date”), by and between **GATEWAY ECONOMIC DEVELOPMENT CORPORATION OF GREATER CLEVELAND**, a nonprofit corporation organized under the laws of the State of Ohio (together with its successors and assigns, hereinafter referred to as “Gateway”), and **CAVALIERS OPERATING COMPANY, LLC**, a Delaware limited liability company which is a successor by merger to Cavs/Gund Arena Company (together with its successors and assigns, hereinafter referred to as “Lessee”).

RECITALS:

A. Gateway and Lessee have entered into a Lease and Management Agreement, dated as of the 20th day of December, 1991, a First Amendment to Lease and Management Agreement dated as of April 30, 1992, a Second Amendment to Lease and Management Agreement dated as of September 15, 1993, a Third Amendment to Lease and Management Agreement and Amendment to Construction and Other Agreements dated as of June 15, 1994, a Fourth Amendment to Lease and Management Agreement, and Amendment to Construction and Other Agreements dated as of June 28, 2001 and effective retroactively as of December 9, 1996, a Fifth Amendment to Lease and Management Agreement, and Amendment to Other Agreements dated as of June 28, 2001, a Sixth Amendment to Lease and Management Agreement and Other Agreements dated as of November 30, 2007, and a Seventh Amendment to Lease and Management Agreement dated as of October 6, 2011 (hereinafter collectively referred to as the “Existing Lease”) pursuant to which Gateway leased to Lessee and Lessee leased from Gateway certain land and improvements constituting an approximately 20,000 seat multi-purpose Arena designed for playing basketball, hockey, arena football and holding entertainment events, with food and beverage amenities, office space and other improvements (the “Arena Improvements”), on certain real property located in the City of Cleveland, Ohio (the “City”), said real property being more fully described on **Exhibit A** attached hereto and made a part hereof (the “Arena Land” and, together with the Arena Improvements, the “Arena”); and

B. Gateway and Lessee have entered into several agreements relating to the Existing Lease, including the following, as amended and modified to date (“Other Agreements”): Common Area Easement and Maintenance Agreement dated as June 28, 2001 and recorded as Document No. 200107300466 in the Cuyahoga County Records, as amended by that certain First Amendment to Common Area Easement and Maintenance Agreement dated October 6, 2011 and recorded as Document No. 201110070510 in the Cuyahoga County Records (the “Gateway CAM Agreement”) with respect to certain Gateway-owned property shown on **Exhibit B** (the “Gateway Common Areas”), and that certain Arena Naming Rights Agreement effective September 15, 1994 (the “Naming Rights Agreement”); and

C. Gateway has also constructed a ballpark located near the Arena on land described in **Exhibit C** known as the Ballpark Land for sporting events including Major League Baseball games of the Cleveland Indians professional baseball team (the “Indians”) and other family and entertainment events (“Ballpark”); and

D. Lessee is the holder of the franchise issued by the National Basketball Association (“NBA”) for the territory which includes the City and is the owner of the Cleveland Cavaliers professional basketball team (“Team”); and

E. As part of the original financing for the Arena, the County of Cuyahoga, Ohio (the “County”) issued an aggregate of \$120,000,000 in Non-Tax Revenue Bonds (the “Arena Bonds”) a portion of which are still outstanding; and

F. Gateway and Lessee in the Existing Lease agreed to pay any Gateway Net Revenue to the County pursuant to a Revolving Loan Agreement as those terms are defined therein, towards the repayment of the Arena Bonds and Gateway and the Lessee, acknowledging that no Gateway Net Revenue has been or is likely to be paid to County, have agreed to amend the definition of Gateway Net Revenue herein to reflect changes in the Existing Lease and the revised rent structure herein;

G. Gateway, the Lessee and the County have had discussions resulting in an Agreement Regarding the Transformation of Quicken Loans Arena attached hereto and made a part hereof as **Exhibit H** (“Agreement Regarding Transformation”) providing, among other things, that the parties work to provide financing through the County’s issuance of bonds, as described herein, to construct improvements to the Arena in an amount not less than \$140,000,000, known as the Arena Transformation Project; and

H. In return for the County’s issuance of the Arena Transformation Bonds described in Section 3.3 herein and other agreements of Gateway herein, the Lessee has agreed to enter into this Lease to, *inter alia*, replace the Existing Lease in its entirety and to extend the Term of the Existing Lease and to make certain other changes to the Existing Lease necessary to facilitate the issuance of the Arena Transformation Bonds and construct the Arena Transformation Project, including payment of Additional Rent by Lessee; and

I. The parties agree they will further amend or modify, as applicable, the Gateway CAM Agreement and Naming Rights Agreement to the extent necessary to conform with this Agreement.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein, the parties do hereby agree as follows:

ARTICLE I

DEFINITIONS

1.1 **Definitions.** As used in this Agreement and unless otherwise expressly indicated, the following terms shall have the following meanings:

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

“**Action**” shall mean any demand, assertion, claim, action, or proceeding, judicial or otherwise.

“Additional Parking” shall have the meaning set forth in Section 4.1 hereof.

“Additional Rent” means the Additional Rent paid by Lessee to pay debt service on certain of the Arena Transformation Bonds as set forth in Section 6.3 hereof.

“Admissions Tax” shall mean any present or future admission, luxury, excise, entertainment, facilities use, utility, possessory interest or other tax, levy or imposition (or any fee or charge imposed or payable in lieu thereof) assessed, levied, imposed, or charged against the sale or purchase of, or based upon or measured by the purchase price or value of, tickets (whether by season ticket, subscription or otherwise) for, or other rights, privileges to enter, or other evidence of admission to, Games or Special Events, whether levied by the City or the County, or any authority, board, commission, or agency established or controlled in whole or in part by the City, the County or appointees or nominees of the executive, legislative or judicial branch or function of either, whether such tax is required by law to be remitted to the taxing authority by Gateway, the Lessee, or any other Person whomsoever, and whether the sale of the ticket or other evidence of admission is made inside or outside the political boundaries of the levying authority. Without limitation, Admissions Tax shall include the tax levied under Section 195.02 of the Codified Ordinances of the City and under all amendatory, supplementary and replacement ordinances, and any other tax, levy or imposition now or hereafter imposed only or primarily upon sports facilities and/or places of entertainment, or their vendors, performers, contractors, concessionaires or employees.

“Admissions Tax Agreement” means the Cooperative Agreement between the City of Cleveland and County of Cuyahoga Relating to the Gateway Project entered into as of September 15, 1992, as amended by Supplement No. 1 to Cooperative Agreement dated as of April 25, 2017.

“Admission Tax Pilots” means the payment in lieu of City Admissions Taxes to be made by Lessee or Gateway to the Trustee for the Arena Bonds described in Section 3.2 hereof, pursuant to Section 195.03(f) of the Codified Ordinances of the City, as amended by Ordinance No. 324-92 passed on February 24, 1992 by the Council of the City, as further amended by Ordinance No. 305-17, passed on April 24, 2017.

“Affiliate(s)” shall mean as to any named individual or entity: (a) any individual or entity directly or indirectly owning, controlling or holding with power to vote, fifty percent (50%) or more of the outstanding voting interests of such named entity; (b) any entity fifty percent (50%) or more of whose outstanding voting interests are, directly or indirectly, owned, controlled or held with power to vote by such named individual or entity; (c) any entity or individual directly or indirectly controlling, controlled by or under common control (using ownership of fifty percent (50%) or more outstanding voting interests as a test for determining control with respect to an entity) with such named individual or entity; (d) any trustee, officer, director or general partner of such named entity; or (e) if a named individual or entity is an officer, director, general partner, trustee of an entity, such entity.

“Agreement” shall have the meaning set forth in the initial paragraph hereof.

“Agreement Regarding Transformation” shall have the meaning set forth in Recital “G” hereof.

“All Remaining Tenant Improvements” shall mean those portions of the Arena Transformation Project other than the North Face Enclosure.

“Alterations” shall have the meaning in Section 7.2(a) hereof.

“Arbitration Rules” means the Commercial Arbitration Rules of the AAA, as in effect from time to time.

“Arena” shall mean the multi-purpose Arena described in Recital “A” hereof and shall include the Arena Land and the Arena Improvements.

“Arena Advertising” shall mean any sign, signage, panel, poster or banner placed, displayed or hung inside the Arena (whether in the spectator seating area, in the concourse area, displayed on any Arena equipment, or elsewhere), attached to any exterior component of the Arena or located on the Arena Land; commercial messages, announcements and displays placed, run, shown or otherwise sought to be communicated on, over or through use of the Arena message boards, reader boards, the scoreboard, the video replay equipment, and any other Arena video display equipment or television monitors, the public address system or any audio equipment, whether part of or independent of the scoreboard; any contests, events, giveaways, merchandise or product distributions or other activities or events held or conducted in the Gateway Common Areas in connection with an Arena Event or attraction which at least in part seeks to promote or advertise any product or service or any manufacturer, assembler, wholesaler, retailer or other seller or distributor of any product or service; any display of any logo, trademark, trade name, distinctive product colors, design, shape or other identifying marks of a product or service during any event or attraction held at the Arena, including by any performers and participants (both human and non-human) in such event or attraction; any advertising contained in or displayed on any ticket, program or other printed materials offered for sale or otherwise distributed to patrons of Arena Events or attractions; and any other advertising, promotion or commercial message displayed, shown or placed in or on the Arena or the Central Market Square Site which is reasonably determined by Lessee to be a form of Arena Advertising.

“Arena Bonds” shall have the meaning set forth in Recital “E” hereof.

“Arena Events” shall mean all Games and Special Events.

“Arena Event Period” shall mean the period commencing three (3) hours prior to and terminating two (2) hours after any Arena Event.

“Arena Improvements” shall have the meaning set forth in Recital “A” hereof.

“Arena Land” shall have the meaning set forth in Recital “A” hereof.

“Arena Parking” shall mean the one thousand seven hundred (1,700) parking spaces, consisting exclusively of the On-site Parking, devoted to the exclusive use of the Lessee, without

charge, during certain periods of time (other than “Dual Event Periods”), as more fully described in section 4.1 hereof.

“Arena Transformation Bonds” means the one or more Series of Bonds described in Article III hereof to be issued by the County to finance the Arena Transformation Project.

“Arena Transformation Budget” means One Hundred Forty Million (\$140,000,000).

“Arena Transformation Project” means the construction project described in Article VII estimated to cost not less than One Hundred Forty Million Dollars (\$140,000,000), to be financed as described in Article III hereof and constructed as described in Article IV hereof.

“Ballpark” shall have the meaning set forth in Recital “C” hereof.

“Ballpark Events” shall mean all events open to the general public at the Ballpark.

“Ballpark Event Period” shall mean the period commencing three (3) hours prior to and terminating two (2) hours after any Ballpark Event.

“Ballpark Land” shall have the meaning set forth in Recital “C” hereof.

“Ballpark Lease” shall mean the Lease Agreement dated as of September 15, 2008 between Gateway and the Indians, as amended.

“Ballpark Management Agreement” means the Management Agreement dated as of July 3, 1991 between Gateway and Ballpark Operator, as amended.

“Ballpark Operator” shall mean Ballpark Management Company, the operator of the Ballpark pursuant to the Ballpark Management Agreement, or its assignee or successor.

“Ballpark Parking” shall mean up to one thousand five hundred (1,500) parking spaces which may consist of surface parking on the Central Market Square Site and a portion of the On-Site Parking, and which shall be devoted to the exclusive use of the Indians and the Ballpark Operator, without charge, during certain periods of time (other than during Dual Events), as more fully described in Section 10.1(a) of the Gateway CAM Agreement. The number of such spaces located in the On-site Parking shall be reduced by the number of spaces of surface parking on the Central Market Square Site designated for the exclusive use of the Ballpark operator or the Indians in accordance with the existing agreements between Gateway and the Indians and Ballpark operator, respectively.

“Base Rent” shall mean the Base Rent paid by Lessee to Gateway pursuant to Section 6.1 hereof.

“Bed Tax” shall mean the County transient occupancy tax revenues received by Destination Cleveland (f/k/a Convention & Visitors Bureau of Cleveland) pursuant to Section 5739.024 of the Ohio Revised Code, as amended and supplemented from time to time.

“Bed Tax Agreement” means, as the case may be, (1) the Cooperative Agreement (Bed Tax) by and among the County, Gateway and Convention & Visitors Bureau of Greater Cleveland (k/n/a Destination Cleveland) dated as of September 15, 1992, as Amended by an Amendment to Cooperative Agreement (Bed Tax) as of December 22, 1998, as amended, pursuant to which a portion of the Bed Tax is paid to or for the benefit of Gateway and/or (ii) the Bed Tax Reallocation Agreement by and between the County and the Convention and Visitors Bureau of Greater Cleveland, Inc. (k/n/a Destination Cleveland), dated as of October 12, 2017. For the sake of clarity, the Bed Tax Agreement related specifically to the Bed Tax Reallocation Agreement is not included as part of Gateway Net Revenue definition and does not serve as security for the Arena Bonds. Amounts related to Bed Tax Reallocation Agreement are identified only as they are a source of payment for the Arena Transformation Bonds as described in this Lease and in the Agreement Regarding Transformation.

“Bed Tax Receipts” shall mean the portion of the Bed Tax payable to or for the benefit of Gateway pursuant to the Bed Tax Agreement or otherwise, and other amounts which from time to time may be paid to Gateway pursuant to the Bed Tax Agreement, as amended or supplemented from time to time.

“Broadcast Fees” shall have the meaning set forth in Section 21.4 hereof.

“Business Day” shall mean any day other than a Saturday, a Sunday or a public or bank holiday or the equivalent for banks generally under the laws of the State of Ohio.

“Capital Repairs” shall mean any work or purchases which are reasonably required to be performed in and about the Arena, to repair, restore or replace Arena Improvements, including Components, necessitated by any damage, destruction, ordinary wear and tear, defects in construction or design, or any other cause; provided, however, that “Capital Repairs” shall not include (i) any work or purchases necessitated by Lessee Misuse, and (ii) Routine Maintenance. Capital Repairs shall include, but shall not be limited to:

(a) repair or replacement of HVAC compressors and cooling towers, fan assemblies or controls for same;

(b) replacement of carpeting that wears out as a result of ordinary wear and tear with carpeting of similar quality; provided however such replacement shall not be required more frequently than once every four (4) years other than for defective workmanship or product;

(c) repair or replacement of the Basketball floor, the event floor, the practice basketball court or the dasher boards;

(d) repair or replacement of cracked or disintegrated concrete, broken pipes or leaking roof or sections thereof;

(e) replacement of scoreboard, video replay and display equipment, exterior message board, reader boards and lighting bulbs for event illumination including spotlights, fuses and circuit breakers, and non-routine replacement or alteration of

substantial portions of lighting fixtures and/or bulbs; provided, however, that the scoreboard shall not be replaced more frequently than once every seven (7) years unless required because of defective workmanship or product;

(f) replacement of all windows and other glass broken due to settling wind or vandalism;

(g) replacement of seats, whether portable, movable or stationary, that becomes worn or unusable, or replacement of seat standards or the concrete into which the seats are affixed;

(h) general re-application of protective materials, such as paint or weatherproofing;

(i) replacement of any structurally defective materials in the Arena;

(j) replacement of broken tiles, wood flooring, pavers, pre-cast concrete, metals, window components, brick siding, or any other skin, paving, flooring or ceiling material in or on the Arena;

(k) cleaning, sandblasting or chemical cleaning of the exterior of the Arena if, as, and when required in order for the exterior of the Arena to appear well-maintained in the reasonable judgment of Lessee;

(l) replacement of any obsolete Component with a more modern Component;

(m) changes or improvements required by television stations, radio networks, "superstations," cable operators, video program distributors or syndicators having contracts with the Lessee or the NBA;

(n) changes or improvements required by NBA Rules;

(o) changes or improvements required or recommended by any insurance carrier to enable Lessee to obtain insurance coverage at commercially reasonable rates, provided that in lieu of effectuating such change or improvement, Gateway may agree, in its discretion, to pay the increased insurance premiums;

(p) changes or improvements required by any laws, ordinances, orders, rules, regulations or requirements of any governmental authority;

(q) changes or improvements of a permanent nature in the Arena to remedy any condition in the Arena which the Lessee deems unsafe in its reasonable judgment upon prior notice to Gateway; or

(r) any (i) costs of designing a Capital Repair or obtaining permits required in connection therewith, (ii) costs of consultants or other professionals reasonably incurred

in connection with determining whether or how to effect a Capital Repair or of designing it, and (iii) other soft costs pertaining thereto.

“Capital Repairs Insurance Fund” shall have the meaning set forth in Article X hereof.

“Calendar Year” means January 1 through December 31 of each year.

“Central Market Community Development Plan” shall mean the central Market Community Development Plan approved by the Council of the City on September 29, 1986, and amended on November 5, 1990 and June 17, 1991, as the same may be amended from time to time.

“Central Market Square Site” shall mean the real property owned by Gateway and described on Exhibit D attached hereto and made a part hereof.

“City” shall have the meaning set forth in Recital “A” hereof.

“Common Area Expenses” shall have the meaning set forth in Section 6.1(a) hereof.

“Component” shall mean any item of real or tangible personal property that is incorporated into the Arena or integral to the operation or maintenance of the Arena in accordance with the standards contemplated by this Lease, including, but not limited to, all structural members, all mechanical, electrical, plumbing, heating, ventilating, air conditioning and other equipment (including principal components of each such item of equipment), seats, electronic parts, scoreboards, video replay and display equipment and all other Arena furniture, fixtures and equipment.

“Community Benefits” shall have the meaning set forth in Section 7.1(b) hereof.

“Concessionaires” shall mean the Person or Persons hired by the Lessee to operate the concessions at the Arena, which operation shall include, without limitation, (i) the right to sell and otherwise provide food, beverages, merchandise, novelties, souvenirs and other goods and services to the public from the general seating concessions areas; and (ii) the right to sell and otherwise provide food, beverage and other goods and services from the areas of the Arena used and operated as restaurant and catering facilities to patrons of such Arena restaurants, and such other persons within or without the Arena as may be designated by the Lessee.

“Concessions Areas and Facilities” shall mean (i) the areas, parts and equipment of the Arena proposed to be used and set aside for the sale and provision to general Arena patrons of food, beverages, novelties and other concession items, as indicated on the Final Plans, and (ii) the areas, parts and equipment of the Arena currently used and operated as restaurant and catering facilities, in all instances as actually located and constructed and as thereafter modified including as modified by the Arena Transformation Project.

“Condemnation” shall mean any taking of property by exercise of the power of eminent domain, whether by formal condemnation proceedings or by purchase under threat of exercise of the power of eminent domain proceedings.

“Construction Agreement” or “Construction Agreements” shall have the meaning set forth in Section 7.1 hereof.

“Construction Rent Offset” shall have the meaning set forth in Section 6.5 hereof.

“Contingent Rent” means the Contingent Rent described in Section 6.4 hereof.

“County” shall have the meaning set forth in Recital “E” hereof.

“CPI” shall mean the Consumer Price Index for the City of Cleveland, Urban Wage Earners and Clerical Workers, All Items (1982-4=100), as published by the U.S. Department of Labor, Bureau of Labor Statistics. If the manner in which the CPI is determined by the Bureau of Labor Statistics shall be substantially revised, including, without limitation, a change in the base index year, an adjustment shall be made in such revised index that would produce results reasonably equivalent to those that would have been obtained if such CPI had not been so revised. If the CPI shall become unavailable to the public because its publication is discontinued or otherwise, or if equivalent data are not readily available to make the adjustment referred to in the preceding sentence, then a comparable index published by an agency of the United States government that reflects changes in the cost of living or purchasing power of the consumer dollar published by any other governmental agency will be substituted therefor, or, if no such index shall be available, then a comparable index published by a major bank or other financial institution shall be used.

“Development Land” means a separate legal parcel of land on East 9th Street in Cleveland, Ohio as part of the Central Market Square Site owned by Gateway and not leased to the Indians or Lessee, currently part of the Common Areas, but available for future development, and as described on Exhibit E.

“Dual Event” means any time when the time of an Arena Event and Ballpark Event overlap.

“Effective Date” shall have the meaning set forth in the initial paragraph hereof.

“Emergency Repair” shall mean Capital Repairs that are necessary to protect public health or safety or that, if performed promptly can, in Lessee’s reasonable judgment, avoid material cost to Lessee or Gateway.

“Environmental Law(s)” shall mean each and every law, statute, ordinance, regulation, rule, judicial or administrative order or decree, permit, license, approval, authorization or similar requirement of each and every federal, state and local governmental agency or other governmental authority relating to any Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, the

Hazardous Substances Account Act, the Hazardous Substances Act, and the Underground storage Tank Act of 1984.

“Excise Tax” shall have the meaning in Section 3.2(b) hereof.

“Excise Tax Revenue Bonds” means the Bonds issued by the County and described in Section 3.2(b) hereof.

“Excluded Occurrence” shall mean any of the following:

(a) damage or injury arising out of any negligent or willfully wrongful act or omission of Gateway, its agents, employees, contractors or subcontractors, or breach of any of Gateway’s obligations hereunder; and

(b) damage or injury arising out of (i) defects in the initial design of the Arena or in workmanship or materials employed in the initial construction of the Arena; (ii) defects in the workmanship or materials employed in the Arena Transformation Project (but only to the extent under Gateway control); or (iii) defects in the material or workmanship of any Major Capital Repairs designed and constructed under the control of Gateway or made by any party other than the Lessee, or its agent, employees or contractors.

“Existing Lease” shall have the meaning set forth in Recital “A” hereof.

“Field Lease” means that certain Ground Lease Agreement, dated as of July 3, 1991, by and between Gateway and the Indians.

“Final Plans” shall mean the final, as built plans for the Arena Improvements as set forth in the Construction Documents therefor and Arena Transformation Project as set forth in construction documents for such Arena Transformation Project, as the case may be.

“Financing Arrangements” shall mean the financing arrangements described in Article III hereof or any refinancing of such financing arrangements or new financing arrangements which directly involve and impact the Arena.

“Force Majeure” shall mean acts of God (other than adverse weather conditions to the extent normally encountered in the Cleveland, Ohio area and the impacts thereof), fire or other casualty, earthquake, flood, epidemic, landslide, enemy act, war, riot, intervention by civil or military authorities of government, insurrection or other civil commotion, general unavailability of certain materials, strikes, boycotts or labor disputes or other similar events beyond the control of either party hereto that cause such party to be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder, other than those requiring payment of money; provided, however, that Force Majeure shall not include acts, events or other matters arising out of violations of any Environmental Laws with respect to, or the presence or discharge of any hazardous substance on the Central Market Square Site (exclusive of any violations

caused by or attributable to the Lessee, the Lessee's Concessionaires, and Lessee's subtenants, licensees or invitees).

"GAAP" shall mean generally accepted accounting principles in the United States of America in effect from time to time, consistently applied.

"Game(s)" shall mean basketball games played by the Team at the Arena during each Season (including divisional, conference and championship play-off games), pre-Season or exhibition basketball games played by the Team at the Arena, and the NBA All Star Game and any other event held at the Arena in which professional basketball players participate.

"Games Admissions Tax" shall mean any Admissions Tax levied or assessed with respect to Games.

"Gateway" shall have the meaning set forth in the initial paragraph hereof.

"Gateway Annual Budget" shall have the meaning in Section 6.1 hereof.

"Gateway's Arena Related Expenditures" shall have the meaning set forth in Section 6.1 hereof.

"Gateway's Available Cash" shall have the meaning set forth in Section 6.1 hereof.

"Gateway Bidding and Contracting Procedures" shall mean the procedures of Gateway, summarized on the attached **Exhibit F**, for bidding and contracting for work at the Arena pursuant to Article VII or Article X hereof, as may be amended from time to time.

"Gateway CAM Agreement" shall have the meaning set forth in Recital "B" hereof.

"Gateway Common Areas" shall be the areas described and set forth in **Exhibit B** attached hereto. Gateway Common Areas shall mean (a) the real property constituting the Central Market Square Site, other than the Ballpark Land, the Field and the Arena Land; (b) any additional real property which Gateway shall own in fee or have the right (by lease, license, easement or any other arrangement) to utilize in connection with the Central Market Square Site at any time or from time to time; and (c) that portion of the Arena Land on which the RTA Tunnel Lobby is located; together with all of the improvements located or to be constructed thereon, all permanent improvements, additions, alterations, fixtures, equipment and installations located thereon or constructed, provided or added thereto at any time, and all other improvements, additions, alterations, fixtures, equipment and installations which Gateway shall have the right (by lease, license, easement or any other arrangement) to utilize in connection with the Central Market Square Site at any time or from time to time, including, but not limited to, parking garages and decks, surface and multi-level parking areas, underground truck garages and service areas, sidewalks and walkways, seating and other amenities, landscaped and planted areas, curbs, lighting standards, advertising, traffic and directional signs (other than any free-standing signs which may be operated by the Ballpark Operator or the Lessee), traffic striping and markings, driveways, exterior and interior ramps, ingress and egress streets and sidewalks

not dedicated to public use, storm or sanitary sewers, underground or other utilities and facilities, and bus and taxi stands.

“Gateway Construction Consultant” shall mean a qualified Engineer or Construction Consultant retained by Gateway as part of Gateway’s Arena Related Expenditures to assist Gateway in Major Capital Repairs, the Arena Transformation Project and other capital repairs to the Arena.

“Gateway Default” shall have the meaning set forth in Section 13.3 hereof.

“Gateway Net Revenue” shall mean the excess, if any, of (a) the annual Base Rent received by Gateway pursuant to Section 6.1 of this Lease; plus (b) annual Rent received by Gateway pursuant to Section 6.1 of the Ballpark Lease, plus (b) all other gross revenues and receipts, including from sale of property or other assets received by Gateway, but not including Additional Rent or Contingent Rent or funds received from the Existing Financing Arrangements described in Section 3.2 or On-Site Parking over annual amounts paid or reserved pending year-end adjustments and accordance with this Lease, the Ballpark Lease, Ballpark Management Agreement, the Field Lease and the Gateway CAM Agreement for satisfaction of all of Gateway’s Obligations (as defined in this Lease) and for satisfaction of all of “Gateway’s Obligations” (as defined in the Ballpark Lease, the Field Lease and the Ballpark Management Agreement), but specifically excluding any repayments to Destination Cleveland of amounts, if any, received directly or indirectly by Gateway under the Bed Tax Agreement.

“Gateway Overhead Expenses” shall have the meaning in Section 6.1(a) hereof.

“Gateway’s Representative” shall have the meaning set forth in Section 28.16 hereof.

“Government Securities” means (i) any bonds or other obligations of the United States of America which, as to principal and interest, constitute direct obligations of or are guaranteed by the United States of America for the full and timely payment thereof; (ii) any bonds, debentures, participation certificates, notes or other obligations of any agency or other corporation which has been or may hereafter be created by or pursuant to an Act of Congress of the United States as an agency or instrumentality thereof, the bonds, debentures, participation certificates, notes or other obligations of which are unconditionally guaranteed by the United States of America as to full and timely payment of the principal of and interest thereon; and (iii) any certificates or other evidences of a direct ownership interest in obligations of the character described in clauses (i) and (ii) hereof or in specific portions thereof, including, without limitation, portions consisting solely of the principal thereof or solely of the interest thereon, which certificates or other evidences are maintained in the records of the Federal Reserve and are held by a custodian, provided that Government Securities shall not include any unit investment trusts, money market mutual funds, or other mutual funds.

“Hazardous Substance(s)” shall mean any substance, material, condition, mixture or waste which is now or hereafter (1) defined as a “hazardous waste,” “hazardous material,” “hazardous substance/” “extremely hazardous waste,” or “restricted hazardous waste” under any provision of the State, federal or other applicable law; (2) classified as radioactive materials; (3)

designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317); (4) defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903); (5) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601); (6) determined to be a "hazardous chemical substance or mixture" pursuant to the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq. (15 U.S.C. Section 2605); (7) identified for remediation, storage, containment, removal, disposal or treatment in any City plan for the Central Market Square Site; or (8) determined by the State, federal or local governmental authorities to pose or be capable of posing a risk of injury to human health, safety or property (including but not limited to petroleum and petroleum byproducts; asbestos, polychlorinated biphenyls; polynuclear aromatic hydrocarbons; cyanide; lead; mercury; acetone, styrene; and "hazardous air pollutants" listed pursuant to the Clean Air Act, 42 U.S.C. Section 7412).

