

Ordinance No. 123124

Council Bill No. 116664

AN ORDINANCE relating to the Seattle Center Department; authorizing the execution of a facility use agreement with Seattle University, for use and occupancy of KeyArena and adjacent areas at the Seattle Center.

Related Legislation File:

Date Introduced and Referred: 9.28.09	To: (committee): Parks + Seattle Center
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: 10-5-09	Date Presented to Mayor: 10-6-09
Date Signed by Mayor: 10.8.09	Date Returned to City Clerk: 10.8.09
Published by Title Only <input checked="" type="checkbox"/>	Date Vetoed by Mayor:
Published in Full Text <input type="checkbox"/>	Date Passed Over Veto:
Date Veto Published:	Date Returned Without Signature:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: *Tom Rasmussen*

Committee Action:

Date	Recommendation	Vote
9-29-09	pass	2-0 TR, JD

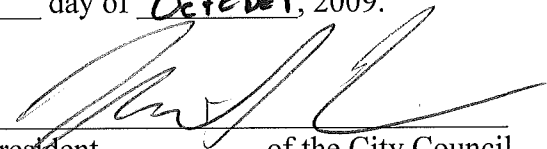
This file is complete and ready for presentation to Full Council.

Full Council Action:

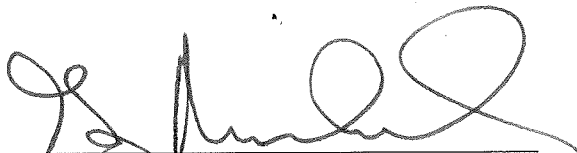
Date	Decision	Vote
10-5-09	Passed	9-0

Law Department


1 Passed by the City Council the 5th day of October, 2009, and signed by me in open
2 session in authentication of its passage this 5th day of October, 2009.

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President _____ of the City Council

5 Approved by me this 8th day of October, 2009

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9 Gregory J. Nickels, Mayor

10 Filed by me this 8th day of October, 2009

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12 
13 City Clerk

14 (Seal)

15 **Attachment 1:** Agreement between the City of Seattle and Seattle University Regarding Use of
16 KeyArena
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Attachment 1

AGREEMENT BETWEEN
THE CITY OF SEATTLE
AND
SEATTLE UNIVERSITY
REGARDING USE OF KEYARENA



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**AGREEMENT BETWEEN
THE CITY OF SEATTLE
AND
SEATTLE UNIVERSITY
REGARDING USE OF KEYARENA**

THIS AGREEMENT ("Agreement") is entered into by and between **The City of Seattle** ("City"), a municipal corporation of the State of Washington, acting by and through its Seattle Center Department and the Director thereof ("Department" and "Director", respectively), and **Seattle University** ("University"), a Washington non-profit corporation organized and existing under the laws of the State of Washington.

RECITALS:

- A. Founded in 1891, the University is a nationally recognized non-profit educational institution with a reputation for academic excellence and a mission of empowering leaders for a just and humane world.
- B. The City is the owner and operator of KeyArena as defined herein.
- C. The University contributes to the social and economic environment of the City by having three out of four University students serve the community through volunteer activities, internships and professional development; and the University generates an annual overall economic benefit of \$580.4 million.
- D. The University's basketball games were once one of Seattle Center's popular attractions, and the University's return to Seattle Center was envisioned as a possibility in the Century 21 Master Plan.
- E. The parties are entering into this Agreement, in part, because the University's basketball games enhance the offerings of Seattle Center, draw people to the Seattle Center campus and lower Queen Anne and South Lake Union business districts, and contribute to community, civic, and economic vitality of the Seattle Center and the surrounding neighborhood.

IN CONSIDERATION of the mutual promises, covenants, agreements, and performances described herein, and other good and valuable consideration, the parties hereto agree as follows:

I. DEFINITIONS

All words in this Agreement bearing initial capitals, other than proper nouns, section headings or words required to be capitalized for proper usage, are defined terms and shall have the meanings specifically assigned to them in this Agreement. Unless otherwise expressly provided, use of the singular includes the plural and *vice versa*.



A. Additional Expenses

“Additional Expenses” means any reimbursement for services or labor or any other amount University is required to pay the City under this Agreement, other than the License Fee.

B. Advertising

“Advertising” means any printed or verbal announcement or display of any kind intended to sponsor or promote, directly or indirectly, the sale or rental of a service, an admission ticket to an event, an interest in a product, commodity or other form of property, or the expression of any other commercial or noncommercial message other than directional, health or safety messages.