"Home Date" shall mean each of the Team's scheduled or rescheduled home playing dates during the Season at the Arena; the date of any All-Star game scheduled at the Arena; and the date of any exhibition game actually scheduled by Team to be held at the Arena.

"Indemnified Party" shall mean any party entitled to indemnification hereunder.

"Indemnifying Party" shall mean the party required by the terms hereof to provide indemnification.

"Indians" shall mean Cleveland Indians Baseball Company Limited Partnership, an Ohio limited partnership, or the meaning set forth in Recital "C," as the context may require.

"Initial Term" shall have the meaning set forth in Section 5.1 hereof.

"Interest Rate" shall mean eight percent (8%) per annum or, if less from time to time, the maximum legal rate permitted to be charged to the party obligated to pay such interest.

"Lease" shall mean this Amended and Restated Lease and Management Agreement.

"Lease Year" shall mean each period of twelve (12) consecutive calendar months during the Term, with the first Lease Year commencing July 1, 1994 and ending on June 30 of the succeeding years, provided, however, that the expiration date of the final Lease Year of the Initial Term or any Extension Terms, as the case may be, shall be in accordance with Section 5.1 below. "Lease Years" means more than one (1) Lease Year.

"Lessee" shall have the meaning set forth in the initial paragraph hereof.

"Lessee Construction Consultant" shall mean a qualified Engineer or Construction Consultant retained by Lessee to assist Lessee in performing its obligations hereunder, including, but not limited to, Capital Repairs, identification of Major Capital Repairs, and the Arena Transformation Project.

“Lessee Default” shall have the meaning set forth in Section 13.1 hereof.

“Lessee Misuse” shall mean any event which (i) causes damage to the Arena arising out of uses by the Lessee not permitted under this Lease, or (A) any grossly negligent or willfully wrongful acts of the Lessee or the Lessee’s Concessionaires or (B) any other negligent or wrongful acts of the Lessee or the Lessee’s Concessionaires to the extent, and only to the extent, that any resulting damage or loss is compensated by actual payment of insurance proceeds and then only if Gateway pays the full amount of any deductible pertaining thereto, or (ii) causes damage to the interior of the Arena Improvements from (A) any grossly negligent or willfully wrongful acts of the Lessee’s patrons, licensees, guests or invitees other than those attending a Gateway Special Event or (B) any other negligent or wrongful acts of the Lessee’s patrons, licensees, guests or invitees other than those attending a Gateway special Event to the extent, and only to the extent, that any resulting damage or loss is compensated by actual payment of insurance proceeds and then only if Gateway pays the full amount of any deductible pertaining thereto. For purposes of defining Lessee Misuse, the Lessee shall include the Lessee’s shareholders, directors, officers and employees.

“Lessee’s Representative” shall have the meaning set forth in Section 28.16 hereof.

“Major Capital Improvement Plan” shall have the meaning set forth in Section 10.2 hereof.

“Major Capital Repair” shall mean any single Capital Repair that renders the Arena untenable in whole or in part by Lessee as determined by Lessee, in its reasonable discretion, or will cost in excess of \$500,000 to perform. Notwithstanding anything above to the contrary, in the event that a particular Capital Repair that is reasonably valued by Gateway’s Construction Consultant in excess of \$500,000, but for which the final cost may be less than \$500,000 as a result of the ability of either Gateway, Lessee or both purchasing products and/or services at a lower cost, such Capital Repair shall be treated as a Major Capital Repair. In the event that the Gateway Construction Consultant and Lessee Construction Consultant do not agree that the value of a particular Capital Repair is reasonably valued in excess of \$500,000, the parties shall jointly identify and appoint a third-party construction consultant to determine the value of such Capital Repair, and such determination shall be binding upon the parties. The costs and expense of such third-party shall be borne equally by Gateway and Lessee.

“Naming Rights” shall mean the exclusive right to designate the name of the Arena from time to time during the Term, currently “Quicken Loans Arena”, including but not limited to exclusive merchandising rights and use rights for commercial exploitation with respect to the Arena name, any likeness of the Arena, trademarks, logos or similar identification, and the exclusive right to sell such rights to a third party and retain all revenues therefrom.

“Naming Rights Agreement” shall have the meaning set forth in Article XXI of this Lease.

“NBA” means the National Basketball Association professional basketball League.

“NBA International Games” shall have the meaning set forth in Section 16.2 hereof.

“NBA Rules” shall mean the NBA Constitution and By-Laws, each of the rules, regulations, memoranda, resolutions, policies, procedures, governing documents, interpretations and directives of the NBA and its affiliated entities, any governing body thereof (including, without limitation, the NBA Board of Governors) or the NBA Commissioner generally applicable to NBA member teams, and any agreements and arrangements to which the NBA, its affiliated entities or the NBA member teams generally are (or after the date of this Agreement may become) subject, including without limitation, all current and future television, radio and other agreements involving the telecast of NBA games and all current and future collective bargaining agreements between the NBA and the National Basketball Players’ Association, in each case, as they may be amended, modified, extended or supplemented from time to time.

“Non-Games Admissions Tax” shall mean all Admissions Tax other than Games Admissions Tax. Any Admissions Tax levied on or measured by anything other than the face value of or, if lower, the sale price of tickets actually sold for Special Events shall constitute a Games Admissions Tax and shall be excluded from Non-Games Admissions Tax.

“North Face Enclosure” shall mean (i) the enclosure of the space north of the current Arena entrances along Huron Road, which would also include extension of the 5th and 6th floor office space, 4th floor, addition of a second box office at the Northwest Corner of Huron Road and Ontario Road and addition of a Wine and Gold Club structure within the newly enclosed spaces described above; and (ii) the enclosure of the space between the South entrance of the Arena adjacent to the portion of the Common Area currently known as Gateway Plaza (the “South Entrance”). The entire North Face Enclosure consists of approximately 37,832 square feet, of which approximately 2,450 square feet constitutes the South Entrance.

“Obligations” shall mean and include any and all of either party’s obligations and/or liabilities to the other party of every kind, nature and description, direct or indirect, secured or unsecured, joint, several, joint and several, absolute or contingent, due or to become due, now or hereafter existing or arising, regardless of how such obligations or liabilities arise or by what agreement or instrument they may be evidenced or whether evidenced by any agreement or instrument, including, but not limited to, any and all of such party’s obligations and/or liabilities under this Agreement or under any other agreement between Gateway and Lessee regardless of whether the obligation is to perform acts or refrain from taking any action.

“On-Site Parking” shall have the meaning set forth in Section 4.1 hereof, and currently is commonly referred to as the Gateway East Garage.

“On-Site Parking Requirements” shall mean the On-Site Parking areas set forth on **Exhibit G** attached hereto and made a part hereof.

“Other Agreements” shall have the meaning set forth in Recital “B” hereof.

“Permitted Escrow Agent” shall mean any bank mutually agreeable to the parties.

“Permitted Investments” shall mean (i) Government Securities, (ii) any investment permitted by the documents for the Financing Arrangements, and (iii) investment agreements

with a banking corporation that has (or its parent corporation has) an unsecured, uninsured and unguaranteed obligation rated in at least the second highest rating category of either Moody's Investors Services Inc. or Standard & Poor's Corporation (without regard to increments or intermediate ratings, e.g., pluses or minuses).

"Person" shall mean an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or any other entity, the United States, or a federal, state or political subdivision thereof or any agency or court of such state or political subdivision.

"Property Damage" shall mean any partial or total damage or destruction of the Arena caused by fire or other occurrence and any other property damage to the Arena.

"Real and Personal Property Taxes" shall have the meaning set forth in Article XI hereof.

"Rent" shall have the meaning set forth in Article VI hereof and shall include, Base Rent, Additional Rent and Contingent Rent.

"Reporting Period" shall mean, from and after the date of this Agreement, each calendar quarter ending on March 31, June 30, September 30 and December 31.

"Revolving Loan Agreement" shall have the meaning set forth in Section 3.2 hereof.

"Routine Maintenance" shall mean the provision of all labor and materials which are required to (a) keep the Arena Improvements and the Components in good order and repair which is of a routine, regular and predictable nature, and (b) keep the Arena clean and free of debris. Routine Maintenance shall not include Capital Repairs. Routine Maintenance shall include, but shall not be limited to, the following:

- (i) performing all preventive or routine maintenance that is stipulated in operating manuals for the Components as regular, periodic maintenance procedures;
- (ii) regular maintenance procedures for the HVAC system, including periodic cleaning, lubricating and changing of air filters;
- (iii) changing of standard, isolated light bulbs, fuses and circuitbreakers as they burn out;
- (iv) cleaning all portions of the Arena immediately after each Arena Event;
- (v) touch-up painting; and
- (vi) the labor required to perform a Capital Repair to the extent that such labor is performed by regular, on-site personnel of Lessee acting in accordance with the standard duties.

Notwithstanding the foregoing, Routine Maintenance shall not include repairs or replacement required as a result of ordinary wear and tear or any kind of work or purchases, specifically listed in paragraph (a) through (s) in the definition of Capital Repairs.

“RTA Tunnel” shall mean the pedestrian walkway, at least a portion of which is below-grade, and constructed to provide access between the Central Market Square Site and Tower City.

“RTA Tunnel Lobby” shall mean the facility on the northwest portion of the Arena Land to provide access from the RTA Tunnel to the surface of the Central Market Square Site, which facility consists in part of staircases, escalators and elevators and an enclosed lobby area.

“Scheduled Completion Date” means December 31, 2019.

“Season” shall mean a period of time commencing with the first championship season game in one calendar year and ending in the next calendar year with the last home championship season game (including any postseason play-off home game) played by the Team during such season at the Arena. Seasons are sometimes herein referred to by the calendar years in which they occur (e.g. “2017/2018 Season”).

“Season Tickets” shall mean Tickets to all Team Games in the applicable season, exclusive of Tickets to any play-off Games, including divisional, conference and championship.

“Special Event” shall mean any event in the Arena other than Games.

“Sponsor” shall mean a Person whose identity, services or products are the subject of Arena Advertising.

“State” shall mean the State of Ohio.

“Team” shall have the meaning set forth in Recital “D” hereof.

“Term” shall have the meaning set forth in Section 5.1 hereof.

“Three Party Agreement” shall mean that certain Agreement Relating to Ownership, Financing, Construction and Operation of a Sports Facility and Related Economic and Redevelopment Projects, dated as of November 7, 1990, by and among the County, the City and Gateway as amended and restated as of September 15, 1992.

1.2 Accounting Terms. Any accounting term used in this Agreement shall have, unless otherwise specifically provided herein, the meaning customarily given in accordance with GAAP, and all financial computations hereunder shall be computed, unless otherwise specifically provided herein, in accordance with GAAP, as consistently applied.

ARTICLE II
LEASED PREMISES

2.1 Granting. For the Term, at the Rent and upon the terms, conditions and provisions contained in this Lease, Gateway hereby leases to the Lessee, and the Lessee hereby leases from Gateway, the Arena Land, the Arena Improvements, all further improvements to the Arena, including the Arena Transformation Project, and all other rights, privileges and easements appurtenant to, and for the benefit of, the foregoing including, without limitation:

All rights now or hereafter inuring to the Lessee under or pursuant to the Gateway CAM Agreement;

The right to use, possess and enjoy, to the extent and in the manner provided for in this Lease and the Gateway CAM Agreement, Gateway's right, title and interest in and to the real property and improvements comprising the On-Site Parking;

The Naming Rights;

The sole and exclusive rights (except as specifically provided to the contrary herein) to the Arena Advertising and all broadcast and communication rights.

TO HAVE AND TO HOLD unto the Lessee for the Term, on and subject, nevertheless, to the terms, conditions, and provisions set forth in this Lease. Gateway acknowledges and agrees that Lessee has bargained for each of the items granted to Lessee by Gateway in this Section 2.1 and that each is an integral part of, and necessary for, Lessee's possession, use and quiet enjoyment of the Arena.

Section 2.2 Partial Release. Upon determination of the location of the exterior side of the exterior walls of the Arena Improvements which shall include the Arena Transformation Project and in no event later than thirty (30) business days of such determination, Gateway shall cause to be prepared and delivered to the Lessee a survey of a parcel of land (the "Arena Land") having as its perimeter a boundary five (5) feet distant from the exterior face of such exterior walls prepared in conformity with ALTA/ACSM standards and a legal description of such parcel. Promptly upon receipt thereof, Gateway and the Lessee shall execute, delivery, and cause to be recorded an amendment to this Lease releasing from the premises demised hereunder that any part of the Land not included within the Arena Land.

ARTICLE III

FINANCING ARRANGEMENTS; ARENA TRANSFORMATION BONDS

3.1 Approval of Financing. Lessee has approved all previous Financing Arrangements and hereby approves the new Financing Arrangements described in this Article III. Lessee shall have the right to review all proposed new Financing Arrangements which impact the Arena or modifications, refinancing or enhancements thereto of the existing Financing Arrangements, and Gateway shall deliver full and complete copies of all documents relative to such proposed new Financing Arrangements which directly impact the Arena or modifications, refinancing or enhancements thereto of the existing Financing Arrangements within a reasonable time after such documents are available. Within ten (10) Business Days after receipt of any proposed Financing Arrangement, Lessee shall notify Gateway whether it approves, in its reasonable discretion, of such proposed Financing Arrangement, or the reasonable objections thereto. In the event that Lessee fails to notify Gateway of any such objections to the proposed Financing Arrangement within such ten (10) Business Day period, the Financing Arrangement shall be deemed approved by Lessee. The foregoing shall not apply to the refinancing of existing Financing Arrangements provided the term of the existing debt is not extended and the amount of the existing debt is not increased.

3.2 Existing Arena Financing Arrangements.

(a) The County has issued the Arena Bonds to which Lessee has agreed \$48,130,000 of which are currently outstanding. In connection with the Arena Bonds, the County and Gateway have entered into a Revolving Loan Agreement dated as of September 24, 1992, as amended, September 15, 1994 (the "Revolving Loan Agreement") whereby the County has loaned to Gateway \$120,000,000 through its issuance of the Arena Bonds for purposes of constructing the Arena Improvements. Interest on the amounts advanced to Gateway pursuant to the Revolving Loan Agreement accrues, but is not to be paid by Gateway except through Gateway Net Revenues. Gateway's obligation to repay any amounts owed to the County under the Revolving Loan Agreement and the County's security for such payment (i) shall not be payable from or secured by the land and facilities comprising, or revenues from, the On-Site Parking, (ii) shall be subordinate to this Lease, the Gateway CAM Agreement, the Ballpark Lease and to payment and performance of all Gateway Obligations, and (iii) shall be payable solely from any Gateway Net Revenue.

(b) The County has also issued its \$65,000,000 Excise Tax Revenue Bonds, Series 2015 (Sports Facilities Improvement Project), by which the County has agreed, pursuant to Ohio Revised Code §307.696, to provide funds to Gateway to perform Major Capital Repairs at the Arena and the Ballpark and to provide funds for similar repairs by the City at First Energy Stadium. The source of repayment of the County Excise Tax Bonds shall be moneys received by the County from the levy of Excise Taxes approved by the voters of the County on May 6, 2014 and continuing for 20 years ("Excise Taxes").

3.3 Arena Transformation Project Financing. The County has agreed to work cooperatively with Gateway and the Lessee to issue the Arena Transformation Bonds to assist in financing the Arena Transformation Project more fully described in Article IV hereof. The total proceeds from Arena Transformation Bonds shall be not less than One Hundred Forty Million Dollars (\$140,000,000) and Lessee has agreed to pay any construction costs of the Arena Transformation Project over One Hundred Forty Million Dollars (\$140,000,000) subject to the provisions of Section 6.3 below. The terms of the Arena Transformation Project financing are set forth in the Agreement Regarding Transformation.

The Arena Transformation Bonds are expected to be issued by the County no later than October 15, 2017 and Lessee agrees to execute such documents and otherwise cooperate as may be reasonably necessary for the County to cause such issuance, and further to provide for Gateway's bidding of construction contracts in accordance with the provisions of Gateway's Bidding and Contracting Procedures set forth in Exhibit F and construction through Lessee as Project Manager (as defined in Section 7.2 hereof) of the Arena Transformation Project set forth in Article VII and distribution of proceeds set forth in the Agreement Regarding Transformation and further subject to Article VII hereof regarding Alterations. Notwithstanding anything above to the contrary, each of Gateway and Lessee hereby approve of The Whiting-Turner Contracting Company ("Whiting-Turner") as the authorized general construction contractor and Construction Manager for the Arena Transformation Project ("Construction Manager").

Acting as Project Manager of the Arena Transformation Project, Lessee commits that the Arena Transformation Project will be completed prior to the Scheduled Completion Date and within the Arena Transformation Budget. Lessee, as Project Manager, shall be responsible for damages, including cost overruns, should the Arena Transformation Project not be completed within the Arena Transformation Budget [due to an action or omission by Lessee as Project Manager]. Notwithstanding anything to the contrary as set forth above or elsewhere in this Lease, any damages, including cost overruns caused by Lessee in its capacity as Project Manager associated solely with the North Face Enclosure are subject to the Maximum Guarantee Test provision set forth in Section 6.3 hereof and the parties to this Lease shall work in good faith to ensure Lessee is not deemed to be the owner of the Arena for accounting purposes by non-compliance with the Maximum Guarantee Test.

ARTICLE IV

PARKING

4.1 Parking.

(a) Gateway shall provide not less than one thousand seven hundred (1,700) parking spaces in the Gateway East Garage (the "On-Site Parking"). Lessee and Operator shall have the exclusive use, without charge, of (i) the On-Site Parking for all events held at the Arena, and (ii) two hundred fifty (250) spaces of the On-Site Parking, selected by Lessee at all times. Gateway shall also provide, to the extent Gateway has the ability to provide it, free adequate parking for the part-time employees of Lessee, but such parking

may be more distant from the Arena than that provided to the full-time employees (the "Additional Parking").

(b) During any Dual Event, the Lessee agrees that Ballpark Lessee shall satisfy all its requirements from the On-Site Parking first and the Lessee shall satisfy any of its Lease requirements through remaining spaces available.

ARTICLE V

LEASE TERM

5.1 Initial Term. The "Initial Term" of the lease commenced August 1, 1994 (the "Commencement Date") and shall end on the 120th day after (i) the end of 2033-2034 season, or (ii) if one or more options to extend are exercised as provided in Section 5.2 hereof, the end of the fifth (5th) full season of such extended term. The Initial Term and any extension of the Initial Term are collectively the "Term." Upon execution of this Agreement, the parties shall execute and record an appropriate amended and restated Memorandum of Lease.

5.2 Extension Options. Provided the Lessee is not in default of its Obligations under the terms of this Agreement, Lessee and Gateway hereby acknowledge and agree that Lessee shall have two (2) successive five (5) year options to extend the terms and conditions of this Agreement and the Gateway CAM Agreement. The first such option to extend, if exercised by Lessee, shall commence August 1, 2034 and the succeeding option to extend, if exercised by Lessee, will follow in the consecutive five (5) year period thereafter. Lessee shall give notice, in writing, of its intent to exercise an option to extend not later than one (1) year prior to the termination date of the lease Term, or option term, as appropriate.

5.3 Title Upon Termination of Lease. Upon the termination of this Agreement, pursuant to Section 2.10(D) of the Three Party Agreement, Gateway and Lessee agree, subject only to approval of the County, that Gateway shall transfer its right, title and interest in the Arena to the County.

ARTICLE VI

RENT

6.1 Base Rent.

(a) Effective with the Effective Date and for the remainder of the Term of this Agreement, Lessee shall pay to Gateway each Calendar Year rent ("Base Rent") in an amount equal to the following:

- (1) the funds necessary in each such Calendar Year to permit Gateway to meet its obligations to Lessee under this Agreement and the Gateway CAM Agreement including Capital Repairs (but excluding all Major Capital Repairs);

- (2) the funds necessary in each such Calendar Year to permit Gateway to meet its obligations under Article XI of the Agreement to pay real estate taxes on the Arena Land parcel;
- (3) the funds necessary in each such Calendar Year to permit Gateway to pay mutually agreed upon overhead expenses allocated to the operation of the Arena (the "Gateway Overhead Expenses"); and
- (4) the funds necessary in each such Calendar Year to permit Gateway to pay the mutually agreed upon proportionate share of Game related and non-Game related common area expenses including, but not limited to, site security, insurance, maintenance, and capital maintenance at Gateway Plaza and mutually agreed upon items of capital repair (the "Common Area Expenses").

(b) In order to determine the actual amount of Rent to be paid Gateway pursuant to Section 6.1(a) above in each Calendar Year, Lessee and Gateway, with respect to the matters set forth in Section 6.1(a)(1) and (2) above, and Lessee, the Indians and Gateway with respect to the expenses set forth in Section 6.1(a)(3) and (4) above, shall agree, on an annual basis, upon a budget for each Calendar Year remaining in the Agreement less Gateway's Available Cash (the "Gateway Annual Budget"). The Gateway Annual Budget as agreed upon by Lessee, Gateway and with respect to Section 6.1(a)(3) and (4) expenses, the Indians, will be submitted to the Gateway Board of Trustees no later than November 15 of the year preceding the budgeted Calendar Year or as reasonably practical thereafter.

(c) The Base Rent for the Lessee shall be calculated by determining the amount, if any, by which "Gateway's Arena Related Expenditures" exceed "Gateway's Available Cash" as hereafter defined.

- (1) "Gateway's Arena Related Expenditures" for each such Lease Year consist of Gateway's actual expenditures for the following:
 - (a) 100% of actual expenditures during such Lease Year on account of its Obligations under the Lease relating to Arena Capital Repairs and Arena Real and Personal Property Taxes; provided that there shall be excluded from such amounts the portion of actual expenditures during such Lease Year on account of a Major Capital Repair project commenced or being constructed during such Lease Year.
 - (b) 50% of actual expenditures for annual operating and overhead items reflected in the Gateway Annual Budget approved by Lessee in accordance with the provisions of this Article VI for such Lease Year.

(2) "Gateway's Available Cash" for each such Lease Year consists of all cash or cash equivalents, other than Base Rent, actually available to Gateway for payment during such Lease Year or partial Lease Year of Gateway's Arena Related Expenditures.

(d) Gateway Annual Budget

- (1) At least 30 days prior to each Calendar year during the Term that commences on or after the first anniversary of the Effective Date, Gateway will prepare and submit to Lessee a proposed Gateway Annual Budget projecting Gateway's Available Cash and Gateway's Arena Related Expenditures. The Gateway Annual Budget for calendar year 2017, will be the annual budget for 2017 in effect pursuant hereto.
- (2) Each proposed Gateway Annual Budget for each Lease Year commencing on or after the first anniversary of the Effective Date will be deemed approved by Lessee except for the following, which must be approved by Lessee in writing:
 - (a) Each increase, other than an increase reflecting a contractual commitment existing as of the beginning of the then current Lease Year or reflecting inflation or any Arena Real or Personal Property Tax increase during the then current Lease Year, in any item of expenditure associated with operating and overhead expenditures of the type described in Section 6.1(c)(1)(b) over the amount for such item reflected in the immediately preceding Gateway Annual Budget.
 - (b) Inclusion of an item of expenditure associated with operating and overhead expenditures of the type described in Section 6.1(c)(1)(b) that was not included as an item in the immediately preceding Gateway Annual Budget, and the amount of the proposed expenditure for such item.
 - (c) Inclusion of any Arena Capital Repair and the proposed expenditures for such Arena Capital Repair.
 - (d) Inclusion of each item of expenditure for Common Area Expenses comprising a portion of Gateway's Arena Related Expenditures and the proposed expenditure for such item.
- (3) If, in connection with its review of a proposed Gateway Annual Budget, Lessee does not approve of any item of expenditure in accordance with Section 6.1(d)(2)(a) or disapproves of the inclusion of a new item of expenditure or the amount of the

proposed expenditure for such new item in accordance with Section 6.1(d)(2)(b), it will promptly notify Gateway and the parties will work cooperatively to reach agreement on the amount of any such increase or on the amount, if any, to be included on account of a new item. If the parties are unable to reach agreement on all such matters within 10 business days after such proposed Gateway Annual Budget is submitted to Lessee by Gateway, the matter will be subject to the dispute resolution process set forth in Section 6.2.

(e) Upon approval of the Gateway Annual Budget by Gateway, Lessee and, with respect to Section 6.1(a)(3) and (4) expenses above, the payments by Lessee will be made in equal monthly installments, in advance on the first of each month, or at such other times during the Calendar Year that the parties mutually agree upon, provided, however, that the January and July payment will include a sufficient amount to pay real estate taxes determined to be due under Article XI.

(f) In the event Gateway Board of Trustees and Lessee do not approve the Gateway Annual Budget as submitted for a Calendar Year, the parties shall attempt to mutually identify and resolve areas of disagreement between them and in the event no resolution can be reached, the parties agree to submit the disputed portion of the Gateway Annual Budget to binding arbitration through the AAA as set forth in Section 6.2 hereof. Lessee will continue to pay all non-disputed budget items during the dispute resolution process.

(g) The Gateway Annual Budget shall not include and Gateway will remain obligated to fund and to perform all Major Capital Repairs. In furtherance of this Agreement, Gateway worked with the County for the County's passage of the Excise Tax to be utilized for such purposes as set forth in Section 3.2 hereof. Gateway further agrees to use its best efforts to establish an appropriate reserve or sinking fund over the Term of this Agreement to fund Major Capital Repairs; provided, however, that Gateway's obligations to perform Major Capital Repairs shall not be limited to any such reserve or sinking fund, or as otherwise set forth in Article X hereof.

(h) Lessee will pay as Additional Base Rent any Emergency Repair occurring during the course of a relevant calendar year not provided for in the Gateway Annual Budget which would have been provided for had such expense been known at the time of the submission of the Gateway Annual Budget (unless such Emergency Repair constitutes a Major Capital Repair).

6.2 Base Rent Dispute Resolution. The following process governs disputes arising pursuant to Section 6.1 that are not resolved by the parties within 10 business days after a proposed Gateway Annual Budget is submitted to Lessee by Gateway:

(a) The parties will immediately attempt to mediate such dispute, using a mediator who is an individual experienced in the operation of businesses relating to the

ownership or lease of arenas or stadiums, is independent of and unrelated to either party or any of their respective Affiliates and is otherwise acceptable to both parties. The financial terms on which such mediator shall be retained will be agreed to by the parties and each party will be responsible for one-half of the fee and expenses of the mediator, subject to the further provisions of this Article XI. The mediator's authority shall be limited to facilitating and promoting an amicable resolution to the dispute submitted for mediation.

(b) If mediation pursuant to Section 6.2 fails to resolve the mediated dispute, the parties will submit such dispute to arbitration with AAA in accordance with the following and otherwise in accordance with the Arbitration Rules:

1. Within fifteen (15) days after the termination of mediation, the parties shall seek to identify and agree upon one mutually acceptable impartial third party who is an individual experienced in the operation of businesses relating to the ownership or lease of arenas or stadiums and, is independent of and unrelated to either party or any of their respective Affiliates to serve as sole arbitrator. If the parties are unable or fail to agree upon the arbitrator willing to serve in that capacity within such period, the arbitrator shall be selected by AAA.

2. The seat of the arbitration shall be Cleveland, Ohio and the Ohio Rules of Civil Procedure will apply. Except for any stenographer and the arbitrator, attendance at the arbitration shall be limited to the parties, their respective counsel and witnesses.

3. The arbitrator shall not be empowered to modify any rights or obligations of a party under any of the Lease or any Other Agreement.

4. The arbitrator shall issue a written decision, stating the reasons for the decision, upon completion of the arbitration proceedings. Any such award shall be final, binding and conclusive, and shall have the same force and effect as a judgment made in a court of competent jurisdiction.

5. For any dispute resolved by arbitration under this Section, the arbitrator shall award reasonable attorneys' fees and costs associated with the arbitration proceeding (including without limitation a party's share of fees charged by the arbitrator), to the party determined by the arbitrator to be the prevailing party. Pending such award of attorneys' fees and costs, all costs incurred for the services of any arbitrator shall be borne equally by the parties.

6. Any conflicts between the Arbitration Rules and this Section shall be resolved in favor of this Section.

7. No other disputes under this Lease shall be subject to arbitration.

6.3 Additional Rent. Lessee shall pay as Additional Rent the amounts, and on the dates, set forth on the Additional Rent Schedule attached hereto and made a part hereof

as **Exhibit I**. Such amounts are assigned by Gateway to the Trustee for the Lease Revenue Bonds and shall be paid directly to such Trustee.

Notwithstanding anything to the contrary set forth in this Lease, during the period of physical construction of the North Face Enclosure only, in no event shall Lessee be obligated to pay Lessor Additional Rent allocable solely to the construction of North Face Enclosure, or to satisfy the indemnification obligations in Article XVII (in all instances, only to the extent the amount or obligation exceeds the Maximum Guarantee Test defined below), unless the Maximum Guarantee Test, as calculated in accordance with generally accepted accounting principles in the United States ("US GAAP"), is satisfied at the time each applicable payment of Additional Rent is to be made by Lessee under this Lease, or at the time that any indemnification obligation is to be satisfied. If the Maximum Guarantee Test is satisfied for the applicable payment or obligation as evidenced by the then-incurred cost reports provided by Lessor and Lessee, the amounts due to Lessor shall be immediately due and payable (or in the event of an indemnification obligation, shall be immediately performed) and payments shall be deemed late if not received within thirty (30) days after the determination that the Maximum Guarantee Test is so satisfied. For purposes of this Lease, the "Maximum Guarantee Test" shall be deemed satisfied if the payment to be made by Lessee will not exceed 89.95% of the then-incurred North Face Enclosure Project Costs (as opposed to anticipated total Project Costs) that are properly capitalizable under US GAAP as of the date Lessee will make such payment to Gateway (after having adjusted such costs for any Force Majeure Costs (as defined above)

6.4 Contingent Rent. In the event certain defined revenue streams, together with other funds from applicable reserve accounts (each as set forth more particularly in the Agreement Regarding Transformation attached hereto as **Exhibit H**, and collectively referred to as "Cooperative Bond Revenue Sources"), are insufficient to pay the principal of, and interest on, certain of the Arena Transformation Bonds issued by the County to fund, in part, the Arena Transformation Project (specifically the Arena Transformation Bonds governed by Supplemental Trust Indenture No. 5 between the County and The Huntington National Bank, dated as of October 1, 2017), the trustee for the Arena Transformation Bonds will notify Gateway and the Lessee of such insufficiency on or before June 15 and December 15 of each year. If there is an insufficiency in any year, the Lessee shall pay to Gateway a payment of Assigned Contingent Rent (as defined in such Supplemental Trust Indenture) on or before the corresponding June 22 and December 22 of that year.

6.5 Base Rent and Additional Rent Offset During Construction Period.

Notwithstanding anything to the contrary as set forth above, Lessee, acting in its capacity as Project Manager to complete the North Face Enclosure shall lease back to Gateway those portions of the Arena Land constituting the North Face Enclosure during the Construction Period. The fair value of the portion of the Premises comprising the North Face Enclosure has been determined by the parties to be \$.0121 per square foot per month (the "Construction Rent Offset"). Lessee shall be entitled to the Construction Rent Offset against Base Rent otherwise due pursuant to Section 6.1 above, and/or Additional

Rent otherwise due pursuant to Section 6.3 above during the Construction Period only with respect to the North Face Enclosure, or solely the South Entrance, as applicable.

ARTICLE VII

ARENA TRANSFORMATION PROJECT; ALTERATIONS BY LESSEE

7.1 Arena Transformation Project. Lessee has proposed, and Gateway has agreed, to cooperate to construct the Arena Transformation Project and to use the funds from the Arena Transformation Bonds described in Section 3.3 for such purposes. Such funds shall be deposited with the Trustee for each of the Bonds and pursuant to the Trust Indenture for such Bonds and used as follows:

- (a) The Arena Transformation Project consists of the alterations, additions, renovations and improvements to the Arena more particularly described in Exhibit K.
- (b) Lessee agrees to use good faith efforts to work with Gateway and County on a process to distribute funds from the Arena Transformation Bonds, and Lessee will cooperate with such parties in obtaining such funds, including Lessee cooperating in good faith in pursuing the objectives outlined in inclusion policies set forth in the Community Benefits Memorandum of Understanding and Participation Guidelines, copies of which are attached as Exhibit L ("Community Benefits").
- (c) Lessee agrees to serve as Project Manager for the Arena Transformation Project on behalf of Gateway and in such capacity agrees to proceed with the foregoing construction and Gateway, for itself, and Lessee, as Project Manager, each agree to enter into construction contracts with qualified contractors chosen pursuant to the Gateway Bidding and Construction Procedures, and consistent with Community Benefits (the "Construction Agreement or Construction Agreements"). Each of Gateway and Lessee expressly approve of Whiting-Turner as the authorized general contractor and Construction Manager for the Arena Transformation Project subject to Whiting-Turner's agreement to comply with the Community Benefits and Gateway Bidding and Construction Procedures, together with prevailing wage requirements under Ohio law. Gateway Representative and Gateway Construction Consultant shall receive all information reasonably requested by Gateway regarding construction activities and be invited and be able to attend construction meetings held. Lessee, in its capacity as Project Manager, together with Gateway, shall work in good faith to meet the construction goals for minority and local participation as set forth in the Agreement Regarding Transformation. Lessee agrees to (i) provide all funds as necessary to Gateway and to (ii) indemnify and hold Gateway harmless with respect to all amounts determined to be due and owing pursuant to the Construction Contracts for any amounts over \$140,000,000 for the Arena Transformation Project subject to the provisions of Section 3.3 above, including any sales tax owing, and will so perform such Construction Agreements in its capacity as Project Manager.

- (d) Gateway agrees to provide funds necessary for the Arena Transformation Project solely from the Arena Transformation Bonds or the Lessee, if required, on or before the date they become due, to pay the construction amounts or other required payments listed in the Construction Agreements and Gateway will deposit the same in a segregated fund for the Construction Agreements. Gateway will deliver such funds to Lessee or to designated contractors, within 10 days of receipt.
- (e) Upon execution of the Construction Agreements provided for herein, Gateway has agreed to deliver an Ohio sales tax exemption certificate to the Contractors under the Construction Agreements. Gateway, however, makes no warranty or representation regarding the allowance of the Ohio and local sales tax exemption under any Construction Agreement. Accordingly, Lessee agrees to pay any and all sales taxes which may become due and agrees to defend and indemnify and hold harmless the Gateway from the payment of any such taxes.

7.2 Alterations and Additions by Lessee.

(a) Lessee, at its sole cost and expense, may make any alterations of or additions or improvements to the Arena Land or the Arena Improvements (“Alterations”), which do not (i) materially affect the aesthetics, sightlines, structure or systems of the Arena (unless approved by Gateway), (ii) materially increase the cost of Major Capital Repairs to the Arena or any of its Components, fixtures, equipment or any other improvements (unless approved by Gateway), or (iii) violate any laws, ordinances, or regulations. Lessee hereby agrees to perform or cause to be performed all such Alterations in a good and workmanlike manner, utilizing personnel with proper building trade credentials, and to pay for the same. Lessee agrees to indemnify and defend Gateway from and against mechanics’ liens, claims and any other costs and attorneys’ fees incurred by Gateway and related thereto, or other costs and expenses arising out of such performance.

(b) Before commencing any Alterations pursuant to Section 7.1(a) above, Lessee shall (i) comply with all legal requirements for improvements, including, but not limited to, procuring any required governmental permits, and (ii) obtain and furnish to Gateway a “Builder’s Risk” insurance policy (with a waiver of subrogation endorsement similar to the type referred to in Section 9.5 hereof), from an insurance carrier acceptable to Gateway and in form and substance acceptable to Gateway, in its reasonable discretion, covering all liabilities that may be incurred in connection with any such Alterations undertaken by Lessee naming Gateway as an additional insured.

(c) Lessee shall not place a load upon any floor or other surface in any part of the Arena Land and/or the Arena Improvements that exceeds the maximum weight per square foot that such floor or other surface area was designed to bear as determined by the design architect. Lessee shall comply with all such requirements and, where necessary, shall perform the reinforcing required for such installation at its cost and expense. Lessee shall install, place and maintain all items of personal property, fixtures or leasehold improvements which Lessee is required to install, place or maintain in the

Arena pursuant to this Agreement, in settings that are sufficient, to absorb and prevent vibration in or damage to the Arena. In the event such placements or installations cause such vibration or damage, Lessee shall, at its expense, take such steps as the design architect may reasonably direct to remedy any such condition.

7.3 Mutually Agreed Alterations. Gateway and Lessee may mutually agree to have Gateway perform Alterations. In such event, Gateway and Lessee will enter into an agreement, in form and substance satisfactory to both Gateway and Lessee, by which Lessee will serve as Gateway's agent to perform such Alterations and in its capacity as Gateway's agent will indemnify Gateway for any damages, costs or expenses arising out of the agreed Alterations. In addition, Gateway and Lessee will increase the Rent for each Calendar Year(s) affected to provide all funds for the costs and expenses of the agreed Alterations. Gateway and Lessee agree that the Arena Transformation Project is a Mutually Agreed Alteration.

7.4 Ownership of Alterations. All Alterations made by Gateway or Lessee pursuant to this Article VII shall be considered the property of Gateway for purposes of this Agreement and shall remain upon the premises for the duration of the Term; provided, however, that upon the termination or expiration of this Agreement for any reason, such Alterations, unless personal property or trade fixtures, shall become part of the Arena.

ARTICLE VIII

USE OF ARENA

8.1 Lessee's Use. During the Term, Lessee and its guests and invitees shall be entitled to the possession and use of the Arena Land and the Arena Improvements for the following purposes:

(a) to schedule and play Games, to schedule Special Events, and to conduct activities related to the playing of Games, the performance of Special Events and the maintenance of a professional NBA basketball team;

(b) to occupy and conduct day-to-day business operations in Lessee's office space within the Arena;

(c) to conduct any and all other activities which, from time to time during the Term, are associated with, or are conducted in connection with, or are related to, the conduct of the business of a NBA basketball team;

(d) to stage activities or events, except that Lessee shall not stage any activity or event (i) that is detrimental to the health, safety and welfare of the people at the Arena or (ii) that is detrimental to the physical plant and conditions of the Arena; and

(e) to use, without charge, the On-Site Parking as set forth in Section 4.1(a) hereof;

provided, however, that Lessee shall not occupy or use any portion of the Arena Land or the Arena Improvements (or permit the use or occupancy of any portion of the Arena Land or the Arena Improvements) for any purpose that will violate any federal, state or local law or that will affect the validity or tax exempt status of the Arena Transformation Bonds.

8.2 Gateway's Use. During the Term, Gateway and its guests and invitees shall be entitled to the possession and use of the Arena Land and the Arena Improvements to conduct and perform those activities reasonably necessary in connection with its rights and duties hereunder.

ARTICLE IX

INSURANCE AND SUBROGATION

9.1 Gateway's Insurance. Gateway shall maintain during the term of this Agreement, in full force and effect, in its name, insurance against damage or destruction to the Arena and Gateway's equipment and other personal property, improvements and betterments to the Arena owned by Gateway by providing "all risk" peril coverage in the amount of at least ninety percent (90%) of replacement cost, subject to deductible limits not to exceed Twenty-Five Thousand Dollars (\$25,000) unless the parties hereto respectively agree to increase such amount. Such insurance shall have an agreed amount endorsement.

Notwithstanding the foregoing, Gateway shall at all times maintain insurance in such amounts, with such coverages and other terms, and with such insurer, as may be required to be maintained by Gateway pursuant to each instrument or agreement constituting part of the Financing Arrangements to which Gateway, its successors and assigns, or the County is a party and shall cause all proceeds of such insurance to be available for use and used in accordance with all terms of this Agreement, as amended from time to time, before any other applicant of such proceeds.

9.2 Lessee's Insurance. Lessee shall, from and after the Effective Date, maintain in full force and effect, at its expense, "occurrence type" general liability insurance against bodily injury and property damage arising from occurrences in and about the Arena and covering Lessee's contractual liability for indemnification under this Agreement. Such insurance shall be written on a commercial general liability policy form to include premises operations, products and completed operations, personal injury/advertising injury, independent contractors and broad form property damage. The policy shall also contain a general aggregate per location of not less than Five Million Dollars (\$5,000,000) and a products/completed operations aggregate of not less than Two Million Dollars (\$2,000,000). The foregoing insurance shall name as additional insured Gateway, its Board of Trustees, its Executive Director and such other Affiliates as Gateway shall reasonably request.

9.3 Insurance Requirements.

(a) All policies of insurance required hereunder shall be written by carriers which are members of the Ohio Guaranty Fund and possess an A- policyholder's rating

or better and a minimum Class VII financial size category as listed at the time of issuance by A.M. Best Insurance Reports ("Best Reports") (the aforesaid rating classifications to be adjusted if and to the extent that Best Reports adjusts its rating categories).

(b) All policies shall provide that they may not be canceled, renewed or reduced unless at least thirty (30) days' notice thereof has been provided to the additional insureds. In no event shall any party be required to insure for liability limits in excess of coverage which is available at commercially reasonable rates. In the event that tort liability reform is adopted which makes the limits of liability hereinabove provided in excess of commercially reasonable and prudent limits of liability, such limits will be equitably reduced. The insurance policies required hereunder shall be reviewed on an annual basis to determine the adequacy of the coverage amounts.

9.4 Certificates. Not later than the date on which coverage is to be provided hereunder, the party required to provide same shall furnish to the other party a certificate evidencing the required coverage.

9.5 Waiver of Subrogation. Gateway and Lessee agree that all insurance policies against loss or damage to property and business interruption or rent loss, and all liability insurance policies required hereunder, shall be endorsed to provide that any release from liability of, or waiver of claim for, recovery from the other party entered into in writing by the insured thereunder prior to any loss or damage shall not affect the validity of said policy or the right of the insured to recover thereunder. Such insurance policies shall further provide that the insurer waives all rights of subrogation which such insurer might have against the other party. Without limiting any release or waiver of liability or recovery contained in any other section of this Agreement, but rather in confirmation and furtherance thereof, each of the parties hereto waives all claims for recovery from the other party for any loss or damage to any of its property or damages as a result of business interruption, rent loss or liability of the types covered in Section 9.2 above, insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance policies.

ARTICLE X

MAINTENANCE OF AND REPAIRS TO THE ARENA

10.1 Gateway Obligations; Lessee's Obligations. Gateway shall be responsible at its sole cost and expense for all Major Capital Repairs for the Arena. Lessee shall be responsible at its sole cost and expense for all Routine Maintenance and Capital Repairs for the Arena.

10.2 Maintenance and Repair Procedures.

(a) On or before finalization of the Annual Operating Budget for each Lease Year, and from time to time during the Term as Lessee or Gateway may reasonably request, not more often than once each Reporting Period, representatives of Lessee and Gateway shall meet to:

- (i) review a list of, and the proposed procedures for completing, any anticipated work constituting Routine Maintenance and Capital Repairs (which list shall be prepared by Lessee and delivered to Gateway prior to any such meeting);
- (ii) allocate any such anticipated work between Routine Maintenance, Capital Repairs and Major Capital Repairs;
- (iii) establish budgets and timetables for required Routine Maintenance, Capital Repairs and Major Capital Repairs, including a five year Major Capital Improvement Plan (“Major Capital Improvement Plan”); and
- (iv) establish necessary programs to generally effectuate the administration of the provisions of this Section.

(b) Gateway hereby agrees that Gateway shall use its best efforts to advise Lessee of its views as early as possible regarding Lessee’s performance of Routine Maintenance and Capital Repairs and Gateway’s performance of Major Capital Repairs.

(c) Pursuant to the Major Capital Improvement Plan, Lessee shall submit Major Capital Repairs requests as provided herein to be paid as provided in Section 3.2(b). Lessee will make such Major Capital Repair requests to Gateway no more frequently than semi-annually except in case of an Emergency Repair. Gateway agrees to review such requests, and may retain Gateway’s Construction Consultant to assist in such review, and have its Board of Trustees determine if the items submitted are Major Capital Repairs under this Lease. Lessee agrees to cooperate with Gateway in its review of such Major Capital requests and provide information requested by Gateway or its Construction Consultant to assist in such review, including records of Routine Maintenance for the items requested. Upon its determination, the Board will submit Major Capital requests it recommends for approval to the County for payment from the Excise Tax or Excise Tax Revenue Bond proceeds, subject to the County’s review and approval. For the avoidance of doubt, Gateway’s obligation to perform Major Capital Repairs in accordance with the provisions of this Article X shall not be limited in any manner including, but not limited to the existence of funds from the Excise Tax, and further including, but not limited to the Excise Tax Revenue Bond proceeds or proceeds from subsequent bond issuances secured by the Excise Tax.

(d) Performance of Major Capital Repairs. Except as otherwise provided herein, Gateway shall perform or cause to be performed all Major Capital Repairs required during the Term, at Gateway’s expense and pursuant to Gateway’s Bidding and Construction Procedures attached as Exhibit F. All work related to any Major Capital Repairs shall be done in a good workmanlike manner. Gateway hereby agrees to indemnify, defend and hold Lessee harmless from and against all costs and expenses (including attorneys’ fees) arising out of Gateway’s failure to perform such Major Capital Repairs provided, however, that the foregoing indemnity shall not apply: (i) with respect

to any Major Capital Repair that is the subject of a bona fide disagreement described in the definition of Major Capital Repair in Section 1.1 above pending final binding determination as provided thereunder, or (ii) is otherwise the subject of a bona fide disagreement between Gateway and Lessee as being a Capital Repair as described in the definition of Capital Repair in Section 1.1 above.

10.3 Capital Repairs Insurance Fund. Gateway and Lessee may establish and maintain an account (the "Capital Repairs Insurance Fund"), the purpose of which shall be to accumulate funds to be applied for the payment of the costs of Major Capital Repairs from funds solely provided pursuant to Article XV hereof.

10.4 Waste/Damage. During the Term, Lessee shall not, subject to ordinary wear and tear, do or suffer any waste or damage, disfigurement or injury to the Arena.

10.5 Lessee's Self-Help. If Gateway fails to perform any required Major Capital Repair, Lessee may perform such Major Capital Repair and shall be entitled to reimbursement therefor.

ARTICLE XI

REAL ESTATE AND PERSONAL PROPERTY TAXES

11.1 Payment. During the Term, subject to the receipt of Rent hereunder, Gateway shall pay when due all real estate taxes, personal property taxes (other than for tangible personal property owned or installed by Lessee), assessments and other governmental levies and charges, general and special, ordinary and extraordinary, of any kind or nature, lawfully levied or assessed by federal, state, county or municipal government, upon or with respect to the Arena and any and all other improvements (other than with respect to personal property owned by Lessee or improvements made by or on behalf of Lessee pursuant to Section 7.1 hereof) hereafter constituting a part of the Arena, any tax on Lessee's rights hereunder in the nature of a leasehold tax, or any taxes in lieu thereof (collectively, "Real and Personal Property Taxes"); provided, however, that if, because of any change in the method of taxation of real estate or personal property, any other or additional tax or assessment is imposed upon the Arena as or in substitution for, or in lieu of, any tax or assessment which would otherwise be included in Real and Personal Property Taxes, such other tax or assessment shall also be Gateway's responsibility. In the event Lessee's interest in the Gateway CAM Agreement is terminated as a result of a failure to pay Real and Personal Property Taxes, including, without limitation, a sale of the Arena by a foreclosure sale, and within sixty (60) days after such termination are not reinstated for the balance of the then remaining terms thereof on the same terms and conditions, Lessee shall be entitled to terminate this Agreement upon thirty (30) days prior written notice to Gateway. Without in any way limiting Lessee's rights and remedies provided for in Article XIII hereof, in the event Gateway fails to pay any Real and Personal Property Taxes when the same shall be due and payable, Lessee shall have the right, but shall have no obligation to pay the same or any of them, and upon such payment by Lessee, Gateway shall, immediately after proof of such payment shall have been submitted to Gateway by Lessee, and on demand therefor, pay Lessee the amount of any such payment so made by Lessee, with interest thereon at the Interest

Rate. Gateway shall cause the Arena Land and the Arena Improvements to be included in a tax parcel separate and distinct from other Gateway owned parcels.

11.2 Right to Contest. Notwithstanding the preceding Section 11.1, Gateway may, by appropriate proceedings, diligently prosecuted at its sole cost and expense, contest in good faith the validity or amount of any such Real and Personal Property Taxes and during the period of contest need not pay the items so contested and which remain unpaid so long as no foreclosure proceedings pertaining thereto are instituted. During the period when the Real and Personal Property Taxes so contested remain unpaid, Gateway shall set aside in a separate account maintained by a Permitted Escrow Agent adequate reserves with respect to such taxes, assessments or other charges. Lessee shall have the right to contest such Real and Personal Property Taxes at any time Gateway is not contesting, but subject to the same conditions and restrictions. In such instance Lessee shall be entitled to recover its costs and expenses solely from any tax savings resulting from such contest.

ARTICLE XII

RIGHT OF ENTRY AND INSPECTION

12.1 Gateway's Right of Entry and Inspection. In addition to its rights to use the Arena Land and the Arena Improvements as provided in this Agreement, Gateway and its agents and representatives (including representatives of the City and the County) shall have the right, at all times during usual business hours or at any other time in case of an emergency, to enter into and upon any and all parts of the Arena Land and the Arena Improvements for the purpose of inspecting the same, carrying out any of its obligations under this Agreement (including, without limitation, to make any Major Capital Repairs or as otherwise permitted, to be made by Gateway), or for any other legitimate reason related to the obligations of the parties hereto or the rights of Gateway under this Agreement. In the event Gateway enters the Arena Land and the Arena Improvements for the purpose of making any Major Capital Repair or as otherwise permitted, during the progress of such work Gateway and/or its agents and representatives shall be entitled to keep and store in areas mutually agreed upon by Lessee and Gateway in and upon the Arena Land and the Arena Improvements all necessary materials, tools and equipment.

ARTICLE XIII

DEFAULT AND REMEDIES

13.1 Default by Lessee. The occurrence of any one or more of the following events constitutes a default by Lessee under this Agreement ("Lessee Default"):

(a) (i) Failure by Lessee at any time to pay, when due, any sums payable by Lessee to Gateway hereunder, as Additional Rent or Contingent Rent and (ii) failure by Lessee at any time to pay any other sums due and payable by Lessee including Base Rent within five (5) Business Days after notice of such failure is given to Lessee by Gateway; provided, however, that Lessee shall not be in default with respect to payments other than Contingent Rent and Additional Rent being contested in good faith for the period of good faith contest;

(b) Failure by Lessee to observe or perform any other covenant, agreement, condition or provision of this Agreement, if such failure shall continue for more than thirty (30) days after Gateway's Notice to Lessee; provided, however, that Lessee shall not be in default with respect to matters that cannot be reasonably cured within thirty (30) days, so long as Lessee has promptly commenced such cure and diligently proceeds in a reasonable manner to complete the same thereafter;

(c) Lessee admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for Lessee or for a major part of its property;

(d) A trustee or receiver is appointed for Lessee or for a major part of its property and is not discharged within sixty (60) days after such appointment; or

(e) Bankruptcy, reorganization, receivership, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any federal or state bankruptcy law, or similar law for the relief of debtors, are instituted by or against Lessee, and, if instituted against Lessee, are allowed against it or are consented to buy it or are not dismissed within ninety (90) days after such institution.

13.2 Gateway's Remedies. If a Lessee Default occurs, in addition to any other rights or remedies Gateway may have at law or in equity, Gateway shall have the following rights:

(a) Gateway may enforce the provisions of this Agreement and may enforce and protect the rights of Gateway hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, including injunction, recovery of monetary damages and all moneys due or to become due from Lessee under any of the provisions of this Agreement, or any other relief or remedies to the extent permitted by law, by filing a cause of action or actions for such damages, equitable relief, or other appropriate remedies or relief from Lessee in any court of competent jurisdiction in the State of Ohio.

(b) After the time when Gateway has given notice and any applicable grace period provided has expired, if any sums payable by Lessee shall remain due and payable, or after the time for performance by Lessee of any other term, covenant, provision or condition of this Agreement, or before the expiration of that time in the event of a bona fide emergency (in which case Gateway shall only be required to give such notice as is reasonable and practical under the circumstances), Gateway may, at Gateway's election (but without obligation), make any payment required of Lessee under this Agreement, or perform or comply with any covenant or condition imposed on Lessee under this Agreement, as Gateway deems available. The amount so paid plus the cost of such performance or compliance, plus interest on such sums at the Interest Rate, shall be deemed to be additional rent payable by Lessee immediately upon demand. No such payment, performance or observance by Gateway shall constitute a waiver of default or of any remedy for default or render Gateway liable for any loss or damage resulting from

any such act. Gateway may, with notice to Lessee and at any time or from time to time, charge, set off and otherwise apply all or any part of any of Gateway's Obligations against Lessee's Obligations now or in the future.

(c) No termination of this Agreement shall deprive Gateway of any of its remedies or actions against Lessee for past or future rent or other sums due from Lessee hereunder, nor shall the bringing of any action for rent or other sums or other Lessee Default be construed as a waiver of the right to obtain possession of the Arena.

13.3 Default by Gateway. The occurrence of any one or more of the following events constitutes a default by Gateway under this Agreement ("Gateway Default"):

(a) Failure by Gateway at any time to pay, when due, any sums payable by Gateway to Lessee hereunder, if any, within five (5) Business Days after notice of such failure is given to Gateway by Lessee provided, however, that Gateway shall not be in default with respect to payments being contested in good faith for the period of good faith contest;

(b) Failure by Gateway to observe or perform any other covenant, agreement, condition or provision of this Agreement, if such failure shall continue for more than thirty (30) days after notice to Gateway; provided, however, that Gateway shall not be in default with respect to matters that cannot be reasonably cured within thirty (30) days, so long as Gateway has promptly commenced such cure and diligently proceeds in a reasonable manner to complete the same thereafter;

(c) Gateway admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for Gateway or for a major part of its property;

(d) A trustee or receiver is appointed for Gateway or for a major part of its property and is not discharged within thirty (30) days after such appointment; or

(e) Bankruptcy, reorganization, receivership, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any federal or state bankruptcy law, or similar law for the relief of debtors, are instituted by or against Lessee, and, if instituted against Lessee, are allowed against it or are consented to buy it or are not dismissed within ninety (90) days after such institution.

(f) Failure by Gateway to observe or perform any other covenant, condition, agreement with respect to any current or future Financing Arrangement, after expiration of any applicable cure period as provided in the Financing Arrangement instruments.

13.4 Lessee's Remedies. If a Gateway Default occurs, in addition to any other rights or remedies Lessee may have at law or in equity, Lessee shall have the following rights:

(a) Lessee may enforce the provisions of this Agreement and may enforce and protect the rights of Lessee hereunder by a suit or suits in equity or at law for the specific

performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of monetary damages and all moneys due or to become due from Lessee under any of the provisions of this Agreement, or any other relief or remedies to the extent permitted by law, by filing a cause of action or actions for such damages, equitable relief, or other appropriate remedies or relief from Gateway in any court of competent jurisdiction in the State of Ohio.

(b) After the time when Lessee has given notice and any applicable grace period provided has expired, if any sums payable by Gateway shall remain due and payable, or after the time for performance by Gateway of any other term, covenant, provision or condition of this Agreement, or before the expiration of that time in the event of a bona fide emergency (in which case Lessee shall only be required to give such notice as is reasonable and practical under the circumstances), Lessee may, at Lessee's election (but without obligation), make any payment required of Gateway under this Agreement, or perform or comply with any covenant or condition imposed on Lessee under this Agreement, as Lessee deems available. The amount so paid plus the cost of such performance or compliance, plus interest on such sums at the Interest Rate, shall be payable by Gateway immediately upon demand. No such payment, performance or observance by Lessee shall constitute a waiver of default or of any remedy for default or render Lessee liable for any loss or damage resulting from any such act. Lessee may, with notice to Gateway and at any time or from time to time, charge, set off and otherwise apply all or any part of any of Lessee's Obligations against Gateway's Obligations now or in the future.