C. Allowed Products and Services

“Allowed Products and Services” means and includes insurance, brokerage services, mutual funds, IRA, retirement accounts, 529 plans, college savings plans, student loans, gift certificates, gift checks, gift cards, travelers checks, financial planning, trust and estate planning, investment management, credit cards, charge cards, travel and entertainment charge cards, credit card processing, investment banking, real estate capital and wire transfers.

D. Agreement

“Agreement” means this Agreement, as from time to time amended in accordance with the terms hereof, including the license to use the KeyArena for Home Games.

E. Approval

“Approval” or “Approve” means the prior written consent of a party hereto or a designated representative thereof.

F. Consumer Price Index

“Consumer Price Index” or “CPI” means the Consumer Price Index for All Urban Consumer Items, Seattle-Tacoma-Bremerton Metropolitan Statistical Area using the base 1982-84 = 100, as published by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor.

G. Common Areas

“Common Areas” means and includes any Seattle Center area designated by the City as being for the general use of tenants, licensees, concessionaires, patrons, employees, and invitees of the Seattle Center and not within the exclusive control of any tenant, licensee, or concessionaire, and shall include but not be limited to parking



areas, landscaped areas, areaways, roads, walks, corridors, malls, public toilets, public lounges, public stairs, ramps, elevators, escalators, and shelters.

H. Concession Operations

“Concession Operations” means any and all activity associated with securing, storing, preparing, offering for sale, selling, dispensing or distributing, in any manner, any item of Food in or from any portion of KeyArena.

I. Disallowed Products and Services

“Disallowed Products and Services” means and includes checking accounts, savings accounts, debit cards, certificates of deposit, check-cashing services, automobile loans, boat loans, home equity loans/lines of credit, personal lines of credit, mortgage services and primary home loans, safe deposit boxes, online banking, online bill pay, business equity lines of credit, business equipment loans, equipment leasing, equipment finance, SBA loans, cash management, foreign currency exchange, asset based lending and syndicated finance.

J. First Avenue North Parking Garage

“First Avenue North Parking Garage” means the multi-deck parking facility at Warren Avenue and Thomas Street, a portion of which facility is made available for use and occupancy by University as provided in this Agreement.

K. Food

“Food” means any item of food or drink without limitation, except for water made available from public drinking fountains or sinks, that is sold, given without charge, or in any other manner dispensed in or from KeyArena.

L. Game Day

“Game Day” or “Home Game Day” means the calendar day upon which a Home Game of the University men’s basketball team is scheduled to be played in the KeyArena pursuant to this Agreement.

M. Novelties

“Novelties” means merchandise, goods, wares, game programs, and publications bearing the symbol, mark or name of University, the Seattle University basketball team, or any other Seattle University sports team, but excludes Food.



N. Home Game

“Home Game” means any NCAA college men’s basketball game for which University’s team is the host team, including any pre-season, exhibition, regular season, post-season, or conference playoff or championship game.

O. KeyArena

“KeyArena” means the multi-purpose, public performance facility located at Seattle Center, together with all City-owned equipment and other appurtenances incorporated therein. If KeyArena is redeveloped or renamed during the Term of this Agreement, all references to KeyArena herein will be deemed to refer to the redeveloped or renamed facility. KeyArena is located on the following real property:

<u>Block(s)</u>	<u>Plat</u>	<u>As Recorded in Records of King County, Washington</u>
31	Supplemental Plat of D.T. Denny’s Plan of N. Seattle, EXCEPT the West 93.06 feet of Lots 9 & 10 thereof.	Vol. 3 of Plats, Page 80
32 & 35	D.T. Denny’s Home Addition to Seattle	Vol. 3 of Plats, Page 115
36	D.T. Denny’s Third Addition to Seattle	Vol. 1 of Plats, Page 145

P. NCAA

“NCAA” means the National Collegiate Athletic Association.

Q. Permitted Use

“Permitted Use” means the playing, exhibition, viewing, and broadcasting of men’s college basketball games; the selling of Novelties; the presentation of Temporary Advertising; the hosting of pre-game, mid-game, and post-game activities and receptions; ticket sales; and other administrative functions reasonably necessary for the playing of Home Games.

R. Premises

“Premises” means those portions of KeyArena and the South KeyArena Parking Lot that are licensed and made available to University for its use and occupancy under this Agreement.



S. Retail Bank

“Retail Bank” means financial institutions that offer a walk-in retail location in the state of Washington, and includes banks, savings and loans, and credit unions.

T. Season

“Season” means the twelve month period from July 1 through June 30, except the first Season will be from the commencement of the Agreement through June 30 of the following calendar year.