(c) No termination of this Agreement shall deprive Lessee of any of its remedies or actions against Gateway for past or future sums due to Lessee from Gateway hereunder.

13.5 General Provisions.

(a) No right or remedy herein conferred upon, or reserved to, Gateway or Lessee is intended to be exclusive of any other right or remedy, but each shall be cumulative and in addition to every other right or remedy given herein or now or hereafter existing at law, or in equity or by statute; provided, however, that neither Gateway nor Lessee shall have any right to cancel, rescind or otherwise terminate this Agreement due to a breach of this Agreement by the other party except as otherwise specifically set forth in this Agreement.

(b) No waiver by either party of any breach of obligations, agreements or covenants herein shall be a waiver of any subsequent breach of any obligation, agreement or covenant, nor shall any forbearance by either party to seek a remedy for any breach by the other party be a waiver by such party of any rights or remedies with respect to such or any subsequent breach, nor shall any express waiver by either party be deemed to apply to any other existing or subsequent right to remedy any default by the other party, nor shall any waiver be either party of any default or breach by the other party in the

performance of any of the covenants or obligations of such other party under this Agreement be deemed to have been made by the party against which the waiver is sought to be charged unless contained in a writing executed by such party.

(c) In the event that either party fails to pay any payment required hereunder when due, then, without limiting any other rights of the non-defaulting party, the defaulting party shall be liable for interest thereon at the Interest Rate from the date that such installment was due until the date paid in full.

ARTICLE XIV

SURRENDER OF ARENA

14.1 General. Upon the expiration or termination of this Agreement (by lapse of time or otherwise) Lessee shall peaceably deliver up and surrender the Arena Land and the Arena Improvements to Gateway in good order and repair and in the same condition as upon the Effective Date, ordinary wear and tear excepted; provided, however, that nothing contained herein shall be construed as an obligation by Lessee to repair the Arena Improvements prior to such surrender except to the extent that such obligations are specifically imposed upon Lessee hereunder. Lessee shall surrender to Gateway all keys for the Arena Improvements at the place then fixed for the receipt of notices by Gateway, and shall notify Gateway in writing of all combinations of locks, safes and vaults, if any. Lessee's obligations to observe and perform the covenants set forth in this Article XIV shall survive the expiration or earlier termination of this Agreement (by lapse of time or otherwise).

14.2 [Reserved.]

14.3 Lessee's Property. Upon the expiration or termination of this Agreement (by lapse of time or otherwise), Lessee may remove all property which is owned by Lessee and which Lessee is permitted to remove from the Arena Land and the Arena Improvements under the provisions of this Agreement and, in such event, repair any damage caused to the Arena due to the removal of such property at Lessee's expense. If Lessee fails to remove such property, such property shall be deemed abandoned by Lessee and Operator. Gateway may, at its option, (a) cause that property to be removed at no expense to Lessee, (b) sell all or any part of such property at public or private sale, without notice to Lessee; or (c) declare that title to such property shall be deemed to have passed to Gateway.

14.4 Abandoning Premises or Personal Property. Lessee shall not vacate or abandon the Arena Land and the Arena Improvements at any time during the Term, but if Lessee vacates or abandons the Arena or is dispossessed by process of law, in breach of this Agreement, any personal property owned by Lessee which may be left on the Arena Land and within the Arena Improvements following such abandonment or dispossession shall be deemed to have been abandoned by Lessee, and in that event such property shall be disposed of by Gateway in accordance with the provisions of Section 14.3 hereof. Gateway agrees that Lessee shall not be deemed to have abandoned or vacated the Arena Improvements during any period of non-use between Seasons.

ARTICLE XV
DAMAGE TO ARENA

15.1 If any Property Damage shall occur:

(a) All proceeds from property insurance required to be obtained hereunder paid on account of such damage shall be paid to Gateway to be held in escrow accounts with Permitted Escrow Agents and invested in Permitted Investments, including the Bond Escrow Accounts, and applied in the following manner:

- (i) there shall be paid from said insurance proceeds such part thereof as shall equal the cost of making such temporary repairs or doing such other work as in the reasonable opinion of the Project Architect (or such other architect selected by Gateway and approved by Lessee) may be necessary in order to protect the Arena pending the adjustment of the insurance loss or the making of permanent repairs, restoration or reconstruction of the Arena;
- (ii) there shall be paid from said insurance proceeds such part thereof as shall equal the cost of repairing, restoring or reconstructing the Arena or of any part thereof or of erecting a new building or structure or improvement or part thereof so that upon completion of such repairs, restoration, reconstruction, or erection the building or structure or improvement shall be equal to the value of the replacement value of the building or structure or improvement;
- (iii) payments pursuant to paragraphs (i) or (ii) of this Subsection (a) from such insurance proceeds shall be made by Gateway from time to time as the work progresses in amounts equal to the cost of labor and materials incorporated into and used in such work and builders', architects' and engineers' fees and other charges in connection with such work upon delivery to Gateway of a certificate of an authorized architect in charge of such work certifying that the amounts so to be paid are payable in accordance with the provisions of this Article XV and that such amounts are then due and payable and have not theretofore been paid.

(b) All insurance proceeds paid to Lessee on account of such Property Damage shall be held in trust by Lessee for the benefit of Gateway and shall be paid immediately by Lessee to Gateway.

(c) In the event that any of the insurance proceeds paid by the insurance companies shall remain after the completion of such repairs, restoration, reconstruction or erection, the excess shall be deposited in the Capital Repairs Insurance Fund to be established in such event and used for the purposes set forth therein as set forth in Article X hereof.

(d) In the event that the insurance proceeds paid, as hereinabove provided, together with the funds available in the Capital Repairs Insurance Fund are insufficient for making such permanent repairs, restoration or reconstruction or erection and no party is willing to provide the additional funds needed therefor, Gateway or Lessee shall notify the other party of such determination in writing and thereupon this Agreement shall cease and terminate and all future Rent and other amounts due by Lessee hereunder shall cease as of the date of such written notice and the total insurance proceeds so paid shall be used first, to pay the principal, interest and redemption premiums, if any, on any outstanding Financing Arrangements and the Lease Revenue Bonds and any remaining proceeds shall be allocated equitably between Gateway and Lessee.

ARTICLE XVI

MAINTENANCE OF GOOD STANDING WITH NBA; TRANSFER OF FRANCHISE

16.1 Maintenance of Good Standing with NBA. As long as the Lessee is a tenant of the Arena pursuant to this Lease, Lessee shall maintain a basketball team in good standing as a member of the NBA.

16.2 Transfer of Franchise. Notwithstanding any other provision of this Agreement, Lessee agrees as follows:

(a) Lessee shall cause the Team, from and after the Effective Date and until the expiration of the Term of this Agreement (by lapse of time or otherwise), to play all of its Home Dates during each Season at the Arena; provided, however, that it shall not be a violation of this Agreement in the event Team plays a Game that would otherwise be a Home Date(s) in connection with any NBA sanctioned or required appearances internationally ("NBA International Games"). Lessee shall use its commercially reasonable efforts to minimize the frequency and amount of NBA International Games; and

(b) Lessee agrees that Gateway does not have an adequate remedy at law for breach of this Article XVI, Lessee further agrees that in the event of a violation of this Article XVI, Gateway shall be entitled to seek and obtain an injunction from a court of competent jurisdiction to enjoin any violation of this Article XVI.

ARTICLE XVII

INDEMNIFICATION

17.1 Lessee Indemnification. Subject to the limitations hereinafter set forth, Lessee hereby agrees to indemnify and hold harmless Gateway, its officers, trustees, employees and agents from and against all loss, cost and expense in connection with proceedings, judicial or otherwise, and claims, demands and judgments, together with costs and expenses including attorneys' fees relating thereto, arising out of damage or injury to person or property occurring in

or about the Arena which occurs after the Effective Date and while the Agreement is in effect. Notwithstanding the foregoing, in no event shall the foregoing indemnification obligation be applicable to any loss, cost or expense arising out of (1) any Excluded Occurrences or (ii) injury or damage to the extent covered by insurance provided by Gateway under Section 9.1(a) hereof.

17.2 Gateway Indemnification. Gateway hereby agrees to indemnify, defend and hold Lessee employees and agents harmless from and against all loss, cost and expense in connection with proceedings, judicial or otherwise, and claims, demands and judgments, together with costs and expenses including attorneys' fees, arising solely out of any Excluded Occurrence which occur while this Agreement is in effect.

17.3 [Reserved].

17.4 Procedure Regarding Indemnification.

(a) If the Indemnified Party shall discover or have actual notice of facts giving rise or which may give rise to a claim for indemnification under this Article XVII, or shall receive notice of any Action, with respect to any matter for which indemnification may be claimed, the Indemnified Party shall, within twenty (20) days following service of process (or within such shorter time as may be necessary to give the Indemnifying Party a reasonable opportunity to respond to such service of process) or within twenty (20) days after any other such notice, notify the Indemnifying Party in writing thereof together with a statement of such information respecting such matter as the Indemnified Party then has; it being understood and agreed that any failure or delay of the Indemnified Party to so notify the Indemnifying Party shall not relieve the Indemnifying Party from liability hereunder except and solely to the extent that such failure or delay shall have materially adversely affected the Indemnifying Party's ability to defend against, settle, or satisfy any such Action. Following such notice, the Indemnifying Party shall have the right, at its sole cost and expense, to contest or defend such Action through attorneys, accountants, and others of its own choosing (the choice of such attorneys, accountants, and others being subject to the approval of the Indemnified Party, such approval not to be unreasonably withheld) and in the event it elects to do so, it shall promptly notify the Indemnified Party of such intent to contest or defend such Action. If within twenty (20) days following such notice from the Indemnified Party (or within such shorter time as may be necessary to give the Indemnified Party a reasonable opportunity to respond to service of process or other judicial or administrative action), the Indemnified Party has not received notice from the Indemnifying Party that such Action will be contested or defended by the Indemnifying Party, the Indemnified Party shall have the right to (i) authorize attorneys satisfactory to it to represent it in connection therewith or (ii) at any time settle, compromise, or pay such action, in either of which events the Indemnified Party shall be entitled to indemnification therefor subject to this Section 17.3.

(b) In the event and so long as the Indemnifying Party is actively contesting or defending against an Action as hereinabove provided, the Indemnified Party shall cooperate with the Indemnifying Party and its counsel in such contest or defense, shall

join in making any appropriate counterclaim or cross-claim in connection with the Actions, and shall provide such access to the books and records of the Indemnified Party as shall be necessary in connection with such defense or contest, all at the sole cost and expense of the Indemnifying Party. Notwithstanding that an Indemnifying Party is actively conducting such defense or contest, any Action may be settled, compromised or paid by the Indemnified Party without the consent of the Indemnifying Party; provided, however, that if such action is taken without the Indemnifying Party's consent, its indemnification obligations in respect of such claim shall thereby be nullified. Any such Action may be settled, compromised, or paid by the Indemnifying Party without the Indemnified Party's consent, so long as such settlement or compromise does not cause the Indemnified Party to incur any present or future material cost, expense, obligation or liability of any kind or nature.

(c) In the event any Action involves matters partly within or partly outside the scope of the indemnification by the Indemnifying Party hereunder, then the attorneys' fees, costs, and expenses of contesting or defending such Action shall be equitably allocated between the Indemnified Party and the Indemnifying Party.

17.5 Limitation. Indemnification under this Article XVII does not include indemnification against loss or liability due to Force Majeure.

ARTICLE XVIII

ASSIGNMENT

18.1 Assignment by Lessee. Lessee shall not assign this Agreement, in whole or in part, with or without consideration, to any Person, without the prior written consent of Gateway which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Gateway's consent shall not be required if (a) the proposed assignee shall have acquired the NBA franchise now held by Lessee in accordance with NBA Rules, (b) the NBA shall have approved the assignment, and (c) such assignee assumes all of Lessee's obligations under this Agreement and agrees to be bound by this Agreement. Upon the assignment of the Agreement by Lessee with the consent of Gateway, or to another party where consent is not required, the liability of Lessee shall cease with respect to liabilities accruing from and after the effective date of such assignment.

18.2 Subletting. Lessee shall not sublease all or any part of the Arena Land and the Arena Improvements, nor permit other persons to occupy or conduct business in the Arena or any part thereof, except as expressly permitted by this Agreement or with the prior written consent of Gateway, which consent shall not be unreasonably withheld.

18.3 Assignment by Gateway. Gateway shall have the right to assign and transfer its rights under and interest in this Agreement, and pledge any Additional Rent or Contingency Rent or other sums to which Gateway is entitled under this Agreement or any other interest Gateway has in this Agreement, in whole or in part, as security for the repayment of the Arena Transformation Bonds or other Financing Arrangements, including the County Arena Bonds, or other Financing Arrangements approved by Lessee for the costs of the design and construction of

the Arena Improvements, the Arena Transformation Project, or any Major Capital Repair (including, without limitation, any letter of credit issued to secure such Financing Arrangements). All costs incurred in connection with any such pledge shall be the sole responsibility of Gateway. Gateway shall also have the right to assign and transfer its right, title and interest in and to this Agreement, in whole or in part, to the City or the County subject to the Three Party Agreement.

18.4 Assignees and Subtenants. If Gateway consents at any time to any assignment or sublease as defined in this Article XVIII, Lessee and any such assignee or sublessee, in addition to any other consideration that may pass between them in connection therewith, shall be deemed to have covenanted not to make any further assignment or sublease contrary to the provisions of this Article XVIII. Such covenant shall be deemed to have been made as of the date of such consent by Gateway, and shall take effect prospectively from the date thereof. In addition, if any assignee of this Agreement is not a limited liability company, the covenants and warranties by Lessee set forth in Article XXVII hereof shall be appropriately modified to take into account the nature of the assignee.

18.5 Restructuring of Lease. The Lessee may cause the assets of the Lessee which include the Team, as a team and NBA franchise, to be contributed or otherwise transferred to a corporation, partnership or other entity which is an Affiliate of the Lessee as constituted immediately prior to said transaction, and to assign this Lease in connection with any such transfer, without Gateway's consent, provided that the Lessee shall promptly notify Gateway of any such transaction and delivery to Gateway a copy of the instrument whereby the assignee assumes and agrees to perform all obligations of the Lessee under this Lease from and after the date of the assignment and any approval required by the NBA. Upon such transfer or assignment, the liability of the Lessee shall cease with respect to liabilities accruing from and after the effective date of such assignment.

18.6 Injunctive Relief. The Lessee agrees that Gateway does not have an adequate remedy at law for breach of Section 18.1 of this Lease. The Lessee further agrees that in the event of a threatened violation of Section 18.1, Gateway shall be entitled to seek and obtain an injunction from a court of competent jurisdiction to enjoin any violation of section 18.1 of this Lease.

ARTICLE XIX

EMINENT DOMAIN

19.1 Termination for Condemnation. In the event that a Condemnation with respect to any material part of the Arena Land and the Arena Improvements and the On-Site Parking shall occur at any time during the Term, this Agreement shall terminate (except as hereinafter provided below), on the date on which possession is required to be delivered to the condemning authority. As used herein, "material part" shall mean any of the following:

- (a) Any part of the Arena Land and the Arena Improvements [that, in the reasonable determination of Lessee, would cause Lessee to become unable to make use of

the Arena Land and the Arena Improvements for its intended operations or to experience a material loss of revenue (specifically including, without limitation, a reduction by twenty percent (20%) or more in the number of seats available in the Arena or loss of any material portion of the concourse areas) (after the Arena Transformation Project)];

(b) Any part of the area between the Arena Improvements and a public street or highway, Condemnation of which would cause Lessee to become unable to provide sufficient access to the Arena Land and the Arena Improvements; or

(c) Any portion of the Gateway Common Areas the loss of which results in fewer than 1,700 parking spaces being available on the same terms and conditions as the On-Site Parking to Lessee of equal quality and no greater distance from the Arena than the On-Site Parking, such parking being available to the Lessee on the same terms and conditions as the On-Site Parking;

provided, however, that Lessee may elect in its sole discretion not to treat any of the foregoing as a “material part” of the Arena Land and the Arena Improvements, in which event this Agreement shall not terminate; provided further, in the event that, within one hundred eighty (180) days following a Condemnation of any “material part” as described in Section 19.1(b) or (c) above, Gateway shall (i) restore such “material part” to a complete architectural unit, and (ii) replace any portion of such “material part” which is no longer available for use by the Lessee, all in a manner satisfactory to the Lessee in its reasonable judgment, this Lease shall not terminate. If this Agreement terminates pursuant to the provisions of this Section 19.1, all rights, obligations and liabilities of the parties hereto shall end as of the effective date of such termination, without prejudice to any rights which have accrued prior to such termination.

19.2 Allocation of Award; Liquidated Damages. The amount of any award for or on account of any Condemnation shall be first used to pay the principal, interest and redemption premiums, if any, on the Arena Transformation Bonds and Arena Bonds and the remaining proceeds shall be shared equitably between Gateway and Lessee. Lessee shall have the right to be represented by counsel of its choosing in any Condemnation proceedings.

19.3 Performance of Work. If there shall be a Condemnation and this Agreement shall not terminate as a result thereof, Gateway shall be required to perform any and all work necessary to restore the Arena Land and the Arena Improvements to a complete architectural unit suitable for Lessee’s use in as expeditious a manner as possible.

19.4 Temporary Taking. This Agreement shall not terminate by reason of a temporary taking of the Arena Land and the Arena Improvements or any portion thereof for public use, except as provided in this Section 19.4. In the event of such a temporary taking, the rights and obligations of the parties under this Agreement shall continue in full force and effect, except that:

(a) any award for such temporary taking shall be governed by the provisions of Section 19.2 hereof; and

(b) upon the termination of such temporary taking, Gateway shall use its reasonable efforts to restore the Arena Land and the Arena Improvements to a state

equivalent to that which the Arena Land and the Arena Improvements were in immediately prior to such temporary taking; and

(c) during any period of a temporary taking (or such longer period as is reasonably necessary to allow Lessee to make suitable alternate arrangements), Lessee shall be entitled to make arrangements for an alternate site for the Arena Events, on the same terms and conditions as provided in Article XX hereof.

Notwithstanding the foregoing, Lessee shall have the right to terminate this Agreement as of the last day of any calendar month if the remaining period of such temporary taking will be for a period of more than one hundred twenty (120) days during a Season or a total of one hundred eight (180) days, as the case may be, as evidenced by the issuance of any written statement by a duly authorized official of the condemning authority to the effect that such temporary taking will be for such period of time.

ARTICLE XX

UNTENANTABILITY

If the Arena Land and the Arena Improvements are untenable in whole or in any material part as a result of any Major Capital Repair or the event or events which gave rise thereto (including any Major Capital Repair necessitated by any of the events set forth in Article XIX hereof), then Lessee shall make arrangements for an alternate site for its Arena Events during the period of such untenability (or such longer period as is reasonably necessary to allow Lessee to make suitable alternate arrangements). During the period in which Lessee is playing its games at an alternate site, Lessee will not be responsible for any obligations accruing under this Agreement. In the event that untenability caused by a Major Capital Repair or the event or events which gave rise thereto (other than a Major Capital Repair necessitated by the events set forth in Article XIX hereof) continues for a period of one hundred twenty (120) days during a Season or a total of one hundred eighty (180) days, as the case may be, Lessee may at its option, exercised in its reasonable discretion, terminate this Agreement upon thirty (30) days' prior written notice to Gateway. If untenability is caused by any Major Capital Repair necessitated by the events set forth in Article XIX hereof, Lessee's right to terminate this Agreement shall be governed by Article XIX hereof. This Section shall not apply to any untenability caused by the Arena Transformation Project, and in such case, this Lease shall continue in full force and effect.

ARTICLE XXI

NAMING RIGHTS AND ARENA RELATED REVENUES

21.1 Naming Rights Agreement. Lessee and Gateway acknowledge and agree that naming rights for the Arena were previously controlled and conferred to Lessee pursuant to that certain Arena Naming Rights Agreement dated as of December 9, 1996 but effective as of September 15, 1994, by and among Gateway and Cavs/Gund Arena Company, a division of Gund Business Enterprises, Inc. f/k/a Cavaliers Division of Nationwide Advertising Service, Inc., predecessor-in-interest by merger to Lessee (the "Naming Rights Agreement"). In the event

of any conflict between the Naming Rights Agreement and this Agreement, the terms of this Agreement shall control.

21.2 Modifications to Naming Rights Agreement. Commencing September 15, 1994, and continuing through expiration of the Term of this Agreement, at no further cost to Lessee, Lessee shall have the exclusive right, title and interest to the Naming Rights. Gateway and Lessee agree that (a) any and all purchase price payments due Gateway under the terms of the Naming Rights Agreement are deemed satisfied and paid in full; (b) any and all rights retained by Gateway under Paragraph 7 of the Naming Rights Agreement are hereby deemed terminated and of no further force and effect; (c) Gateway will not be responsible for the cost of acquiring, installing, monitoring or replacing signage that is not already in place in conjunction with the Naming Rights Agreement or acquiring, installing, monitoring or replacing any new signage; (d) any and all right to change the name of the Arena from its current name as "Quicken Loans Arena" shall be exclusively reserved to Lessee; and (e) any and all revenue paid to the Lessee as a result of the Lessee's sale, in whole or in part, of naming rights within the Arena shall be exclusively retained by and reserved to Lessee.

21.3 Outside Sign. Lessee shall have the right to design and erect on the Gateway Common Areas at its own expense one (1) outdoor sign publicizing the Team. The design and location of such sign shall be subject to mutual agreement between the Lessee and Gateway. Gateway and the Lessee shall cooperate in obtaining all approvals, governmental or otherwise, for the erection or maintenance of the sign.

21.4 Broadcast Fees. All rights and other fees and arrangements relating to the production and distribution of the Team's basketball games for commercial television, noncommercial television (by over-the-air, cable or otherwise), including direct sales of advertising by Lessee, radio broadcast or any other media fees and revenues, and any income attributable to such broadcasts (whether in or out of the local market) ("Broadcast Fees") shall be retained and exclusively controlled by Lessee.

21.5 Arena Related Revenues. For the avoidance of doubt, in addition to revenue from the sale of Naming Rights as set forth in Section 21.2 above and Broadcast Fees as set forth in Section 21.4 above, Lessee shall retain all revenue generated by its operation and management of the Arena, including but not limited to, Arena Advertising, revenue generated from the sale of tickets to Games and Special Events, rental fees and related revenues associated with the staging of Special Events, and sale of Concessions. Lessee shall have the sole right to select the ticketing company for the Arena.

ARTICLE XXII and ARTICLE XXIII

[RESERVED]

ARTICLE XXIV

REPRESENTATIONS BY LESSEE

Lessee represents and warrants as follows, as of the date hereof and at all times from and after the date hereof until the expiration or termination of this Agreement:

24.1 Valid Existence. Lessee is a limited liability company duly organized and validly existing under the laws of the State of Delaware and licensed to do business in the State of Ohio, and is in full force and effect. Lessee has full limited liability company power to own its property and conduct its business as presently conducted.

24.2 Power; No Limitation on Ability to Perform. Lessee has full limited liability company power and authority to execute and deliver this Agreement and to carry out and perform all of the terms and provisions of this Agreement, and all transactions contemplated hereby, to the extent required to be carried out or performed by Lessee. Subject to satisfaction of the requirements of Article XXXI hereof, (a) neither Lessee's limited liability company agreement or articles of formation, nor any rule, policy, constitution, by-law or agreement of the NBA, nor any other agreement, law or other rule in any way prohibits, limits or otherwise affects the right or power of Lessee to enter into and perform all of the terms and provisions of this Agreement and each document, agreement and instrument executed and to be executed by Lessee in connection herewith, and all transactions contemplated hereby and thereby, and (b) neither Lessee nor any of its members, or stockholders of any corporate member, officers, directors or any of their personal or legal representatives are party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument which could prohibit, limit or otherwise affect the same. Except for the approval required by Article XXXI hereof, no consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other Person is required for the due execution, delivery and performance by Lessee of this Agreement or any other agreement, document or instrument executed and delivered by Lessee in connection herewith, or any of the transactions contemplated hereby or thereby.

24.3 Valid Execution. The execution and delivery of this Agreement by Lessee has been duly and validly authorized by all necessary action. This Agreement and all other agreements, documents and instruments executed and delivered by Lessee in connection herewith are, and each other agreement, document or instrument to be executed and delivered by Lessee in connection herewith when executed and delivered will be, legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with their respective terms.

24.4 Defaults. The execution, delivery and performance of this Agreement and each agreement, document and instrument executed and to be executed and delivered by Lessee in

connection herewith (a) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (i) any agreement, document or instrument to which Lessee is a party or by which Lessee's assets may be bound or affected, (ii) any law, statute, ordinance or regulation applicable to Lessee, or (iii) the articles of formation or limited liability company agreement of Lessee, and (b) do not and will not result in the creation or imposition of any lien or other encumbrance upon the assets of Lessee.

24.5 Compliance with Laws. Lessee shall comply, at all times, with all laws and regulations applicable to its construction of the Arena Transformation Project, Major Capital Repairs and its use of the Arena in accordance with the terms of this Agreement, and shall obtain licenses and permits (other than building permits and certificates of occupancy in connection with the construction thereof), necessary in connection therewith at its sole cost and expense.

24.6 Maintenance of Good Standing in League. Lessee shall maintain the Team as a NBA franchise in good standing.

ARTICLE XXV

REPRESENTATIONS BY GATEWAY

Gateway represents and warrants as follows, as of the date hereof and at all times from and after the date hereof until the expiration or termination of this Agreement:

25.1 Valid Existence. Gateway is a nonprofit corporation, duly organized, validly existing and in good standing under the laws of the State of Ohio. Gateway has full corporate power to own its property and conduct its business as presently conducted.

25.2 Power; No Limitation on Ability to Perform. Gateway has the power and authority to execute and deliver this Agreement and to carry out and perform all of the terms and provisions of this Agreement, and all transactions contemplated hereby, to the extent required to be carried out or performed by Gateway. Neither Gateway's articles of incorporation or code of regulations, nor any other agreement, law or other rule in any way prohibits, limits or otherwise affects the right or power of Gateway to enter into and perform all of the terms and provisions of this Agreement and each document, agreement and instrument executed and to be executed by Gateway in connection herewith, and all transactions contemplated hereby and thereby, and neither Gateway nor any of its officers, directors or any of their personal or legal representatives are party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument which could prohibit, limit or otherwise affect the same. No consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person is required for the due execution, delivery and performance by Gateway of this Agreement or any other agreement, document or instrument executed and delivered by Gateway in connection herewith, or any of the transactions contemplated hereby or thereby.

25.3 Valid Execution. The execution and delivery of this Agreement by Gateway has been duly and validly authorized by all necessary action. This Agreement and all other agreements, documents and instruments executed and delivered by Gateway in connection

herewith are, and each other agreement, document or instrument to be executed and delivered by Gateway in connection herewith when executed and delivered will be, legal, valid and binding obligations of Gateway, enforceable against Gateway in accordance with their respective terms.

25.4 Defaults. The execution, delivery and performance of this Agreement and each agreement, document and instrument executed and delivered and to be executed and delivered by Gateway in connection herewith (a) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under: (i) any agreement, document or instrument to which Gateway is a party or by which Gateway's assets may be bound or affected, (ii) any law, statute, ordinance or regulation applicable to Gateway, or (iii) the articles of incorporation or code of regulations of Gateway, and (b) do not and will not result in the creation or imposition of any lien or other encumbrance upon the assets of Gateway not disclosed or provided for herein.

25.5 Compliance with Laws. Gateway shall comply at all times with all laws and regulations applicable to the Arena Transformation Project and Major Capital Repairs and use of the Arena in accordance with the terms of this Agreement, and shall obtain licenses and permits, including, but not limited to, all building permits and certificates of occupancy in connection with the construction thereof, necessary in connection therewith at its sole cost and expense.

25.6 Environmental Representation. Gateway has no knowledge as to any action by itself or others or any natural or artificial conditions upon the Central Market Square site (including the presence of Hazardous Substances), or of any other fact, circumstance or condition, environmental or otherwise, which would cause a violation of any Environmental Laws or that there is any violation of the Environmental Laws presently in effect.

25.7 Title. Gateway owns fee simple title to the Arena Land and the Gateway Common Areas. Gateway owns fee simple title to the entirety of the Central Market Square site free and clear of all liens and encumbrances thereon except for real estate taxes that are not yet due and payable and matters disclosed to, and approved by, the Lessee in writing. Gateway is familiar with and responsible for the Central Market Square site and has required or will in a timely manner require all necessary inspections and testing in connection therewith, and has determined that the Central Market Square site is suitable for construction of the Arena and that construction thereof is permitted under all applicable laws, statutes, ordinances or regulations of any governmental authority. No subsurface or other site condition at the Central Market Square Site discovered by Gateway or by any other Person shall relieve Gateway of its obligations hereunder or extend the time for performance thereof or give rise to any claim against or obligation on the part of the Lessee.

ARTICLE XXVI

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT

Subject to Gateway furnishing Lessee nondisturbance agreements reasonably satisfactory in form and substance to Lessee, this Agreement, and all rights of Lessee hereunder shall be subject and subordinate to the mortgages which may encumber the within leasehold estate that are granted in connection with any approved Financing Arrangement, including the Arena Transformation Bonds. Notwithstanding anything to the contrary contained in this Article XXVI,

with respect to any mortgage to which this Agreement is subordinate, such subordination shall be contingent upon Gateway's securing the agreement or acknowledgment of the mortgagee (which shall be obtained pursuant to a separate written agreement with Lessee) that this Agreement, Lessee's rights hereunder and Lessee's right to continue occupancy of the within leasehold estate shall not be affected or disturbed in the event of a default by Gateway (or any successor) under any mortgage and subsequent foreclosure or eviction. Such subordination shall also provide to Lessee the right to elect to cure defaults under the mortgage. Such agreements of nondisturbance may be conditional upon the securing of Lessee's written agreement in favor of the mortgagee to attorn to, and perform under this Agreement. If any mortgagee shall succeed to the rights of Gateway hereunder, whether through possession, foreclosure action or delivery of a new lease or deed, or otherwise, then, at the request of such party ("Successor Landlord"), Lessee shall attorn to, and recognize, each Successor Landlord as Lessee's landlord under this Agreement and shall execute and deliver any reasonable instrument such Successor Landlord may reasonably request to further evidence such attornment; provided, however, that Lessee's attornment shall be subject to the condition that the Successor Landlord agrees to recognize Lessee as the owner of the within leasehold estate and the possessory rights thereto, on and subject to all of the terms, conditions, obligations and benefits of this Agreement. If a mortgagee shall so elect by notice to Lessee, this Agreement and Lessee's rights hereunder shall be superior and prior in right to the mortgage of which such mortgagee has the benefit with the same force and effect as if this Agreement had been executed, delivered and recorded prior to the execution, delivery and recording of such mortgage. The parties agree that that certain mortgage from Gateway to Cleveland Development Partnership I, filed for record December 21, 1990, Volume 90-7904, Page 6 of Cuyahoga County Records shall be subordinated pursuant to a subordination, nondisturbance and attornment agreement, satisfactory to Lessee with respect to this Agreement and the Gateway CAM Agreement, and that all of the appropriate actions, recordings and filings will be made promptly to cause the subordination.

ARTICLE XXVII

ESTOPPEL CERTIFICATES

Each Party agrees that at any time and from time to time upon not less than ten (10) Business Days' prior request of the other Party, it will execute, acknowledge and deliver to the requesting party a statement in writing certifying (a) that this Agreement is unmodified and in full force and effect (or, if there have been modifications, that the same are in full force and effect as modified and identifying the modifications), (b) the dates to which the Rent and other charges have been paid, (c) that, so far as it knows, the requesting party is not in default under any provisions of this Agreement or, if there has been a default, the nature of said default, and (d) any other matter that it or such prospective mortgagee or other lender shall reasonably request. It is intended that any such statement may be relied upon by any person proposing to acquire such party's interest in this Agreement or any prospective mortgagee of, or assignee of any mortgage upon, such interest.

ARTICLE XXVIII

MISCELLANEOUS

28.1 Force Majeure. Except as otherwise herein expressly provided, if either party shall be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder other than the payment of money as a result of any Force Majeure, and, provided, that the party delayed, hindered or prevented from performing notifies the other party not later than ten (10) Business Days after a Reporting Period of any such delay, hindrance or prevention occurring during the Reporting Period at issue, then the performance of such covenant or obligation shall be excused for the period of such delay, hindrance or prevention and the period for the performance of such covenant or obligation shall be extended by the number of days equivalent to the number of days of the impact of such delay, hindrance or prevention. Failure to so provide the Reporting Period notice as to a delay commencing during the Reporting Period at issue will result in waivers of both excuse in performance and extension of time to perform under this Section 28.1 with respect to any delay within that Reporting Period.

28.2 Amendment; Waiver. No alteration, amendment or modification hereof shall be valid unless executed by an instrument in writing by the parties hereto with the same formality as this Agreement. The failure of Lessee or Gateway to insist in any one or more instances upon the strict performance of any of the covenants, agreements, terms, provisions or conditions of this Agreement or to exercise any election herein contained shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision, condition, election or option, but the same shall continue and remain in full force and effect. No waiver by Lessee or Gateway of any covenant, agreement, term, provision or condition of this Agreement shall be deemed to have been made unless expressed in writing and signed by an appropriate official on behalf of Gateway or Lessee. The payment by either party of sums due and payable hereunder, with knowledge of the breach of any covenant, agreement, term, provisions or condition herein contained, shall not be deemed a waiver of such breach.

28.3 Consent. Unless otherwise specifically provided herein, no consent or approval by Lessee or Gateway permitted or required under the terms of this Agreement shall be valid or be of any validity whatsoever unless the same shall be in writing, signed by the party by or on whose behalf such consent is given.

28.4 Severability. If any article, section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of the article, section, subsection, term or provision of this Agreement or the application of same to parties or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and each remaining article, section, subsection, term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

28.5 Covenant of Quiet Enjoyment. Gateway covenants that if, and so long as, Lessee keeps and performs each and every covenant, agreement, term, provision and condition of this Agreement on the part and on behalf of Lessee to be kept and performed, Lessee shall quietly enjoy its rights under this Agreement without hindrance or molestation by Gateway or by any

other person lawfully claiming the same by, through or under Gateway, subject to the covenants, agreements, terms, provisions and conditions of this Agreement.

28.6 Recordation of Lease. Neither party shall record this Agreement, whether in the public records of Cuyahoga County or elsewhere. However, in accordance with Section 5.1 above, the parties shall promptly execute, acknowledge and deliver to each other a Memorandum of Lease in the form of Exhibit J (and a Memorandum of Modification of Lease in respect of any modification of this Agreement) sufficient for recording. Such memoranda shall not be deemed to change or otherwise affect any of the obligations or provisions of this Agreement.

28.7 Prorations. Any apportionment or prorations related to the use of the Arena during a Season shall be computed on the basis of the use of a year containing three hundred sixty-five (365) days, consisting of twelve (12) months of the actual number of days in each.

28.8 Terms. Unless the context clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine and neuter adjectives and pronouns include one another.

28.9 Captions. The captions of articles and sections are for convenient reference only and shall not be deemed to limit, construe, affect, modify or alter the meaning of such articles or sections.

28.10 Binding Effect. Each of the provisions of this Agreement shall extend to and shall, as the case may require, bind or inure to the benefit not only of Gateway and of Lessee, but also of their respective permitted successors and assigns pursuant to this Article XVIII.

28.11 Agreement Contains All Terms. All of the representations, agreements, understandings and obligations of the parties are contained herein and in the Exhibits attached hereto. This Agreement shall be deemed to supersede that certain Memorandum of Lease made and entered into as of June 28, 2001 by and between Gateway and Cavs/Gund Arena Company, predecessor-in-interest by merger to Lessee, and recorded as Document No. 200107300467 filed with the Cuyahoga County Recorder on July 30, 2001, and all other documents, writings, letters and agreements executed by the parties in connection with this Agreement.

28.12 Only Landlord-Tenant Relationship. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venture or any association between Gateway and Lessee, it being expressly understood and agreed that neither the method of computation of Rent nor any act of the parties hereto shall be deemed to create any relationship between Gateway and Lessee other than the relationship of landlord and tenant. No mechanics', materialmen's or laborers' liens or other liens of any character whatsoever created or suffered by Lessee shall in any way, or to any extent, affect, attach or apply to the interest or rights of Gateway hereunder or its rights or interest in any of the Arena or attach to its title to or rights in the Arena unless such lien is related to work, services or goods either: (i) requested by Gateway, or (ii) required to be performed or provided by Gateway pursuant to this Agreement.

28.13 Notices. All notices, demands, consents, approvals, statements, requests and invoices to be given under this Agreement shall be in writing, signed by the party or officer, agent or attorney of the party giving the notice, and shall be deemed to have been effective upon delivery if served personally, or upon the third day from and including the day of posting if deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

For Gateway:

Gateway Economic Development Corporation of Greater Cleveland
758 Bolivar Road
Cleveland, Ohio 44115
Attention: Executive Director

With a copy to:

Climaco, Wilcox, Peca & Garofoli Co., LPA
55 Public Square, Suite 1950
Cleveland, Ohio 44113
Attention: Dennis R. Wilcox, Esq.

For Lessee:

Cavaliers Operating Company, LLC
One Center Court
Cleveland, Ohio 44115
Attention: Len Komoroski, Chief Executive Officer

With a copy to:

Cavaliers Operating Company, LLC
One Center Court
Cleveland, Ohio 44115
Attention: Jason Hillman, Senior Vice President and General Counsel

Either party may from time to time by written notice given to the other pursuant to the terms of this Section 28.13 change the address to which notices shall be sent.

28.14 Applicable Law. This Agreement has been prepared in the State of Ohio and shall be governed in all respects by the laws of the State of Ohio.

28.15 Cross References. Any reference in this Agreement to a Section, Subsection, Article or Exhibit is a reference to a Section, Subsection, Article or Exhibit, as appropriate, of this Agreement, unless otherwise expressly indicated.

28.16 Representatives. Lessee's representative for implementation of the terms of this Agreement shall be Len Komoroski, CEO of Lessee, or such individual or individuals designated, in writing, by Lessee to act for Lessee on certain specified matters ("Lessee's Representative"). Gateway's representative for implementation of the terms of this Agreement shall be the Executive Director ("Gateway's Representative"). Either party may substitute representatives by notice to the other party delivered in accordance with Section 28.13.

28.17 Effective Date. This Agreement shall be a legally binding agreement, in full force and effect, as of the Effective Date set forth in the first paragraph of this Agreement.

28.18 Antidiscrimination Clause. Lessee shall not discriminate on the basis of race, color, political or religious opinion or affiliation, creed, age, physical or mental handicap, sex, marital status, ancestry, national origin or sexual orientation. This shall apply to all organizations which receive permission for the use of all or any portion of the Arena, either in writing or verbally, from Lessee and Gateway or by applying for a permit or receiving permission in any other way from Lessee and Gateway. Gateway and Lessee shall comply with all applicable state, local and federal laws, rules, regulations, executive orders and agreements pertaining to discrimination in employment, unlawful employment practices and affirmative action. Lessee shall use reasonable efforts to encourage and promote opportunities for minorities and women in the operation of the Arena. Lessee shall be an equal opportunity employer.

28.19 Accord and Satisfaction. Payment by any party, or receipt or acceptance by a receiving party, of any payment due hereunder in an amount less than the amount required to be paid hereunder shall not be deemed an accord and satisfaction, or a waiver by the receiving party of its right to receive and recover the full amount of such payment due hereunder, notwithstanding any statement to the contrary on any check or payment or on any letter accompanying such check or payment. The receiving party may accept such check or payment without prejudice to the receiving party's right to recover the balance of such payment due hereunder or to pursue any other legal or equitable remedy provided in this Agreement.

28.20 No Merger. There shall be no merger of this Agreement or of the leasehold estate hereby created with the fee estate in the Arena Land and the Arena Improvements or any part thereof by reason of the fact that the same person, firm, corporation or other legal entity may acquire or hold, directly or indirectly, this Agreement or the leasehold estate and the fee estate in the Arena Land and the Arena Improvements or any interest in such fee estate, without the prior written consent of Gateway's mortgage(s), if any.

28.21 Further Assurances. Lessee and Gateway shall execute, acknowledge and deliver, after the date hereof, without additional consideration, such further assurances, instruments and documents, and shall take such further actions, as Gateway or Lessee shall reasonably request of the other in order to fulfill the intent of this Agreement and the transactions contemplated thereby.

28.22 Joint Promotion of Arena. During the Term of this Agreement, Gateway and Lessee shall at all times use their best efforts to promote public attendance at the Team's Games at the Arena.

28.23 Retained Revenues. Unless otherwise expressly provided for herein, Lessee shall be entitled to receive and retain all revenues generated by the operations of the Team or derived from the ownership of the franchise rights to the Team.

28.24 No Third Party Beneficiary. The provision of this Agreement are for the exclusive benefit of the parties hereto and not for the benefit of any third person, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any third person unless otherwise expressly provided for herein.

28.25 Conforming Amendments. The parties acknowledge that this Agreement will be amended to conform to any approved Financing Arrangements entered into from and after the date of this Agreement, including the Arena Improvement Bonds, which amendments shall be subject to the approval of the parties hereto, which approval shall not be unreasonably withheld.

28.26 Community Tickets And Other Benefits; Part-Time Labor Force;

(a) Community Tickets. Lessee shall provide and distribute a total of 15,000 tickets to Games and/or Special Events annually beginning in 2017 through 2034, of which 10,000 will be for either Cavaliers' pre-season Games, regular season Games, or other team events (e.g. Wine and Gold Scrimmage or post-season watch parties). On average, one hundred seventy (170) tickets will be distributed/provided for regular season Games. The foregoing totals are subject to adjustment in the event of an NBA Work Stoppage (e.g. a strike or lockout involving NBA players).

(b) Part-Time Labor Force. Lessee will work in good faith to continue its efforts with respect to wage growth among its part-time employees ("Team Members"), including those in Local B-27 of the International Association of Theatrical and Stage Employees (IATSE) whose current average rate is just under \$14.00 per hour. Lessee will also work in good faith to maintain a percentage of its work-force consisting of non-caucasian Team Members of at least forty (40%) percent. Gateway will continue to participate in hiring full and part-time employees from Vocational Guidance Services who provide a wide array of vocational rehabilitation programs which, based on individual needs, are designed to help individuals obtain and maintain employment.

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

ARTICLE XXIX

GATEWAY COMMON AREA EASEMENT AND MAINTENANCE AGREEMENT

Gateway and Lessee have entered into the Gateway CAM Agreement and shall conform the Gateway CAM Agreement to this Agreement. The legal description of the Central Market Square Site is attached hereto as Exhibit D and made a part hereof, and no amendment or modification shall be made to such legal description without the written approval of Lessee,

which approval shall not be unreasonably withheld. Legal descriptions of the Arena Land and the Gateway Common Areas are attached to this Agreement as Exhibits A, B and C respectively.

ARTICLE XXX

THREE PARTY AGREEMENT AND CENTRAL MARKET COMMUNITY DEVELOPMENT PLAN

Lessee hereby acknowledges and approves the First Amended and Restated Three Party Agreement. Gateway shall not approve any further amendment to the Three Party Agreement as provided in Section 5.05 thereof or the Central Market Community Development Plan as provided in Section III.D. thereof without the prior written consent of Lessee, which consent may be withheld in Lessee's sole discretion if such amendment would materially affect Lessee's rights provided for in this Agreement or the Gateway CAM Agreement.

ARTICLE XXXI

NBA APPROVAL AND NBA RULES


This Agreement shall be null and void, and of no further force and effect if, within sixty (60) days after execution by Gateway and Lessee, the NBA has not provided its approval of this Agreement. Lessee represents and warrants that on September 28, 2017, this Agreement was in fact approved by the NBA by and through its Advisory/Finance Committee.

This Agreement, including, without limitation, the operation of the Arena and conduct of NBA games and events is subject in all respects to NBA Rules. In the event of a conflict or inconsistency between the terms of this Agreement and the NBA Rules, the NBA Rules shall govern and control in all respects. Lessee represents and warrants that the Parties' respective rights and obligations hereunder, including, but not limited to the Financial Arrangements set forth in Article 3 above and Lessee's obligation to pay Base Rent, Additional Rent, and if applicable, Contingent Rent, do not violate NBA Rules.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first above written.

GATEWAY ECONOMIC DEVELOPMENT
CORPORATION OF GREATER CLEVELAND,
an Ohio nonprofit corporation

By:



Matt Carroll

Its: Vice Chairman
of the Board of Trustees

CAVALIERS OPERATING COMPANY, LLC,
a Delaware limited liability company

By:

Len Komoroski

Its: Chief Executive Officer

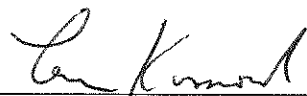
IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first above written.

GATEWAY ECONOMIC DEVELOPMENT
CORPORATION OF GREATER CLEVELAND,
an Ohio nonprofit corporation

By: _____
Matt Carroll

Its: Vice Chairman
of the Board of Trustees

CAVALIERS OPERATING COMPANY, LLC,
a Delaware limited liability company

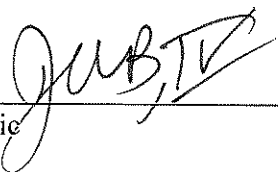
By:  _____
Len Komoroski

Its: Chief Executive Officer

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary in and for said County and State, personally appeared GATEWAY ECONOMIC DEVELOPMENT CORPORATION OF GREATER CLEVELAND, by Matt Carroll, its Vice Chairman of the Board of Trustees, who acknowledged that he did execute the foregoing instrument and such execution is his free act and deed as such officer and the free act and deed of such corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this 10th day of October, 2017.



Notary Public

JOSEPH W. BOATWRIGHT, IV, Atty.
NOTARY PUBLIC • STATE OF OHIO
My commission has no expiration date
Section 147.03 O.R.C.

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary in and for said County and State, personally appeared Cavaliers Operating Company, LLC, by Len Komoroski, its Chief Executive Officer, who acknowledged that he did execute the foregoing instrument and such execution is his free act and deed as such officer and the free act and deed of such limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this ____ day of October, 2017.

Notary Public

STATE OF OHIO)
)
COUNTY OF CUYAHOGA) SS

BEFORE ME, a Notary in and for said County and State, personally appeared GATEWAY ECONOMIC DEVELOPMENT CORPORATION OF GREATER CLEVELAND, by Matt Carroll, its Vice Chairman of the Board of Trustees, who acknowledged that he did execute the foregoing instrument and such execution is his free act and deed as such officer and the free act and deed of such corporation.


IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this 12 day of October, 2017.

Notary Public

STATE OF OHIO)
)
COUNTY OF CUYAHOGA) SS

BEFORE ME, a Notary in and for said County and State, personally appeared Cavaliers Operating Company, LLC, by Len Komoroski, its Chief Executive Officer, who acknowledged that he did execute the foregoing instrument and such execution is his free act and deed as such officer and the free act and deed of such limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this 12 day of October, 2017.



Notary Public

MONICA M. CIANCHETTI, Notary Public
STATE OF OHIO
Resident Medina County
My Commission Expires Oct. 8, 2018

EXHIBITS

- Exhibit A - Arena Land
- Exhibit B - Gateway Common Areas
- Exhibit C - Ballpark Land
- Exhibit D - CMS Site Legal Description
- Exhibit E - Development Land
- Exhibit F - Gateway Bidding and Construction Procedures
- Exhibit G - Parking Requirements
- Exhibit H - Agreement Regarding Transformation
- Exhibit I - Additional Rent Schedule
- Exhibit J - Form of Memorandum of Lease
- Exhibit K - Arena Transformation Project
- Exhibit L - Community Benefits

EXHIBIT A

EXHIBIT A

LEGAL DESCRIPTION OF THE ARENA LAND

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being all of Sublot Nos. 33 and 4 through 8, both inclusive, part of Sublot Nos. 2, 3, 9, 10, 11, 32 and 34 in the David Long Subdivision of part of Original Two Acre Lot Numbers 109 to 116, both inclusive, as shown by the Recorded Plat in Volume K of Deeds, Page 508 of Cuyahoga County Records. Being part of Sublot Numbers 117, 118 and 119 in Walworth and Kelly's Allotment of part of Original Two Acre Lot Numbers 213 to 220, both inclusive, and 125 to 132, both inclusive, as shown by the Recorded Plat in Volume 2 of Maps, Page 26 of Cuyahoga County Records. Part of East 4th Street, East 6th Street, Austin Court S.E. and Bolivar Road S.E., all now vacated, together with other land in Original Two Acre Lot Numbers 211, 212, 213 and 214, together forming a parcel of land bounded and described as follows:

Beginning in the southerly line of Huron Road S.E., 94 feet wide at its point of intersection with the northeasterly line of Ontario Street, various widths, as shown on the Dedication Map of Satchel Paige Drive, Jesse Owens Way, Ontario Street Widening and Rocky Colavito Drive, revised February 1, 1994 and not yet recorded; thence South $89^{\circ}-58'-33''$ East along the southerly line of Huron Road S.E., 262.51 feet to its intersection with the westerly line of an underground vault and the principal place of beginning of the parcel of land herein intended to be described:

Course No. 1: thence South $89^{\circ}-58'-33''$ East, continuing along the southerly line of Huron Road S.E., 15.30 feet to its intersection with the easterly line of said underground vault;

Course No. 2: thence South $0^{\circ}-01'-41''$ West, along the easterly line of said underground vault, 5.65 feet to its intersection with a line drawn parallel with and distant northerly 5.00 feet by rectangular measurement from the northerly face of the Arena;

Course No. 3: thence South $89^{\circ}-58'-19''$ East, along said parallel line, 312.42 feet to its intersection with a line drawn parallel with and distant easterly 5.00 feet by rectangular measurement from the easterly face of the Arena;

Course No. 4: thence South $0^{\circ}-01'-08''$ West, along said parallel line, 262.12 feet to its intersection with a curved line drawn concentric with and distant easterly 5.00 by radial measurement from the easterly curved face of the Arena;

Course No. 5: thence southeasterly along said concentric curved line, being along the arc of a circle deflecting to the right, 29.39 feet to its intersection with the northerly line of an underground electrical vault, said curved line having a radius of 183.00 feet and a chord which bears South $17^{\circ}-06'-39''$ East a distance of 29.36 feet;

Course No. 6: thence South $89^{\circ}-58'-52''$ East, along the northerly line of said vault, 9.47 feet to its intersection with the westerly line of Rocky Colavito Drive, 74 feet wide, as shown on said Dedication Map;

- Course No. 7: thence South $0^{\circ}-01'-27''$ West, along the westerly line of Rocky Colavito Drive, 15.10 feet to its intersection with the southerly line of said electrical vault;
- Course No. 8: thence North $89^{\circ}-58'-52''$ West, along the southerly line of said vault, 6.77 feet to its intersection with the aforesaid concentric curved line;
- Course No. 9: thence southwesterly along said concentric curved line, being along the arc of a circle deflecting to the right, 94.05 feet to its intersection with a line drawn parallel with and distant easterly 5.00 feet by rectangular measurement from the easterly face of the Arena, said curved line having a radius of 183.00 feet and a chord which bears South $7^{\circ}-00'-59''$ West a distance of 93.02 feet;
- Course No. 10: thence South $0^{\circ}-01'-02''$ West, along said parallel line, 33.77 feet to its intersection with a line drawn parallel with and distant southeasterly 5.60 feet from the southeasterly face of the Arena;
- Course No. 11: thence South $63^{\circ}-53'-56''$ West, along said parallel line, 308.79 feet to its intersection with a line drawn parallel with and distant southwesterly 5.00 feet by rectangular measurement from the southwesterly face of the Arena;
- Course No. 12: thence North $26^{\circ}-04'-26''$ West, along said parallel line, 101.55 feet to its intersection with the southeasterly line of an underground vault;
- Course No. 13: thence South $63^{\circ}-55'-34''$ West, along the southeasterly line of said vault, 6.50 feet to the southwesterly corner thereof;
- Course No. 14: thence North $26^{\circ}-04'-26''$ West, along the southwesterly line of said vault, 15.16 feet to the northwesterly corner thereof;
- Course No. 15: thence North $63^{\circ}-55'-34''$ East, along the northwesterly line of said vault, 6.50 feet to its intersection with the aforesaid parallel line;
- Course No. 16: thence North $26^{\circ}-04'-26''$ West, along said parallel line, 242.68 feet to its intersection with the southeasterly line of an underground vault;
- Course No. 17: thence South $63^{\circ}-55'-34''$ West, along the southeasterly line of said vault, 6.40 feet to the southwesterly corner thereof;
- Course No. 18: thence North $26^{\circ}-04'-26''$ West, along the southwesterly line of said vault, 15.16 feet to the northwesterly corner thereof;
- Course No. 19: thence North $63^{\circ}-55'-34''$ East, along the northwesterly line of said vault, 6.40 feet to its intersection with the aforesaid parallel line;
- Course No. 20: thence North $26^{\circ}-04'-26''$ West, along said parallel line, 62.43 feet to a point;

Course No. 21: thence North $63^{\circ}-55'-34''$ East, 11.84 feet to its intersection with the Cleveland Regional Transit Authority entrance on the southwesterly side of the Arena;

Course No. 22: thence North $26^{\circ}-04'-26''$ West, along said entrance, 13.50 feet to a point;

Course No. 23: thence South $63^{\circ}-55'-34''$ West, 11.84 feet to the aforesaid parallel line;

Course No. 24: thence North $26^{\circ}-04'-26''$ West, along said parallel line, 41.51 feet to a point of curvature of a line drawn concentric with the curved steps at an inner corner on the northwesterly side of the Arena;

Course No. 25: thence northeasterly along said concentric curved line, being along the arc of a circle deflecting to the right, 63.65 feet to its intersection with a line drawn parallel with and distant southwesterly 5.00 feet by rectangular measurement from a southwesterly face of the Arena, said curved line having a radius of 47.13 feet and a chord which bears North $12^{\circ}-37'-09''$ East a distance of 58.92 feet;

Course No. 26: thence North $26^{\circ}-04'-47''$ West, along said parallel line, 23.08 feet to its intersection with a line drawn parallel with and distant northwesterly 5.00 feet from the northwesterly face of the Arena;

Course No. 27: thence North $31^{\circ}-56'-48''$ East, 55.73 along said parallel line to its intersection with a line drawn parallel with and distant northerly 5.00 feet by rectangular measurement from the northerly face of the Arena;

Course No. 28: thence South $89^{\circ}-58'-19''$ East, along said parallel line, 133.74 feet to its intersection with the first aforesaid underground vault;

Course No. 29: thence North $0^{\circ}-01'-41''$ East, along said westerly line of underground vault, 5.65 feet to the principal place of beginning, containing 213,898 square feet of land (4.9104 acres), according to a survey by Garrett and Associates, Inc., Registered Engineers and Surveyors, made in July, 1994;

In addition to the above described parcel the Arena Land includes all the overhanging portions for the Arena, but is subject to a lease to the Cleveland Regional Transit Authority, two pedestrian bridge easements to the City of Cleveland and an easement to the Cleveland Electric Illuminating Company, be the same more or less, but subject to all legal highways.

EXHIBIT B

EXHIBIT B

GATEWAY COMMON AREAS

Gateway Common Areas shall mean (a) the real property constituting the Central Market Square Site, other than the Ballpark Land, the Field and the Arena Land; (b) any additional real property which Gateway shall own in fee or have the right (by lease, license, easement or any other arrangement) to utilize in connection with the Central Market Square Site at any time or from time to time; and (c) that portion of the Arena Land on which the RTA Tunnel Lobby is located; together with all of the improvements located or to be constructed thereon, all permanent improvements, additions, alterations, fixtures, equipment and installations located thereon or constructed, provided or added thereto at any time, and all other improvements, additions, alterations, fixtures, equipment and installations which Gateway shall have the right (by lease, license, easement or any other arrangement) to utilize in connection with the Central Market Square Site at any time or from time to time, including, but not limited to, parking garages and decks, surface and multi-level parking areas, underground truck garages and service areas, sidewalks and walkways, seating and other amenities, landscaped and planted areas, curbs, lighting standards, advertising, traffic and directional signs (other than any free-standing signs which may be operated by the Ballpark Operator or the Lessee), traffic striping and markings, driveways, exterior and interior ramps, ingress and egress streets and sidewalks not dedicated to public use, storm or sanitary sewers, underground or other utilities and facilities, and bus and taxi stands.

EXHIBIT C

LEGAL DESCRIPTION OF THE BALLPARK LAND

The real property described as the "Ballpark Land" in that certain Memorandum of Lease, dated July 3, 1991, by and between Gateway Economic Development Corporation of Greater Cleveland and Cleveland Indians Baseball Company, filed for record on July 5, 1991, and recorded in Volume 91-4085, Page 1, of Cuyahoga County, Ohio, Records.

EXHIBIT D

LEGAL DESCRIPTION OF THE CMS SITE

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being all of Sublot Numbers 3 to 56, both inclusive, and part of Sublot Numbers 1, 2, 83, 84 and 85 in A.W. Walworth's Subdivision of part of Original Two Acre Lot Numbers 117 to 124, both inclusive, and 130 to 133, both inclusive, as shown by the recorded plat in Volume P of Deeds, Page 558 of Cuyahoga County Records, and all of Sublot Numbers 2 to 14, both inclusive, and 29 to 45, both inclusive, and part of Sublot Number 1 in the David Long Subdivision of part of Original Two Acre Lot Numbers 109 to 116, both inclusive as shown by the recorded plat in Volume K of Deeds, Page 508 of Cuyahoga County Records, and part of Sublot Numbers 117 to 122, both inclusive in Walworth and Kelly's Allotment of part of Original Two Acre Lot Numbers 125 to 132, both inclusive, 213 to 220, both inclusive and part of Original One Hundred Acre Lot Number 487, as shown by the recorded plat in Volume 2 of Maps, Page 26 of Cuyahoga County Records, part of East 6th Street, (12 feet wide), East 7th Street, (16.5 feet wide), East 9th Place, (16.5 feet wide), Austin Court, S.E., (12 feet wide), Wigman Court, S.E., (16.5 feet wide) and Woodland Avenue, S.E., (99 feet wide) all now vacated and part of Ontario Street, East 4th Street, (99 feet wide), Bolivar Road, S.E., (66 feet wide), Eagle Avenue, S.E., (66 feet wide) and Carnegie Avenue, S.E., all vacated by the Council of the City of Cleveland, Ohio by Ordinance Number 2041-91 passed November 11, 1991 and part of Original Two Acre Lot Numbers 211 and 212 and together forming a parcel of land bounded and described as follows:

Beginning in the northerly line of Carnegie Avenue, S.E., (99 feet wide) at its point of intersection with the westerly line of East 9th Street, (99 feet wide);

Course No. 1: thence South $89^{\circ}-51'-25''$ West, along the northerly line of Carnegie Avenue, S.E., 543.54 feet to its intersection with the northeasterly line of Woodland Avenue, S.E., 99 feet wide, (now vacated) as shown by the Vacation Plat of Part of Woodland Avenue S.E., as recorded in Volume 246 of Maps, Page 16 of Cuyahoga County Records;

Course No. 2: thence North $74^{\circ}-32'-46''$ West, along the northerly line of Carnegie Avenue, S.E., 7.28 feet to its intersection with the relocated northerly line of Carnegie Avenue, S.E., said line also being the southerly line of that portion of Carnegie Avenue, S.E., vacated by the Council of the City of Cleveland, Ohio, by Ordinance Number 2041-91, passed November 11, 1991;

Course No. 3: thence along the relocated northerly line of Carnegie Avenue S.E., being the arc of a circle deflecting to the right, 57.79 feet to a point of reverse curvature, said curved line having a radius of 622.97 feet and a chord which bears North $84^{\circ}-13'-43''$ West a distance of 57.76 feet;

Course No. 4: thence continuing along said relocated northerly line of Carnegie Avenue S.E., being the arc of a circle deflecting to the left, 107.56 feet to a point of tangency, said curved line having a radius of 718.97 feet and a chord which bears North $85^{\circ}-51'-26''$ West a distance of 107.46 feet;

Course No. 5: thence continuing along said relocated northerly line of Carnegie Avenue S.E., South $89^{\circ}-51'-25''$ West, 47.86 feet to its intersection with the northeasterly relocated line of Ontario Street, said line also being the southwesterly line of that portion of Ontario Street vacated by said Ordinance Number 2041-91;

Course No. 6: thence North $26^{\circ}-04'-48''$ West, along said northeasterly relocated line of Ontario Street, 59.86 feet to its intersection with the southwesterly line of vacated Woodland Avenue S.E. and other lands as shown by the Vacation Plat of Part of Woodland Avenue S.E. as recorded in Volume 246 of Maps, Page 16 of Cuyahoga County Records;

Course No. 7: thence along a southwesterly line of lands shown on said Vacation Plat, along the arc of a circle deflecting to the right, 10.39 feet to a point of tangency, said curved line having a radius of 90.00 feet and a chord which bears North $29^{\circ}-42'-53''$ West a distance of 10.38 feet;

Course No. 8: thence North $26^{\circ}-24'-32''$ West along said southwesterly line of lands so vacated and along the southwesterly line of vacated Woodland Avenue S.E., 288.46 feet to a point of curvature;

Course No. 9: thence northwesterly along a northwesterly line of vacated Woodland Avenue S.E., along the arc of a circle deflecting to the right, 22.41 feet to its intersection with the relocated northeasterly line of Ontario Street, said curved line having a radius of 102.50 feet and a chord which bears North $20^{\circ}-08'-47''$ West a distance of 22.36 feet;

Course No. 10: thence North $26^{\circ}-04'-48''$ West, along the relocated northeasterly line of Ontario Street, said line also being the southwesterly line of that portion so vacated by Ordinance Number 2041-91, 641.58 feet to an angle point therein;

Course No. 11: thence South $89^{\circ}-56'-58''$ West, 21.77 feet to the original northeasterly line of Ontario Street;

Course No. 12: thence North $24^{\circ}-35'-03''$ West, along the original northeasterly line of Ontario Street, 439.99 feet to its intersection with the southerly line of Huron Road, S.E. (94 feet wide);

Course No. 13: thence South $89^{\circ}-58'-33''$ East, along the southerly line of Huron Road, S.E., 890.65 feet to its intersection with the westerly line of East 7th Street, (20 feet wide);

Course No. 14: thence South $0^{\circ}-03'-02''$ East, along the westerly line of East 7th Street, and its southerly prolongation to its intersection with the southerly line of Bolivar Road, S.E., (66 feet wide);

Course No. 15: thence North $89^{\circ}-56'-58''$ East, along the southerly line of Bolivar Road, S.E., 525.76 feet to its intersection with the westerly line of East 9th Street, (99 feet wide);

Course No. 16: thence Due South, along the westerly line of East 9th Street, 867.49 feet to the place of beginning and containing within said boundaries 1,202,025 square feet, (27.5947 acres)

of land according to a survey by Garrett & Associates, Inc., Registered Engineers and Surveyors,
Revised November, 1991, be the same more or less, but subject to all legal highways.

EXHIBIT E

REDEVELOPMENT PARCEL

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being a part of Sublot Nos. 42 to 45, both inclusive, in the Davis Long Subdivision of part of Original Two Acre Lot Nos. 109 to 116, both inclusive, as shown by the recorded plat in Volume K of Deeds, Page 508 of Cuyahoga County Records, together forming a parcel of land bounded and described as follows:

Beginning on the southerly line of Bolivar Road S.E., 66 feet in width, at its intersection with the westerly line of East 9th Street, 99 feet in width;

Course No. 1: thence due South, along said westerly line of East 9th Street, 112.46 feet to the northerly corner of the Indians Baseball Stadium Parcel;

Course No. 2: thence due East, along the northerly line of said Indians Baseball Stadium Parcel, 203.39 feet to the southeasterly corner of the Garage Parcel;

Course No. 3: thence due North, along the most easterly line of said Garage Parcel, 112.28 feet to a point in the aforementioned southerly line of Bolivar Road S.E.;

Course No. 4: thence North 89°-56'-58" East, along said southerly line of Bolivar Road S.E., 203.39 feet to the place of beginning, containing 22,854 square feet of land (0.5247 acres), according to a survey by Garrett & Associates, Inc., Registered Engineers and Surveyors, made in May, 1992, be the same more or less, but subject to all legal highways.

The bearings used herein are based on an assumed meridian and are used only to denote angles.

This parcel is further identified as being part of a lot-split of the Gateway Economic Development Corporation recorded in volume 259 page 5 of the Cuyahoga County recorder's records.

EXHIBIT F

PROJECT MANAGEMENT GUIDE

BIDDING AND AWARD OF CONSTRUCTION TRADE CONTRACTS (CM AND D/B)

PURPOSE: To describe the bidding and award process for Alterations and Major Capital Project trade packages under Construction Management (CM) or Design Build (DB) (CM / DB) project delivery methods.

A. Definitions

Alterations or Arena Improvements shall refer to the construction project described in Article VII of the Lease and Management Agreement by and between Gateway and the Cleveland Cavaliers Operating Company LLC, dated _____, 2017 (the "Lease") estimated to cost not less than One Hundred Forty Million Dollars (\$140,000,000).

Major Capital Project shall refer to any single Capital Repair that renders the Arena untenable in whole or in part by Lessee as determined by Lessee, in its reasonable discretion, or will cost in excess of \$500,000 to perform.

Capital Repair shall have such meaning as is set forth in the Lease.

Gateway ("GW") shall refer to Gateway Economic Development Corporation of Greater Cleveland.

Construction Manager ("CM") shall refer to Whiting Turner Construction Company or such other construction manager at risk chosen by the Lessee in consultation with GW for construction of the Alterations or any other Major Capital Project, as the case may be.

Design Build ("DB") shall refer to a design builder chosen by the Lessee in consultation with GW for construction of the Alterations or any other Major Capital Project, as the case may be.

Gateway Representative ("GW R") shall refer to Todd Greathouse, Executive Director or such other Gateway employee as may be designated in writing by Gateway's Executive Director.

Gateway Construction Consultant ("GW CC") shall refer to David Faller, Osborn Engineering or such other engineer or design professional as may be designated in writing by Gateway's Executive Director.

Gateway Project Manager ("GW PM") shall refer to the Lessee, which shall serve as Gateway's authorized agent in connection with the performance of all work necessary and incidental to the completion of the Alterations or any other Major Capital Project, as the case may be. At all times relevant hereto, GW PM shall regularly consult with the GW R and GW CC prior to giving any such approval as set forth herein.

Gateway Community Benefit Goals Director ("CBGD") shall refer to the individual appointed by the Executive Director to monitor compliance with GW's Community Benefit Goals, as adopted by Gateway Board of Trustees Resolution 2014-1.

Lessee shall refer to the Cleveland Cavaliers Operating Company, LLC.

Design Professional shall refer to a licensed and registered engineer and/or architect to be retained by the CM DB with respect to the performance of all design work necessary and incidental to the

completion of the Alterations or any other Major Capital Project, as the case may be.

The Construction Team shall refer to collectively the GW PM, GW R and GW CC.

B. Bid Packages

Before the pre-qualification and bidding processes begin, the CM / DB shall provide its proposed structure of trade/bid packages to the Construction Team for review and input. In subdividing the Work, the CM / DB shall consider industry standards, the technical scope of the project, schedule, small/minority business outreach efforts, including GW's Community Benefit Goals, and any other considerations the CM / DB – in its professional judgment – believes are appropriate.

Prior to beginning the trade contractor pre-qualification process, the CM / DB shall provide its project- specific pre-qualification forms and a complete list of the name/number and scope of each trade package to the Construction Team including the CBGD for review and input. The CM / DB should encourage all trade contractors to obtain qualified small business participation within its scope of work.

All laborers and mechanics employed by any contractor or subcontractor shall be paid at the prevailing rates of wages of laborers and mechanics for the class of work called for, as those wages are determined in accordance with Chapter 4115, of the Ohio Revised Code.

Additionally, the CM / DB shall provide draft bid packages to the Construction Team for review and input. Such documents, which typically explain the particular scope of each trade package, shall be tailored to the project and to work at Gateway in general. The bid documents must also include or reference the "front end" specs and General Terms & Conditions of the construction documents, both of which apply to all trade contractors. Bid documents should also call attention to LEED-related requirements on projects where LEED certification is being pursued.

C. Procurement

1. For trade packages with a value of less than Fifty Thousand Dollars (\$50,000), the CM / DB may negotiate with trade contractors to perform such Work by whatever means it deems appropriate in its reasonable discretion, subject to consultation with the Construction Team. Scopes shall not be broken into smaller packages to avoid bidding procedures listed in item B.2.
2. For trade packages with a value in excess of Fifty Thousand Dollars (\$50,000), the CM / DB shall, where competition is available and feasible, use its best efforts to obtain at least three (3) sealed bids.
3. Best Value procurement, where both price and technical factors such as experience and qualifications are considered, may be used to procure certain trades with the prior written approval of the GW PM.

D. Advertisement and Pre-Qualification Process

The CM / DB shall evaluate the standing, capability, staffing, and past performance of prospective trade contractors prior to bidding. For packages that the CM / DB intend to bond, the pre-qualification process must include verification of each bidder's ability to be bonded.

The pre-qualification process must be undertaken before receiving any bids from any prospective trade contractors, issuing any contracts or issuing the formal Notice To Proceed (NTP) for construction is issued by GW. The advertisement for pre-qualification should be distributed widely enough to garner interest from a variety of qualified potential bidders to facilitate competitive pricing for the benefit of GW. The solicitation(s) shall be published, at a minimum, in trade publications in the region where the project is located. The advertisement(s) shall be updated throughout the pre-qualification process as necessary to clarify scope, dates, and other information, with copies of all advertisements provided to the Construction Team.

Upon completion of the pre-qualification process, the CM / DB shall provide a complete roster of qualified bidders (by trade package) to the Construction Team.

E. Pre-Bid Meetings

Pre-bid meetings and/or site visits may be held for certain trade packages depending on the scope, complexity, schedule, and other demands of the project. The CM / DB shall make the determination in consultation with the Construction Team, each of whom may attend such meetings. The CM / DB shall record minutes during pre-bid meetings and shall assist the Design Professional in developing post-meeting addenda as needed to clarify the intent of the construction documents.

F. Bid Process and Format

The CM / DB shall publish and distribute a schedule of all bid deadlines to the bidders, the Professional, and Construction Team including the CBGD. This schedule should be consistent with the construction schedule itself so that "early start," critical, and/or long-lead trades are bid and awarded first. The CM / DB shall also provide to the Construction Team a schedule of bid openings, each of which must be attended by the Construction Team.

In preparing for each bid opening, the CM / DB shall draft a Bid Tabulation spreadsheet for each trade package using the Gateway template forms (or GW approved CM / DB forms). Actual bids should be provided on the CM / DB's forms, but bidders shall be required to itemize the value of materials and sales tax to facilitate GW direct purchase of certain items.

Bids or proposals for trade packages shall be received in a SEALED envelope by the CM / DB, who shall record or time-stamp each bid to verify timely submission. As bids are opened and read aloud by the CM / DB in the presence of the Construction Team, each base bid and alternate or unit price number shall be recorded by the CM / DB and verified by the Construction Team. Results of the bid opening are confidential unless required by GW regulations, resolutions or law to be disclosed.

G. Post-Bid Review

The CM / DB shall conduct post-bid interviews with the lowest and other responsive bidders as needed to confirm accurate pricing and a mutual understanding of the scope(s) of work. Such meetings shall take place within 10 business days of the bid opening, and the Construction Team shall be invited to attend. All bid interviews shall be scored using the Gateway Bid Interview template forms (or GW approved CM / DB forms).

The CM / DB shall determine if bidders – particularly the prospective awardee – properly included or excluded contractually required work in its original bid. If not, all bidders shall be afforded the opportunity to revise and/or clarify their bids by providing such revisions or clarifications in writing in a SEALED package that shall be received and opened in a manner identical to the original bid process. The CM / DB shall obtain written confirmation from any bidders who elect to not revise their original bids.

With the exception of multiple package discounts and packages, CM / DB may not accept revised bids which have increased by more than 3% during this post-bid review or "scoping" process without written explanation by the CM / DB and written acknowledgment by the GW PM.

All post-bid price adjustments and related correspondence, notes, etc. shall be in writing and included in the bid package file.

H. Bid Tabulation & Award Recommendation

When the analysis of bids, including any post-bid reviews, is complete, the CM / DB shall formalize its recommendation for award. At a minimum, such recommendation shall include finalized Bid Tabulation and Bid Award & Analysis forms using the Gateway template forms (or GW approved CM / DB forms). The process is finalized with signatures by the CM / DB and the GW R acknowledging both the bid results and the recommendation for award. The following shall be included – for each trade package and upload to Basecamp to the appropriate folder/discussion:

- a. Bid Award and Analysis form (executed)
- b. Initial Bid Tab Summary (original from time of bid)
- c. Final typed version of the Bid Tab Summary, including notation of all invited bidders who declined to bid
- d. Bid comparison/analysis form to document initial bid and post-bid adjustments for all bidders
- e. Original bids from each bidder
- f. Bid Interview Scoring Sheets
- g. Written post-bid pricing revisions
- h. Relevant post-bid correspondence (from each bidder)
- i. Scope description (definition of work) for that trade package
- j. Documentation of all Gateway Community Business Plan Participation business efforts

NOTE: Where circumstances require it, award may be to other than low responsive and responsible bidders, but the award recommendation shall elaborate on the reasons for, and justification of, such awards.

I. Bid Savings and Formalization of Award

To document the award of trade contracts, CM / DB will prepare a change order to the Agreement for the Construction Team's review and approval. Variances between the GMP estimate for each trade package and the actual award amount for same are annotated on the change order.

J. Reference Documents:

For additional information supporting Gateway project processes, see the Gateway Major Capital/Alteration Process Matrix.

EXHIBIT G

EXHIBIT G

PARKING REQUIREMENTS

Gateway shall provide not less than one thousand seven hundred (1,700) parking spaces in the Gateway East Garage (the "On-Site Parking"). Lessee and Operator shall have the exclusive use, without charge, of (i) the On-Site Parking for all events held at the Arena, and (ii) two hundred fifty (250) spaces of the On-Site Parking, selected by Lessee at all times. Gateway shall also provide, to the extent Gateway has the ability to provide it, free adequate parking for the part-time employees of Lessee, but such parking may be more distant from the Arena than that provided to the full-time employees (the "Additional Parking").

During any Dual Event, the Lessee agrees that Ballpark Lessee shall satisfy all its requirements from the On-Site Parking first and the Lessee shall satisfy any of its Lease requirements through remaining spaces available.

EXHIBIT H

Agreement Regarding Transformation of Quicken Loans Arena among Cuyahoga County,
Cavaliers Operating Company, LLC and Gateway Economic Development Corporation of
Greater Cleveland

This agreement ("Agreement") is made this ____ day of October, 2017 by and among Cuyahoga County ("County"), Cavaliers Operating Company, LLC ("QLA"), as lessee and operator of Quicken Loans Arena (the "Arena"), and Gateway Economic Development Corporation of Greater Cleveland ("Gateway"), owner and Lessor of the Arena, with respect to alterations and improvements commonly referred to as the "Transformation" of the Arena. QLA leases the Arena from Gateway pursuant to a Lease and Management Agreement dated December 20, 1991, as amended (the "Arena Lease").

The parties agree as follows:

- (1) **Project:** The project shall consist of not less than \$140,000,000 in renovation/improvements to the Arena ("Project Cost"), substantially in accordance with plans and specifications previously shown to County by QLA, and as more particularly described on the attached Exhibit A.

- (2) **Project Financing:** QLA will be responsible for \$70,000,000 of the Project Cost together with any construction cost overruns as set forth in the New Lease (as defined below), while the remaining \$70,000,000 of the Project Cost will come from a combination of publicly available sources. The County will issue the Transformation Bonds (as defined below), all secured by either a County non-tax revenue pledge or a pledge of sales tax revenue, subject to the County's sole discretion. The County will endeavor to issue the Transformation Bonds on or before October 12, 2017. All bond structures contemplated below are subject to bond counsel opinion as to federal tax status, and shall be completed separate and apart from the current Revolving Loan Agreement between County and Gateway dated September 15, 1992, as amended (the "Revolving Loan Agreement"). The various revenue sources and flow of funds described below are also more specifically depicted in the attached Exhibit B. The parties agree to undertake best efforts to maximize the amount of Transformation Bonds that will be tax-exempt. The

Transformation Bonds consist of the Team Rent Bonds, the Tax-Exempt Bonds and the Cooperative Bonds (each as defined below). County will consult with, and obtain approval of QLA prior to any refinancing of the Transformation Bonds.

- a) **Estimated \$70,000,000 Team Rent Bonds (Taxable) (“Team Rent Bonds”)**
 - 1) Revenue source is additional rent by QLA to Gateway sufficient to pay debt service on Team Rent Bonds based on final bond pricing (“Additional Rent”) above and beyond the current rental structure as defined as “Alternative Rent” in the Sixth Amendment to Arena Lease (the “2004 Economics”) and to be described as “Base Rent” in a new lease between QLA and Gateway to be executed in connection with the Transformation (the “New Lease”), which 2004 Economics shall remain in full force and effect;
 - 2) Maturity date of January 1, 2035 (reflecting an extended Arena Lease term through the end of the 2033/2034 NBA Season).

- b) **Estimated \$35,000,000 Tax Exempt Bonds (“Tax-Exempt Bonds”)**
 - 1) Revenue sources for debt service on the Tax-Exempt Bonds include County resources including from the County-wide 1.5% Cuyahoga County Bed Tax Levy;
 - 2) Debt service on Tax-Exempt Bonds will not be supported by QLA in the form of any Contingent Rent (as defined below);
 - 3) Maturity Date of January 1, 2035.

- c) **Estimated \$35,000,000 Cooperative Bonds (Taxable) (“Cooperative Bonds”)**
 - 1) Revenue Sources for debt service on the Cooperative Bonds (the “Cooperative Revenue Sources”) include: a) Admissions Tax PILOTS in same formula as City-County Cooperative Agreement (as defined below), being five percent (5%) of all admissions charges (as defined in City Codified Ordinance Chapter 195, as amended) for admissions to the Arena for Games (as defined in the Arena Lease) during any Collection Year (as defined in the City-County Cooperative

Agreement dated September 15, 1992 (the “City-County Cooperative Agreement”)) plus two percent (2%) of admissions charges for admissions to the Arena for events other than Games in any Collection Year, in addition to the corresponding amounts of admission charges received by the City of Cleveland for any QLA event over and above the amounts representing the established price therefor at the Arena ticket office resold on the secondary market by or via any party, including, but not limited to a secondary market Arena ticketing services provider (“Admissions Tax PILOTS”), which must be reflected in any extension or successor agreement to the City-County Cooperative Agreement; b) incremental county sales tax generated from QLA events and QLA related purchases above \$250,000 baseline from 2016-2027, and \$200,000 baseline from 2028-2034 (“Incremental Sales Taxes”); (c) those Admissions Tax PILOTS in excess of \$5,000,000 in calendar 2016 not to exceed \$1,500,000, and for 2017 through 2023, all Admissions Tax PILOTS from post-season QLA events; and (d) defined Bed Tax revenues (“Initial Bed Tax Revenues”) of \$1,861,000 in 2016, \$737,000 in 2017, and \$778,000 in 2018;

- 2) Maturity Date of January 1, 2035; and
- 3) QLA and County representatives shall cooperate in good faith to determine a procedure to annually reconcile/determine the amounts described in Section 2(c)(1)(b) and (c) above.

d) County Reserve and Cooperative Reserve

- 1) County Reserve:
 - a. Any residual County revenues available after payment of annual debt service on the Tax-Exempt Bonds between January 1, 2016 and December 31, 2020, and if necessary, utilized for debt service on the Cooperative Bonds, shall

remain in a reserve for a major league sports facility (the “Sports Facility Reserve”). If there is no financing plan for a major league sports facility as of December 31, 2020, funds in the Sports Facility Reserve shall be deposited into a separate reserve fund to support the Cooperative Bonds as set forth below (the “County Reserve”). Any residual County revenues available after payment of annual debt service on the Tax-Exempt Bonds beginning in calendar 2021 and each subsequent calendar year through 2023 not otherwise applied by the County as part of a financing plan for a major league sports facility shall also be deposited into the County Reserve.

- b. Amounts accumulate in the County Reserve until there is a shortfall for debt service on Cooperative Bonds, and the Cooperative Reserve, as defined below, has been depleted;
- c. County Reserve funds, subject to the provisions of Section 2(d)(1)(d) below, will be utilized to backstop debt service shortfalls on Cooperative Bonds so long as such Cooperative Bonds are outstanding at all times beginning in 2016.
- d. To the extent either (a) Cooperative Reserve exceeds 1.5 x Cooperative Bond debt service for any consecutive three (3) year period beginning no earlier than 2025; or (b) QLA utilizes funds in the Cooperative Reserve as a credit against Additional Rent (“Rent Credit”) as described in Section 2(c) below, the County Reserve shall be released to County for any purposes it desires in County’s sole discretion.

2) Cooperative Reserve

- a) Cooperative Revenue Sources above the amounts utilized for annual debt service on the Cooperative Bonds, plus, beginning effective as of the extension or successor agreement to the City-County Cooperative Agreement, the incremental Admissions Tax PILOTS above \$3,500,000 annually

earmarked for the Sports Facility Reserve shall be deposited into a reserve fund (the “Cooperative Reserve”), which may be utilized to supplement shortfalls on Cooperative Bond debt service. Notwithstanding anything to the contrary as provided above, however, Incremental Sales Taxes in no event shall be included in amounts earmarked for the Sports Facility Reserve, and shall, once debt service is satisfied annually, be deposited in the Cooperative Reserve.

- b) Funds in Cooperative Reserve may be used to prepay debt as early as 2024, subject to any applicable call date to mitigate risk for both QLA and County; County shall utilize such funds to do so upon notice from QLA;
- c) In the event QLA elects to utilize funds in the Cooperative Reserve beginning in 2031 to offset amounts previously paid as Contingent Rent or Additional Rent, and/or future Additional Rent, the County Reserve shall be released to County for any purposes it desires in County’s sole discretion.

(3) Lease Amendment: QLA and Gateway will prepare and execute the New Lease to replace the current Arena Lease. The New Lease, among other things, will reflect:

- Additional Rent in respect of the Team Rent Bonds;
- Rent sufficient to pay debt service on Cooperative Bonds in the event Cooperative Revenue Sources in any given year are insufficient, and each of Cooperative Reserve and then County Reserve funds have been depleted (“Contingent Rent”);
- Confirm that all capital improvements (including those comprising the Transformation) and Major Capital Repairs (as defined in the Arena Lease) will be executed and contracted for by Gateway, with QLA as project manager. Gateway will apply for exemption from sales tax for materials utilized in the construction of all capital improvements and Major Capital Repairs, as defined in the Arena Lease;

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- Provide for agreed-upon procedures relative to capital repairs and Major Capital Repairs;
- Provide for an extended lease term through 2034, with QLA preserving two (2) successive options to extend at its sole discretion for periods of five (5) years each (each an “Extension Option”, and collectively the “Extension Options”). In the event QLA exercises one or more of the Extension Options, and provided the Transformation Bonds are no longer outstanding, Additional Rent and Contingent Rent shall no longer apply, but the 2004 Economics/Base Rent shall continue in full force and effect.

(4) **Inclusion Policies:** Construction contracts for Transformation and Major Capital Repairs are subject to Gateway inclusion policies as set forth in that certain Resolution No. 2014-1 adopted April 23, 2014 by the Gateway Board of Trustees Regarding Endorsement of Principals Underlying Memorandum of Understanding Regarding Community Benefits and Inclusion For Certain Construction Contracts dated February 26, 2013. In addition, QLA in its capacity as Project Manager, together with Gateway, shall work in good faith to meet the following construction goals for minority and local participation with respect to construction contracts and workforce for the Transformation:

Contract Participation:

SBE (8%)

FBE (7%)

MBE (15%)

Workforce Participation:

City of Cleveland Residents: (20%)

Cuyahoga County Residents: (25%)

Minority: (16%)

Female (5%)

Low-Income (3%; parties to work to determine effective tracking method)

The parties also agree that prevailing wage in accordance with Ohio law shall apply to construction of the Transformation. County’s Inclusion Officer or similar designee of County shall help monitor the goals related to contract and workforce participation

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above. Gateway will continue to participate in hiring full and part time employees from Vocational Guidance Services who provide a wide array of vocational rehabilitation programs which, based on each person's individual needs, are designed to help him or her obtain and maintain employment.

- (5) **Community Tickets:** QLA will provide and distribute a total of 15,000 tickets to QLA events annually beginning in 2017 through 2034, of which 10,000 will be for either Cavaliers pre-season games, regular season games or other team events (e.g. Wine and Gold scrimmage or post-season watch parties). On average, one hundred seventy (170) tickets will be distributed/provided for Cavs' regular season games. The foregoing totals may be subject to adjustment pro-rata in the event of an NBA work stoppage.
- (6) **Wages and Inclusion for Part-Time Labor Force:** QLA will work in good faith to continue its efforts with respect to wage growth among its part-time team members, including those in Local B-27 whose current average rate is just under \$14.00 per hour, and will work to make the leadership of QLA's unionized work force available for briefings or meetings to County representatives during the legislative process. QLA will also work in good faith to maintain a percentage of its work-force consisting of non-caucasian of at least forty (40) percent.
- (7) **Completion Guaranty.** QLA for itself and in its capacity as Project Manager, has commenced pre-construction activity (e.g. permitting, architectural drawings, designs and schematics, finalizing construction documents, etc.) and, subject to and expressly conditioned upon all other required approvals and consents having been obtained as contemplated hereunder, will endeavor to cause the Transformation to be substantially completed on or before December 31, 2019. In addition, QLA for itself and in its capacity as Project Manager for the Transformation construction, provided the terms and conditions set forth herein are otherwise satisfied, guarantees completion of the construction of the Transformation (subject to circumstances beyond the reasonable control of QLA, e.g. a "force majeure" event), and shall be responsible for all construction cost overruns in excess of the Project Cost as set forth in the New Lease.

EXECUTION VERSION

- (8) **NBA All-Star Game.** Each of County, Gateway and QLA acknowledge and agree that the NBA has issued a public statement committing to bringing an NBA All-Star Weekend to the Arena in the near future following completion of the Transformation.
- (9) **Approvals.** The parties acknowledge that each of the Transformation and New Lease are subject to approval of the NBA.

[signatures on following page]

EXECUTION VERSION

[SIGNATURE PAGE TO AGREEMENT REGARDING TRANSFORMATION OF QUICKEN
LOANS ARENA AMONG CUYAHOGA COUNTY, CAVALIERS OPERATING COMPANY,
LLC AND GATEWAY ECONOMIC DEVELOPMENT CORPORATION OF GREATER
CLEVELAND]

FOR QLA:

_____	_____
Len Komoroski, Chief Executive Officer	Date

FOR THE COUNTY:

_____	_____
Armond Budish, County Executive	Date

FOR GATEWAY:

_____	_____
Matt Carroll, Vice Chairman	Date

EXHIBIT A

(TRANSFORMATION DESCRIPTION)

The Q is 23 years old and currently the second oldest arena in the NBA that is not new, under construction or had a major structural renovation. Cuyahoga County ("County"), City of Cleveland ("City"), Gateway Economic Development Corporation of Greater Cleveland ("Gateway") and the Cavaliers have come to an agreement on how to keep The Q competitive as a first tier sports and entertainment venue for the long term via a major structural renovation referred to as The Q Transformation.

Among the structural deficiencies that would be addressed as part of The Q Transformation are:

- Limited public areas compared to other arenas
- Outdoor queuing for entry in cold weather
- Narrow concourses with bottleneck conditions during events
- Lack of gathering spaces/neighborhoods for dining and socializing.
- Closed off access to front of the Q from the street and downtown
- Small entry and security screening areas slow ingress into the Arena
- Existing way finding is confusing to guests
- Suites are all original to The Q and are dated

To address these and other existing structural deficiencies:

- Public areas of the arena would be expanded by approximately 40% (75,000 square feet), including expanding the entries and expanded adjoining concourse space by over 300%.
- A North Enclosure will be constructed to expand the interior public space and create a visually enticing "front door" to the Arena.
- Security screening areas will be expanded to speed entry into The Q
- New neighborhoods for guest seating will be created
- Create a pre-function, during event and post function space for guests to flow into and reduce congestion on the Main Concourse.
- Provide new way finding to improve guest flow
- Update and repurpose premium areas
- Update locker room facility

EXECUTION VERSION

EXHIBIT B
(SEE ATTACHED)

Public Flow of Funds

Tax Exempt Debt

(Contingent Rent does not apply) – Estimated \$35.6 million

- Revenue Sources for Debt Service
 - 1992 Bed Tax - \$44 million
 - Reallocated County Civic Capital Redirect - \$18,044,361

Taxable Debt / Cooperative Debt

(Contingent Rent does apply) – Estimated \$34.4 million

- Revenue Sources for Debt Service
 - Admissions Tax PILOT
 - Incremental Sales Tax above \$250,000 from 2016-2027, and above \$200,000 from 2028-2034
 - Playoff Credit
 - 2016: Admissions Tax PILOTS in excess of \$5,000,000, not to exceed \$1,500,000.
 - 2017-23: All QLA post-season games
 - Bed Tax - Initial 3 Years Seed Money - \$3,375,508

County Reserve

- Residual of County resources identified in box above (Hotel Tax Re-direct for major league sports facility financing plan from 2021 through 2023) and retained by County less
 - 3-Year Bed Tax Seed Money less
 - Tax Exempt Debt Service
- Funds described above shall remain in Sports Complex Reserve between 2016 and 2020. If no major league sports facility financing plan by December 31, 2020, funds in Sports Complex Reserve re-deposited in County Reserve.
- Amounts accumulate until there is a shortfall for Cooperative Debt Service AND Cooperative Reserve has been depleted
- To be used to backstop Cooperative Debt Service Shortfalls as long as Cooperative Debt is outstanding

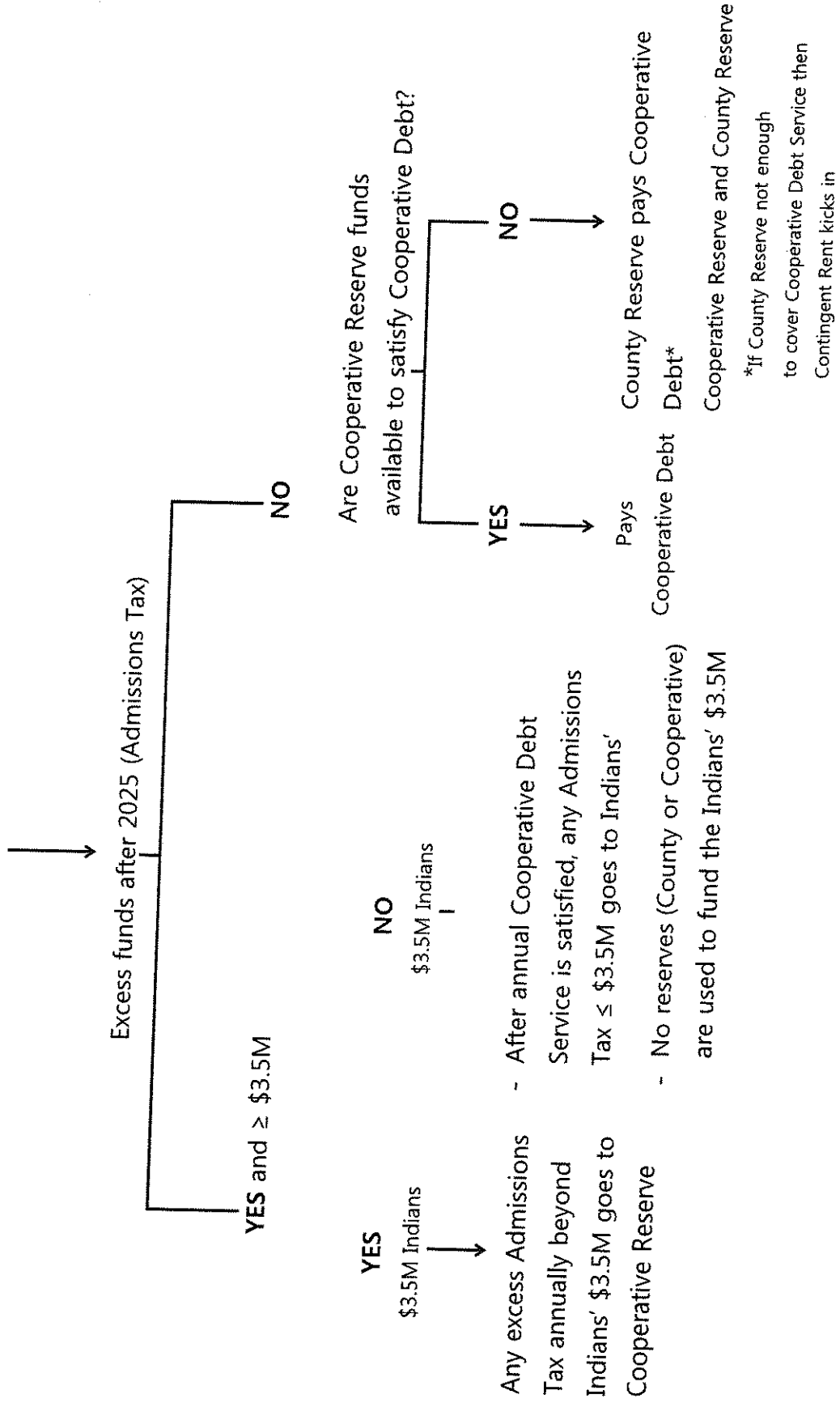
Cooperative (Cavs) Reserve

- Revenue Sources described in Taxable Debt/Cooperative Debt box above, less Cooperative Debt Service less Admissions Tax PILOTS above \$3.5 million annually earmarked for Sports Complex Reserve;
- Incremental Sales Tax beyond Cooperative Debt Service
- Excess accumulates in Cooperative (Cavs') Reserve
- Used for Cooperative Debt Service Shortfalls
- Can be used to prepay debt (2024) to mitigate risk on both sides
- Balance left at end of Debt issuance goes to recoup amounts paid as part of Contingent Rent and then be used towards Rent Credit

- Cavs are not guaranteeing any portion of Sports Complex Reserve

Waterfall Admissions Tax

Revenue Sources (Admissions Tax PILOT, Incremental Sales Tax, Playoff Credit, Bed Tax - initial 3 years Seed Money)
Less: Cooperative Debt Service



Waterfall – Admissions Tax and Sales Tax

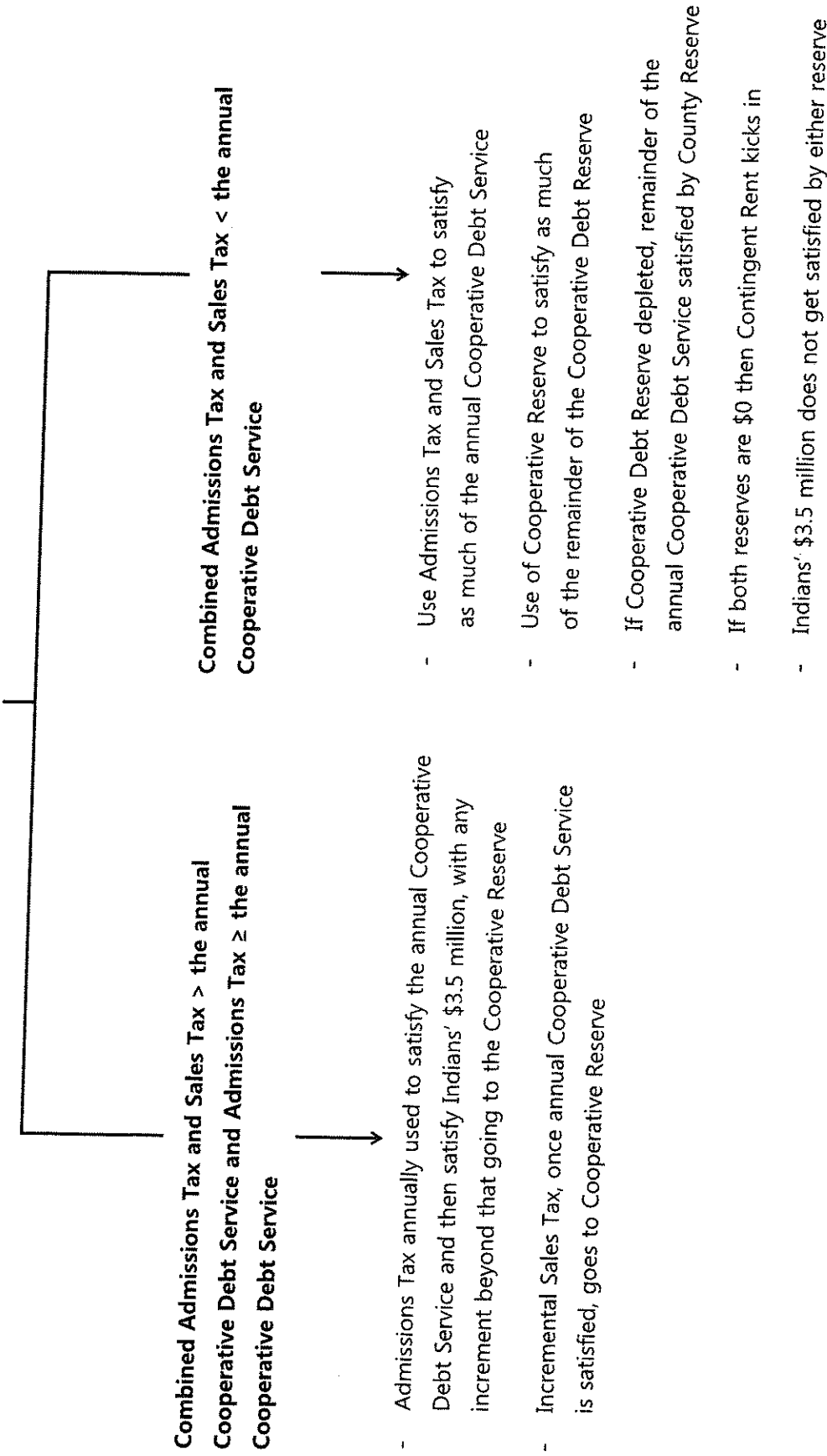


EXHIBIT I

EXHIBIT I

**Schedule of Additional Rent
Payments to Gateway**

6/1/2018	2,729,937.24
12/1/2018	2,729,251.60
6/1/2019	2,730,048.10
12/1/2019	2,730,290.53
6/1/2020	2,729,210.18
12/1/2020	2,727,554.15
6/1/2021	2,728,898.15
12/1/2021	2,729,140.15
6/1/2022	2,728,710.15
12/1/2022	2,727,143.15
6/1/2023	2,729,106.35
12/1/2023	2,729,824.05
6/1/2024	2,729,554.75
12/1/2024	2,728,663.95
6/1/2025	2,730,766.75
12/1/2025	2,727,438.15
6/1/2026	2,727,752.55
12/1/2026	2,727,620.55
6/1/2027	2,731,528.40
12/1/2027	2,729,906.70
6/1/2028	2,731,771.10
12/1/2028	2,728,088.45
6/1/2029	2,727,844.40
12/1/2029	2,732,035.80
6/1/2030	2,729,452.00
12/1/2030	2,731,286.15
6/1/2031	2,731,287.60
12/1/2031	2,730,603.85
6/1/2032	2,728,631.15
12/1/2032	2,730,963.25
6/1/2033	2,731,375.75
12/1/2033	2,730,985.68
6/1/2034	5,457,590.83
12/1/2034	-

\$ 92,804,261.61

*The parties recognize that the final bond payments, to include the payment of additional Rent and possibly Contingent Rent, may take place after the date of expiration of the Lease. To account for this, an escrow account is being established at the bond trustee to accept early payment of Contingent Rent while payments of Additional Rent will occur pursuant to Exhibit I of the Lease, all to be further described in the bond trust agreements. Disposition of the escrow fund may occur after the dates of Lease expiration and final maturity of the Cooperative Bonds and the Cavs Lease Bonds and will account for revenues received by the Cooperative Reserve Fund and investment income in the escrow account, as described further in the bond trust agreement.

EXHIBIT J

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum"), is made and entered into at Cleveland, Ohio, as of the ____ day of October, 2017, by and between GATEWAY ECONOMIC DEVELOPMENT CORPORATION OF GREATER CLEVELAND, a non-profit corporation organized under the laws of the State of Ohio (together with its successors and assigns, hereinafter referred to as "Gateway"), and CAVALIERS OPERATING COMPANY, LLC, a Delaware limited liability company (together with its successors and permitted assigns, hereinafter referred to as the "Lessee").

W I T N E S S E T H:

1. The name and address of Gateway are:

Gateway Economic Development Corporation
of Greater Cleveland
758 Bolivar Rd.
Cleveland, Ohio 44115

2. The name and address of the Lessee are:

Cavaliers Operating Company, LLC
1 Center Court
Cleveland, Ohio 44115

3. Gateway and Lessee have entered into a certain Lease and Management Agreement dated as of October __, 2017 (the "Arena Lease" or the "Lease") pursuant to which Gateway leased to Lessee and Lessee leased from Gateway the following:

The land situated in the City of Cleveland, County of Cuyahoga, State of Ohio, and more particularly described on Exhibit A attached hereto and made a part hereof (the "Arena Land");

All the improvements now or hereafter constructed on the Arena Land, including, but not limited to, the Arena, as hereinafter defined, and related improvements more particularly described in the Lease (collectively, the "Arena Improvements"), and all other rights, privileges and easements appurtenant to, and for the benefit of, the foregoing including, without limitation:

All rights now or hereafter inuring to the Lessee under or pursuant to the Gateway CAM Agreement;

The right to use, possess and enjoy, to the extent and in the manner provided for in the Lease and the Gateway CAM Agreement, Gateway's right, title and interest in and to the real property and improvement comprising the On-Site Parking;

The Naming Rights; and

The sole and exclusive rights (except as specifically provided to the contrary herein) to the Arena Advertising (as more particularly described in the Lease) and all broadcast and communication rights.

Gateway acquired title to the Arena Land pursuant to the instruments described on Exhibit B attached hereto and made a part hereof.

4. As used in this Memorandum and unless otherwise expressly indicated, the following terms shall have the following meanings:

"Arena" shall mean the multi-purpose Arena described in the Arena Lease and shall include the Arena Improvements.

"Ballpark" shall mean the baseball park constructed by Gateway for the staging of sporting events including baseball games involving the Cleveland Indians professional baseball team.

"Gateway CAM Agreement" shall mean the Gateway CAM Agreement dated as of the 28th day of June, 2001, by and between Gateway and the Lessee, as the same shall be amended from time to time hereafter.

"Naming Rights" shall mean the right to designate the name of the Arena from time to time during the Initial Term, and all other rights granted to Lessee pursuant to the Arena Naming Rights Agreement between Gateway and Lessee effective September 15, 1994.

"On-Site Parking" shall mean the parking facilities comprising the On-Site Parking as described in the Lease. The On-Site Parking shall include pedestrian skywalks and tunnels connecting the On-Site Parking to the Arena and the Ballpark.

5. The term of the Arena Lease is forty (40) years, commencing on August 1, 1994 (the "Commencement Date") and terminating on the 120th day after the last day of the 2033-2034 Season (as defined in the Arena Lease) in the year in which the fortieth (40th) full Season following the Commencement Date is concluded (the "Initial Term"), unless extended pursuant to the terms of the Arena Lease. Lessee has two options to extend or renew the term of the Arena Lease for a period of two (2) years each.

6. Lessee has the right to terminate the Arena Lease on and under certain conditions set forth in the Arena Lease.

7. The purpose of this Memorandum of Lease is to evidence of record the Arena Lease, Lessee's right to the use, possession and rights of access, and the matters specifically set forth herein. Neither this Memorandum of Lease nor anything contained herein shall be deemed or construed as modifying any of the terms, covenants, agreements, or provisions of the Arena Lease, which contains the entire agreement of the parties hereto and which is fully incorporated herein by this reference. Copies of the Arena Lease are maintained by each of Gateway and Lessee at their principal offices.

8. This Memorandum may be executed in multiple counterparts, all of which shall constitute a single agreement and instrument, and the signature and acknowledgement pages may be removed from, and appended to, any other counterpart.

IN WITNESS WHEREOF, Gateway and Lessee have caused this Memorandum of Lease to be duly executed as of the day and year first above written.

Witnesses as to Gateway:

GATEWAY ECONOMIC DEVELOPMENT
CORPORATION OF GREATER
CLEVELAND, an Ohio nonprofit corporation

By: _____

Witnesses as to Cavaliers:

CAVALIERS OPERATING COMPANY, LLC,
a Delaware limited liability company

By: _____

STATE OF OHIO)
)
COUNTY OF CUYAHOGA) SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared GATEWAY ECONOMIC DEVELOPMENT CORPORATION OF GREATER CLEVELAND, by _____, its _____, who acknowledged that _____ did execute the foregoing instrument and such execution is _____ free act and deed as such officer and the free act and deed of such corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio this ____ day of October, 2017.

Notary Public

STATE OF OHIO)
)
COUNTY OF CUYAHOGA) SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared CAVALIERS OPERATING COMPANY, LLC, by _____, its _____, who acknowledged that _____ did execute the foregoing instrument and such execution is _____ free act and deed as such officer and the free act and deed of such corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio this ____ day of October, 2017.

Notary Public

This instrument prepared by and to be returned to:

Dennis R. Wilcox, Esq.
Climaco, Wilcox, Peca & Garofoli Co., L.P.A.
55 Public Square, Suite 1950
Cleveland, Ohio 44113
(216) 621-8484

EXHIBIT K

EXHIBIT K

(ARENA TRANSFORMATION PROJECT)

The Q is 23 years old and currently the second oldest arena in the NBA that is not new, under construction or had a major structural renovation. Cuyahoga County ("County"), City of Cleveland ("City"), Gateway Economic Development Corporation of Greater Cleveland ("Gateway") and the Cavaliers have come to an agreement on how to keep The Q competitive as a first tier sports and entertainment venue for the long term via a major structural renovation referred to as The Q Transformation.

Among the structural deficiencies that would be addressed as part of The Q Transformation are:

- Limited public areas compared to other arenas
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- Security screening areas will be expanded to speed entry into The Q
- New neighborhoods for guest seating will be created
- Create a pre-function, during event and post function space for guests to flow into and reduce congestion on the Main Concourse.
- Provide new way finding to improve guest flow
- Update and repurpose premium areas
- Update locker room facility

EXHIBIT L

GATEWAY ECONOMIC DEVELOPMENT CORPORATION OF GREATER CLEVELAND'S
COMMUNITY BUSINESS ENTERPRISES PARTICIPATION GUIDELINES

Gateway wants to ensure that minority, women-owned, historically underutilized and other disadvantaged business enterprises, as well as local small business and their employees have a fair and reasonable opportunity to participate in procurement activities. Contractors, suppliers, and service providers are expected to make a Good Faith Effort to efficiently maximize the voluntary "Community Business Enterprises" or "CBEs" participation.

Gateway has established the Community Business Enterprise Participation goals for this project. At least fifteen percent (15%) of the work must be awarded to MBE, at least seven percent (7%) to FBE and at least eight percent (8%) to either Small or Disadvantaged Business Enterprises. Please provide your detailed plan for meeting or exceeding such Community Business Enterprise participation goals, including the policies and procedures the firm will establish to meet such goals.



**Gateway Economic Development Corporation
Of Greater Cleveland**

Community Business Enterprise Participation

NOTICE TO BIDDERS

The following documents must be completed, signed and submitted as part of the Contractor's bid or proposal for any Gateway contract \$500,000 and over. Failure to submit all Gateway Community Business Enterprise Participation Schedules may result in the rejection of a bid.

Schedule 1: PROJECT CONTACT INFORMATION FORM

Schedule 1, the PROJECT CONTACT INFORMATION FORM, provides Gateway with the necessary contact information to conduct its monitoring responsibilities. Each Bidder or Proposer shall complete, sign and submit Schedule 1 and include it with its bid or proposal.

Schedule 2: SCHEDULE OF SUBCONTRACTOR PARTICIPATION

Schedule 2, the SCHEDULE OF SUBCONTRACTOR PARTICIPATION, identifies all of the subcontractors the Bidder or Proposer intends to use on the project. Each Bidder or Proposer must complete, sign and submit Schedule 2 and include it with its bid or proposal. Bidders or Proposers shall list all prospective subcontractors, including all CSB, MBE, and/or FBE subcontractors, that will participate on the contract, and all requested contact information. Bidders or Proposers shall include the contract specification item number(s) on which the subcontractor will participate in Part 1, the scope, or supplies/materials that the subcontractor will be responsible for will be documented on Part 2, with the corresponding dollar amount for the subcontract on Part 3. The total dollar amount in Part 3 must be an actual dollar amount, and should not be a range of values or a percentage of the contract.

Schedule 3: STATEMENT OF INTENT TO PERFORM AS A SUBCONTRACTOR

Schedule 3, the STATEMENT OF INTENT TO PERFORM AS A SUBCONTRACTOR, verifies that the certified CSB, MBE and/or FBE subcontractors listed on Schedule 2 have agreed to work with the Bidder or Proposer on the project, and that the two parties have agreed on general contract terms. Each certified CSB, MBE, and/or FBE listed as a prospective subcontractor on Schedule 2 shall complete, sign and return Schedule 3 to the Bidder or Proposer, and the Bidder or Proposer shall include the completed Schedule 3 with the bid or proposal. Part 1, Part 2 and Part 3 on each Schedule 3 must correspond with Part 1, Part 2 and Part 3, respectively, on Schedule 2 for the appropriate subcontractor.

No CSB, MBE, or FBE participation credit will be considered for a certified CSB, MBE and/or FBE subcontractor listed on Schedule 2 that does not have a corresponding, accurate Schedule 3 included in the bid or proposal.

If an MBE or FBE plans to re-subcontract any of its work, it must indicate that on Schedule 3. Any work re-subcontracted to a non-certified subcontractor will reduce the Bidder or Proposer's participation credit to the extent of the re-subcontracting.

Schedule 4: CSB/MBE/FBE UNAVAILABILITY/IMPRACTICALITY CERTIFICATION

Schedule 4, CSB/MBE/FBE UNAVAILABILITY/IMPRACTICALITY CERTIFICATION, allows the Bidder or



Proposer to document its good faith effort to achieve the CSB, MBE, and/or FBE subcontracting goals identified for the project in the bid documents. If a Bidder or Proposer has met or exceeded the subcontracting goals for the project, the Bidder or Proposer shall indicate this in Section A of Schedule 4. If the Bidder or Proposer has not met the subcontracting goals for the project, the Bidder or Proposer will indicate this in Section A of Schedule 4, and complete Section B.

Section B of Schedule 4 allows the Bidder or Proposer to document its efforts to solicit certified subcontractor participation for the project, thereby meeting the good faith effort requirement of the bid. Section B also allows the Bidder or Proposer to attach a written document explaining why subcontracting to the goals included in the bid or proposal documents is impossible or impractical due to the nature of the work, service or product being contracted by the bid or proposal. Contractors are obligated to demonstrate their good faith effort to meet the subcontracting goals for the contract, and failure to do so will result in the rejection of the bid or proposal.

Failure to submit and accurately complete the Gateway Community Business Enterprise Participation Schedules 1, 2, 3, and 4 may result in the rejection of all or part of the bid or proposal. Submission of incomplete, inaccurate, or inconsistent data in the Schedules may lead to a formal investigation, decertification of the Bidder or Proposer, decertification of the subcontractor, and/or a rejection of all or part of the bid. Gateway reserves the right to waive any informality or immaterial irregularity, and reserves the right to reject any or all bids.

Subcontractor Participation Compliance Monitoring

Once a contract is awarded through the bid or proposal process, the winning contractor is obligated to use the certified CSB, MBE or FBE subcontractors listed on the Gateway Community Business Enterprise Participation Schedules and in the same participation amount indicated in the Community Business Enterprise Participation Schedules unless changes are approved in writing by Gateway for good cause shown. Gateway will monitor this subcontractor participation throughout the course of the contract to ensure that the listed subcontractors are performing work on the project, and that they are being properly compensated for that work.

Each month during the contract, the prime contractor (or direct contract-holder with Gateway) will report payments to ALL subcontractors to Gateway. This monthly reporting information includes total payment in dollars made to the subcontractor, record of invoices satisfied, record of checks or other payment methods used to satisfy invoices, payment dates, and any additional information required by Gateway to verify payment to subcontractors. The prime contractor will provide this payment information to Gateway, and the subcontractors will verify this payment information with Gateway.

Community Business Enterprises Participation Guidelines

Gateway wants to ensure that minority-owned (MBE), women-owned (FBE), historically underutilized and other disadvantaged business enterprises, as well as local small business and their employees have a fair and reasonable opportunity to participate in procurement activities. Contractors, suppliers, and service providers are expected to make a good faith effort to efficiently maximize the voluntary "Community Business Enterprises" or "CBEs" participation.

Gateway has established the following Community Business Enterprise Participation goals for this project: (1) at least fifteen percent (15%) of the work to be awarded to MBE, (2) at least seven percent (7%) to be awarded to FBE and (3) at least eight percent (8%) to be awarded to either Small or Disadvantaged Business Enterprises (CSB). Please provide your detailed plan for meeting or exceeding such Community Business Enterprise participation goals, including the policies and procedures the firm will establish to meet such goals.



**Gateway Economic Development Corporation
Community Business Enterprise Participation
Schedules Checklist**

This checklist will guide you through Gateways Community Business Enterprise Participation Schedules that must be completed and submitted as part of your bid or proposal.

Schedule 1: Project Contact Information Form

- Is all requested contact information included?
- Is the form complete and signed?

Schedule 2: Schedule of Subcontractor Participation

- Did you specify the total dollar amounts for each subcontract?
- Did you verify that each subcontractor is certified for the type of work to be performed?
- Is the form complete and signed?

Schedule 3: Statement of Intent to Perform as a Subcontractor

- Did the subcontractor specify the total dollar amount of the subcontract?
- If applicable, has the re-subcontracting section been completed?
- Is the form complete and signed by the subcontractor?

Schedule 4: CSB/MBE/FBE Subcontractor Unavailability/Impracticality Certification

- Did you list all companies you have contacted? (If additional space is needed, attach a separate sheet)
- If you are claiming that subcontracting is not available or practical on this contract, have you provided an explanation on a separate, attached sheet?
- Is the form complete and signed?



Gateway - Community Business Enterprise Participation Plan
SCHEDULE 1: PROJECT CONTACT INFORMATION FORM

Project Name:	
Bidder/Proposer Name:	

Part I: Bidder Information

Contractor's Full Legal Name:						
Contractor's Address:				Federal Tax ID Number (EIN):		
City:				State and Zip:		
Contractor's Principal Officer Name:				Phone Number:		
Contractor's Main Email Address:						
Contractor's Authorized OEO Representative Name:				Phone Number:		
Authorized OEO Representative Email Address:						
Are you Certified with the City of Cleveland Office of Equal Opportunity? Check all that apply:	<input type="checkbox"/> CSB	<input type="checkbox"/> MBE	<input type="checkbox"/> FBE	<input type="checkbox"/> SUBE	<input type="checkbox"/> LPE	<input type="checkbox"/> SFP

Signature: _____ Date: _____
Bidder/Proposer Representative:

Title:



Gateway - Community Business Enterprise Participation Plan
SCHEDULE 2: SCHEDULE OF SUBCONTRACTOR PARTICIPATION

Project Name:	
Bidder/Proposer Name:	

List ALL PROSPECTIVE SUBCONTRACTORS (Certified and non-certified) that will be participating on this contract. The Bidder or Proposer is responsible for verifying that each CSB, MBE and FBE Subcontractor listed is certified to perform the particular type of work they are expected to perform for the contract.

Subcontractor:	Part 1: SPEC ITEM#	Part 2: TYPE OF WORK OR MATERIALS/SUPPLIES	Part 3: SUBCONTRACT AMOUNT
Address:			\$
City, State, Zip:			\$
OEO Compliance Contact:			\$
Contact Email Address:			\$
Contact Phone:			\$
Company Type: CSB <input type="checkbox"/> MBE <input type="checkbox"/> FBE <input type="checkbox"/> Other <input type="checkbox"/> Non-Certified <input type="checkbox"/>			\$
Federal Tax ID#/EIN:	TOTAL		\$

Subcontractor:	Part 1: SPEC ITEM#	Part 2: TYPE OF WORK OR MATERIALS/SUPPLIES	Part 3: SUBCONTRACT AMOUNT
Address:			\$
City, State, Zip:			\$
OEO Compliance Contact:			\$
Contact Email Address:			\$
Contact Phone:			\$
Company Type: CSB <input type="checkbox"/> MBE <input type="checkbox"/> FBE <input type="checkbox"/> Other <input type="checkbox"/> Non-Certified <input type="checkbox"/>			\$
Federal Tax ID#/EIN:	TOTAL		\$

The prime contractor **may not substitute subcontractors** between the submission of bids and award of the contract. After the contract is awarded, the prime contractor may not substitute or shift subcontractors without written approval of the Gateway. When there are CSB, MBE and/or FBE goals established in the bid specifications, subcontractor substitutions must preserve the original bid participation percentage, unless Gateway waives the requirement. The undersigned agrees that if awarded a contract, it will enter into a written agreement with each subcontractor listed above. If the total contract amount increases, the contractor shall use its best efforts to preserve the original CSB, MBE and/or FBE participation percentages for that increased amount.

Authorized Representative:			
Signature:		Date:	



Gateway - Community Business Enterprise Participation Plan
SCHEDULE 2: SCHEDULE OF SUBCONTRACTOR PARTICIPATION
ADDITIONAL SUBCONTRACTOR FORM

Project Name:	
Bidder/Proposer Name:	

Subcontractor:	Part 1: SPEC ITEM #	Part 2: TYPE OF WORK OR MATERIALS/SUPPLIES	Part 3: SUBCONTRACT AMOUNT
Address:			\$
City, State, Zip:			\$
OEO Compliance Contact:			\$
Contact Email Address:			\$
Contact Phone:			\$
Company Type: CSB <input type="checkbox"/> MBE <input type="checkbox"/> FBE <input type="checkbox"/> Other <input type="checkbox"/> Non-Certified <input type="checkbox"/>			\$
Federal Tax ID#/EIN:	TOTAL		\$
Subcontractor:	Part 1: SPEC ITEM #	Part 2: TYPE OF WORK OR MATERIALS/SUPPLIES	Part 3: SUBCONTRACT AMOUNT
Address:			\$
City, State, Zip:			\$
OEO Compliance Contact:			\$
Contact Email Address:			\$
Contact Phone:			\$
Company Type: CSB <input type="checkbox"/> MBE <input type="checkbox"/> FBE <input type="checkbox"/> Other <input type="checkbox"/> Non-Certified <input type="checkbox"/>			\$
Federal Tax ID#/EIN:	TOTAL		\$
Subcontractor:	Part 1: SPEC ITEM #	Part 2: TYPE OF WORK OR MATERIALS/SUPPLIES	Part 3: SUBCONTRACT AMOUNT
Address:			\$
City, State, Zip:			\$
OEO Compliance Contact:			\$
Contact Email Address:			\$
Contact Phone:			\$
Company Type: CSB <input type="checkbox"/> MBE <input type="checkbox"/> FBE <input type="checkbox"/> Other <input type="checkbox"/> Non-Certified <input type="checkbox"/>			\$
Federal Tax ID#/EIN:	TOTAL		\$



**Gateway - Community Business Enterprise Participation Plan
SCHEDULE 3: STATEMENT OF INTENT TO PERFORM AS A SUBCONTRACTOR**

Subcontractor Name:	
Bidder/Proposer Name:	
Project Name:	

Subcontractor is a: CSB
 MBE
 FBE

Have you (subcontractor) been notified by the City of Cleveland, Office of Equal Opportunity that you have met the annual subcontracting participation maximum for this calendar year? Yes No

The undersigned prospective subcontractor intends to perform work or furnish supplies/materials in connection with the contract as a (check all that apply):

- Individual
- Corporation organized and existing under the laws of the State of _____
- Proprietorship,
- Partnership, or
- Joint Venture consisting of _____

The CSB, MBE or FBE status of the undersigned contractor is confirmed in the City of Cleveland, Office of Equal Opportunity's registry of certified CSBs, MBEs and FBEs. The contractor is prepared to perform the following work items or parts thereof for the above contract.

Part 1: SPEC ITEM #s	Part 2: TYPE OF WORK OR SUPPLIES/MATERIALS	Part 3: TOTAL SUBCONTRACT AMOUNT IN DOLLARS
		\$

RE-SUBCONTRACTING

The undersigned prospective subcontractor will re-subcontract work on this contract:

- Yes (If Yes, fill out a "Blank" Schedule 2 and indicate the subcontractors being used as 2nd Tier subcontractors.)
- No

The undersigned prospective subcontractor will enter into a written agreement with the Bidder or Proposer for the above work items after the award, but prior to the execution of the contract with Gateway.

Authorized Subcontractor Representative:			
Signature:		Date:	



Gateway - Community Business Enterprise Participation Plan
SCHEDULE 4: CSB/MBE/FBE SUBCONTRACTOR
UNAVAILABILITY/IMPRACTICALITY CERTIFICATION

Project Name:	
Bidder/Proposer Name:	

Note: Prime contractors are expected to use good faith efforts in utilizing CSBs, MBEs and FBEs as subcontractors whenever there are CSB, MBE and/or FBE participation goals established in the bid specifications. There may be instances, however, where Prime Contractors will not be able to achieve the prescribed CSB, MBE and/or FBE participation goals for a particular contract. This Schedule 4 allows Prime Contractors to demonstrate their good faith efforts in finding and soliciting CSBs, MBEs and FBEs to work on the contract. If the subcontracting goals for this contract are not met, failure to complete this schedule fully and completely may impact the evaluation of this bid or proposal.

Section A:

Please check one of the following:

- 1. Prime Contractor has submitted Schedules 1 and 2 indicating CSB/MBE/FBE Subcontractor participation **MEETING OR EXCEEDING** the goals set forth in the bid documents.
- 2. Prime contractor has submitted Schedules 1 and 2 indicating CSB/MBE/FBE Subcontractor participation that **DOES NOT MEET** the goals set forth in the bid documents.

If Box 1 is checked, no further documentation is necessary. Where Box 2 is checked, the Prime Contractor must provide a detailed explanation in Section B.

Section B:

If you checked Box 2 on Section A, you must check one of the following:

The Prime Contractor did not meet the CSB, MBE and/or FBE subcontractor participation goals for this contract because:

- 1. The Prime Contractor has made an honest, purposeful attempt to solicit CSB, MBE and/or FBE subcontractor participation, but was unable to find subcontractors to perform the work for the reasons noted below.

CONTACTED CONTRACTOR	PROPOSED WORK/SUPPLIES	REASON FOR UNAVAILABILITY	DATE OF CONTACT	DATE RESPONSE RECEIVED
1.				
2.				
3.				
4.				

- 2. The Prime Contractor made an honest, purposeful attempt to solicit CSB, MBE and/or FBE subcontractor participation, but due to the nature of the work, service, or product contracted, additional subcontracting with CSBs, MBEs or FBEs is either impossible or impractical. The Prime Contractor has provided a detailed explanation of the nature of the work and the reasons that additional subcontracting is not possible on a separate attached page.

Authorized Representative:			
Signature:		Date:	

GATEWAY ECONOMIC DEVELOPMENT
CORPORATION OF GREATER CLEVELAND

RESOLUTION NO. 2014-1

REGARDING ENDORSEMENT OF PRINCIPALS
UNDERLYING MEMORANDUM OF UNDERSTANDING
REGARDING COMMUNITY BENEFITS AND INCLUSION
DATED FEBRUARY 26, 2013
FOR CERTAIN CONSTRUCTION CONTRACTS

WHEREAS, Gateway Economic Development Corporation of Greater Cleveland (“Gateway”) supports the ideas of inclusion in all of its contracting matters, including construction contracts for improvements to the Ballpark and Arena; and

WHEREAS, Gateway has previously adopted policies to implement these inclusion goals and policies; and

WHEREAS, Gateway is committed to promoting the values of inclusiveness, diversity and accountability for all people in the communities that it serves; and

WHEREAS, the Board of Trustees of Gateway have been presented with a Memorandum of Understanding regarding Community Benefits and Inclusion (the “MOU”) dated as of February 26, 2013 among the Construction Employees Association, Hispanic Roundtable, Hardhatted Women, the Urban League of Greater Cleveland, Greater Cleveland Partnership, the City of Cleveland, Cuyahoga Community College, the Cleveland Metropolitan School District and the Cleveland Buildings & Construction Trades (collectively the “Parties”); and

WHEREAS, the Board of Trustees of Gateway desires to express its agreement with the principals of the MOU and in developing a sustainable work force in the community and that it shares the aspiration of cultivating a new model for investment represented by not only bricks and mortar, but the creation of a thriving local economy and shared prosperity.

NOW, BE IT RESOLVED, that the Board of Trustees of Gateway on behalf of Gateway Economic Development Corporation of Greater Cleveland declares its support for the MOU and the Greater Cleveland Partnership Construction Diversity and Inclusion Committee's effort to develop tools and guidelines to effectuate the goals outlined in the MOU for construction of

Major Capital Projects of Gateway of \$500,000 or greater.

BE IT FURTHER RESOLVED, that Gateway will continue to encourage Major Capital Projects that return tangible benefits to the community and will collaborate, where possible, with the Parties' efforts to produce beneficial outcomes for historically disadvantaged communities.

BE IT FURTHER RESOLVED, that Gateway advocates communities, governments and businesses working together to create vibrant economic economies through integrated planning and is committed to innovative strategies to spur economic growth and shape our shared future.

BE IT FINALLY RESOLVED, that the Chair is authorized to execute a letter to the Parties expressing the position of Gateway embodied in this Resolution.

APPROVED BY:

SECRETARY-TREASURER

ENDORSEMENT OF THE PRINCIPLES UNDERLYING
THE MEMORANDUM OF UNDERSTANDING REGARDING COMMUNITY
BENEFITS AND INCLUSION ("MOU")
DATED FEBRUARY 26, 2013

The Cuyahoga Metropolitan Housing Authority ("CMHA") is committed to promoting the values of inclusiveness, diversity, and accountability for all peoples in the communities that it serves. CMHA has created a comprehensive inclusionary program that encourages minority, female, and Section 3 businesses to participate in contracting opportunities with the Authority. CMHA shares the interest of the parties to the MOU in developing a sustainable workforce base in the community and shares the aspiration of cultivating a new model for investment represented by not only bricks and mortar, but by the creation of a thriving local economy and shared prosperity.

CMHA supports the Greater Cleveland Partnership Construction Diversity and Inclusion Committee's ("GCPDIC") effort to develop tools and guidelines to effectuate the goals outlined in the MOU. CMHA will continue to encourage development that returns tangible benefits to the local community and will collaborate, where possible, with GCPDIC's effort to produce beneficial outcomes for historically disadvantaged communities.

CMHA advocates communities, government, and business working together to create vibrant economies through integrated planning and is committed to innovative strategies to spur economic growth and shape our shared future.

DATED THIS 16th DAY OF SEPTEMBER, 2013

By: 
Jeffery K. Patterson, Chief Executive Officer

Sec 4, 5, 6

**MEMORANDUM OF UNDERSTANDING
REGARDING COMMUNITY BENEFITS AND INCLUSION**

This Memorandum of Understanding ("MOU"), dated February 26, 2013, is among the Construction Employers Association ("CEA"), Hispanic Roundtable, Hard Hatted Women ("HHW"), the Urban League of Greater Cleveland ("ULGC"), Greater Cleveland Partnership ("GCP"), the City of Cleveland ("City"), Cuyahoga Community College ("Tri-C"), the Cleveland Metropolitan School District ("CMSD"), and the Cleveland Building and Construction Trades Council ("CBCTC") (collectively, the "Parties").

With a goal of reframing the public discourse on economic development in Cleveland to encourage collaboration to fuel economic growth, harness that growth to create a more equitable and inclusive local economy and create shared prosperity, the Parties agree as follows:

1. **Demand Driven Workforce Study**—The Parties will use their good-faith efforts to raise funds for a study of public and private sector real estate owners, developers, contractors, subcontractors, and others to determine near- and long-term demand for construction tradespersons (by trade discipline), construction administration and technology personnel (e.g., construction office, secretarial, accounting, safety, CAD, and support), and facilities maintenance personnel. This demand study will provide the basis for future pre-apprenticeship, apprenticeship, and other training in the Northeast Ohio area's high schools, community colleges, and workforce training programs. The Parties will consult with the Governor's office, Team NEO, GCP, foundations, and other parties that can support this important research effort.
2. **Pre-Apprenticeship and School-To-Registered-Apprenticeship Programs**—
 - a. Following completion of the workforce demand study and based upon its findings, the Parties, through CEA, will hire a qualified third-party (e.g., the Ohio State University College of Education and Human Ecology) to design a curriculum and high-school course of study for persons seeking careers in the trades, construction administration/technology, and facilities management.

The selected third-party will design the curriculum for review and approval by CMSD, Ohio Department of Education, Ohio State Apprenticeship Council, Tri-C, and/or other necessary approving authorities for high

school, pre-apprenticeship, and school-to-registered-apprenticeship curricula.

b. Once the Parties and necessary approving authorities have approved the curricula and course of study:

i. **Adult Pre-Apprenticeship Program**— The Parties will take reasonable and necessary steps to obtain approval for an adult pre-apprenticeship program operated by one or more qualified administrators or an administrative collaboration comprised of organizations such as the ULGC, Helmets to Hardhats, HHW, Cleveland Job Corps, Esperanza, Tri-C and/or Union Construction Industry Partnership-Apprenticeship Skill Achievement Program ("UCIP-ASAP").

ii. **High School School-to-Apprenticeship Program**— The Parties will assist CMSD in forming and operating a new high school school-to-registered-apprenticeship program. Assistance will include:

1. provision of industry-specific training, as need and funding permit;

2. facilitated staffing of industry-specific volunteer working committees within CMSD; and

3. provision of technical advice to CMSD regarding the program's structure, formation, and process of complying with and/or gaining recognition from the Ohio Department of Education and the Ohio State Apprenticeship Council.

iii. CMSD shall implement the school-to-registered-apprenticeship program at Max Hayes and other high schools by formally adopting the curriculum and courses of study and through articulation agreements with Tri-C and others, including, but not limited to, interested union apprenticeship training councils.

iv. Once the pre-apprentice programs described in paragraphs 2(b)(i) and (ii) are formed and operational, the Parties shall take reasonable and necessary steps to designate them, along with UCIP-ASAP to the extent it remains a stand-alone program, as preferred first-source pre-apprenticeship programs.

3. **Funding**— The demand study and program development services described in paragraphs 1 and 2(a) will be obtained through outside funding. GCP shall work in conjunction with the other Parties to mobilize funding for these items. The Committee (as defined in paragraph 7(a) hereinbelow), working within the framework of the GCP Commission on Economic Inclusion ("GCP/Commission"), shall apply for and receive the outside funding.

4. **Workforce Reporting**—

a. The Parties shall use good-faith efforts to encourage private owners and developers of major construction and development projects ("Major Projects") to enter into community benefits agreements ("CBAs") with their contractors and appropriate constituency organizations relevant to the Major Project that include reporting of workforce information to the Committee (as defined in paragraph 7(a) hereinbelow). Within ninety days of the date of this MOU, the Committee shall determine the project-size threshold for defining a Major Project, as that phrase is used in this MOU. At least yearly, the Committee will review and determine whether to change the project-size threshold.

b. The Parties' goal is that the private owners and developers will use CBAs that contain provisions requiring contractors (and the contractors' subcontractors) working on the Major Projects to report project-size information and certain monthly payroll information to the private owner/developer and the Committee. In that regard, the Parties shall use good-faith efforts to encourage inclusion of these paragraph 4 reporting requirements in the project-specific CBAs.

c. The information to be reported monthly should include:

- i. the number and percentage of all construction worksite hours performed by Cleveland residents;
- ii. the number and percentage of all construction worksite hours performed by low-income persons who are Cleveland residents (with low-income status determined by reference to relevant guidelines established by the United States Department of Housing and Urban Development);
- iii. the number and percentage of all work hours performed by minorities, broken out by race;
- iv. the number and percentage of all work hours performed by women;

- v. usage of minority business enterprises, including, without limitation, the value of all contracts performed by minority business enterprises and the percentage of the total project cost represented by the value of the contracts performed by minority business enterprises;
- vi. usage of female business enterprises, including, without limitation, the value of all contracts performed by female business enterprises and the percentage of the total project cost represented by the value of the contracts performed by female business enterprises; and
- vii. apprenticeship utilization per trade, broken out by race and gender.

The Committee shall review from time to time the type of workforce information that it wishes to have reported.

- d. The Parties' goal is for the collected workforce data to be available to the public. The GCP/Commission shall develop the standards and guidelines under which the workforce data reported to the Committee will be made available to the public.
- e. GCP hereby expressly endorses the use of CBAs and the reporting of workforce data on Major Projects as defined herein. In that regard, GCP will require the use of CBAs and the above-referenced reporting as a condition of funding from Cleveland Development Advisors for any Major Project.

5. Mentor Protégé; MBE/FBE/SBE Contracting; Residential Workforce—

- a. Working together, the Parties shall use good-faith efforts to obtain the commitment of owners/developers, contractors, subcontractors, and design professionals to provide mentor-protégé and contract opportunities for MBE, FBE, and SBE contractors, design professionals, and others as determined by the owner/developer. The aspirational goals of the Parties are 15% MBE, 7% FBE, 8% SBE, and, for projects in the City of Cleveland, 20% Cleveland residents.

- b. When a private owner/developer establishes contracting goals for minority, female, or resident contractors, the Parties shall use good-faith efforts to secure the private owner/developer's commitment to:
 - i. pay all undisputed construction invoices within 30 days of the private owner/developer's receipt of a properly-submitted and correct invoice;
 - ii. Incorporate the following into project bid specification documents and contracts for construction contractors at every tier:
 - 1. workforce reporting (as set forth in paragraph 4 of this MOU) by each prime contractor, in a manner that will be enforceable through the private owner/developer's contractual remedies;
 - 2. contractor and sub-contractor participation in a bona fide mentor-protégé program, in a manner that will be enforceable through the private owner/developer's contractual remedies; and
 - iii. take reasonable steps to relax contractual retainage and performance bonding requirements to assist MBE/FBE/SBE contractors.

6. Assistance to Contractors; Apprenticeship; and Pre-Apprenticeship Utilization—

- a. The Parties agree to use good-faith efforts to encourage private owners/developers of Major Projects to incorporate the following concepts into their CBAs:
 - i. Designation of the CMSD high-school-to-apprenticeship programs referenced in paragraph 2(b)(ii), the adult pre-apprenticeship programs referenced in paragraph 2(b)(i), and any other programs approved by the Committee (as defined in paragraph 7(a) hereinbelow) as preferred first-source pre-apprenticeship programs.
 - ii. When a contractor's request for employees to meet the private owner/developer's goals for minority, female, or resident employees cannot be or is not being met, or as otherwise required to meet the terms, conditions, and goals of this MOU, the private owner/developer shall have the right to direct the contractor to employ new apprentices who have completed one of the

pre-apprenticeship programs described in paragraph 2(b) above to meet the private owner/developer's goals or the terms, conditions, and goals of this MOU.

- iii. Requiring the contractor to provide eligible pre-apprentices the opportunities for apprenticeships as required to meet the terms, conditions, and goals of this MOU.
 - iv. With respect to each construction trade working on the Major Project, requiring contractors to utilize apprentices in amounts developed on a per-trade basis to fit the unique needs and circumstances of the Major Project. (The Parties note that the Ohio State Apprenticeship Council sets ratios of journeypersons to apprentices in the apprenticeship standards of apprenticeship programs registered with it, which may be consulted relative to the circumstance above.)
- b. CEA shall work with the pre-apprenticeship groups identified in paragraph 2(b) hereinabove and their respective registered apprenticeship programs to meet the goals of this MOU.
 - c. The Parties agree to use good faith efforts to encourage private owners/developers of Major Projects to work with qualified apprenticeship training organizations to meet the goals of this MOU.
 - d. At least quarterly, the Committee shall meet to evaluate compliance with the terms and conditions of this paragraph 6.

7. Construction Diversity & Inclusion Committee—

- a. The GCP/Commission shall form and facilitate a committee to monitor diversity and inclusion in the construction industry (the "Committee"). The Committee shall include representatives of each Party, other non-CBCTC unions signatory to CBAs, and others designated by the GCP/Commission, including other non-GCP private owners and developers signatory to CBAs.
- b. The Committee shall meet not less than quarterly and shall:
 - i. Review the data gathered pursuant to paragraph 4 of this MOU;

- ii. Discuss, agree upon and publish recommended best practices for improving diversity and inclusion in construction, such as:
 1. Workforce affirmative action measures to meet future market demand;
 2. Community benefit agreement terms to assist project owners and developers and small, minority, and female contractor businesses;
 3. Transparency; and
 4. Challenges faced by project owners/developers and contractors.
 - iii. Discuss and agree upon metrics from which the GCP/Commission shall publish an annual report card for Major Projects, participating owners/developers, and participating contractors.
 - iv. Monitor and assess pre-apprenticeship supply and demand as defined in the demand study set forth in paragraph 1 as well as similar demand studies in the future. The Committee also shall monitor and assess the progress of the pre-apprenticeship utilization efforts outlined in this MOU.
8. **Term and Termination**— Any Party may terminate its agreement to be bound by this MOU upon not less than thirty (30) days' written notice to all other Parties who, at the time of such notice, are still bound by this MOU.
9. **Signatures**— The parties to this MOU need not all sign on the same page. Signatures on separate pages and executed at different times will not affect the validity of the MOU. Original signatures and signatures provided by facsimile are equally valid.

[Signatures on next page]

CITY OF CLEVELAND, OHIO

[Signature]
Printed Name: Eugene Taylor
Title: City Engineer
Date: 2/26/13

CLEVELAND METROPOLITAN SCHOOL DISTRICT

[Signature]
Printed Name: Eric S. Gordon
Title: Chief Executive Officer
Date: 2/26/13

GREATER CLEVELAND PARTNERSHIP

[Signature]
Printed Name: Eddie Taylor
Title: CEO
Date: 2/20/13

URBAN LEAGUE OF GREATER CLEVELAND

[Signature]
Printed Name: Marsha Mockabee
Title: President
Date: 2/26/13

CONSTRUCTION EMPLOYERS ASSOCIATION

[Signature]
Printed Name: Tom Parzica
Title: President
Date: 2/20/13

HISPANIC ROUNDTABLE

[Signature]
Printed Name: Jose Salicrú
Title: President
Date: 2/20/13

CUYAHOGA COMMUNITY COLLEGE

[Signature]
Printed Name: Robert A. Verhoff
Title: Director of Construction Program
Date: 2/26/2013

HARD HATTED WOMEN

[Signature]
Printed Name: Terri B. Sandu
Title: President
Date: 2.25.13


CLEVELAND BUILDING AND CONSTRUCTION TRADES COUNCIL

[Signature]
Printed Name: David O'Connell
Title: Executive Secretary
Date: 2/20/13


ENDORSEMENTS

We, the undersigned African-American contractors, wholeheartedly endorse the terms and goals of the foregoing Memorandum of Understanding dated February 26, 2013.

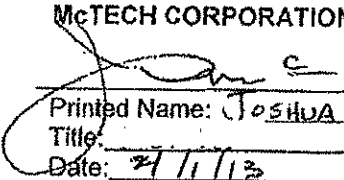
COLEMAN-SPDHN CORPORATION


Printed Name: _____
Title: _____
Date: 3-13-2013


JWT&A LLC


Printed Name: Jehu W. Taylor
Title: President
Date: 3/19/2013

McTECH CORPORATION


Printed Name: JOSHUA PERKINS
Title: _____
Date: 3/11/13

OZANNE CONSTRUCTION COMPANY


Printed Name: PAMILE OZANNE
Title: CEO
Date: 3/14/13