U. Scheduling Window

“Scheduling Window” means the time period between the second Friday of November through the last day of the immediately following March.

V. South KeyArena Parking Lot

“South KeyArena Parking Lot” means the vehicle parking area on the south side of the KeyArena.

W. Temporary Advertising

“Temporary Advertising” means that Advertising in KeyArena which may only be displayed during Home Games or approved University events.

II. USE

In consideration of the mutual covenants and subject to the restrictions herein, the City grants University the right to use, and to authorize others to use the Premises for the Permitted Use.

III. TERM OF AGREEMENT

A. Term:

This Agreement shall commence upon execution by an authorized representative of both parties and expire on June 30, 2014, unless terminated earlier or extended pursuant to the provisions hereof (the “Term”). University shall have the option to extend the Term of the Agreement to June 30, 2016 (“Extended Term”), subject to the following conditions:

1. University achieving membership in a NCAA Division I Athletics Conference and being eligible to participate in the NCAA men’s basketball tournament; and



2. University and the Director will negotiate and agree upon revenue sharing under Section XII.D., if any, for the Extended Term.

The option to extend shall be exercisable by University, in writing, at any time prior to July 1, 2013, time being of the essence.

IV. SCHEDULING OF UNIVERSITY HOME GAMES IN KEYARENA

A. Minimum Level of KeyArena Use:

University will play at least the following number of Home Games in KeyArena:

Season	Number of Home Games
Season 1 (2009-2010)	11
Season 2 (2010-2011)	11
Season 3 (2011-2012)	13
Season 4 (2012-2013)	13
Season 5 (2013-2014)	13
Option Period	
Season 6 (2014-2015)	13
Season 7 (2015-2016)	13

B. Scheduling Window and Procedures:

The City will not be required to Approve or confirm University's request to schedule KeyArena for any Home Game, including any pre-season, regular season or post-season game, unless the game occurs during the Scheduling Window and the scheduling procedures in this Agreement are followed. The Scheduling Window is based upon the official NCAA season and tournament schedule. During the Term, if the NCAA season moves outside the Scheduling Window or University joins a NCAA Division I Athletics Conference which requires a different schedule, the parties agree to amend the Scheduling Window and this Section to reflect the amended NCAA season or University's scheduling obligations to its Athletics Conference, subject to the City's contractual commitments with other users of KeyArena.

C. Selection of Regular Season Home Games Dates:

1. By the April 1 immediately preceding each NCAA season during the Term of this Agreement, the Director will provide University with a list of a minimum of eighteen (18) potential regular season Home Game dates occurring during the Scheduling Window.

2. If University increases the number of regular season Home Games, the City will proportionately increase the offered number of potential Home Game dates conditioned upon the following:



a) University notifies the City of the number of additional Home Game dates added prior to the time the City makes its annual date offer; and

b) The increased number of regular season Home Games falls within the Scheduling Window.

If University requests additional potential dates after the City makes its annual date offer, the City will use its best efforts to provide additional dates in light of City commitments to other clients.

3. By July 1 immediately following the City's annual date offer, University will notify the Director, in writing, of those dates on the Director's list on which University wishes to license the KeyArena for a regular season Home Game. Such dates will be reserved for University's Home Games and will be referred to as "Confirmed Dates". Any dates not selected by University as Confirmed Dates by July 1 will be deemed relinquished and will be available for the City to use or license, at its discretion.

D. Scheduling of Pre-Season Home Games:

At any time, University may ask the Director to hold potential dates for pre-season Home Games. The Director will hold the requested dates for University, provided that the dates are within the Scheduling Window and are not already held for or contractually committed to another licensee. At the earliest possible opportunity, but in any case, no less than sixty (60) days prior to each potential pre-season Home Game date, University will confirm its intention, in writing, to use KeyArena for the requested dates. Any dates not so confirmed will be deemed released and will not be held for University. If the Director receives a third-party request for the use of KeyArena on a date reserved for a pre-season Home Game prior to the time when University is required to confirm the date, the Director may request in writing that University confirm or release the date. University will have seventy-two (72) hours from the time of the request to confirm the date in writing, otherwise the date will be deemed released and the City may license KeyArena to the third party.

E. Scheduling of Post-Season Home Games:

In the event University is eligible to participate in a post-season tournament which may require additional Home Game dates, University shall notify the Director, in writing, of those dates which it wishes to use KeyArena for post-season Home Games. Provided such dates are within the Scheduling Window and that KeyArena is not already held for or contractually committed to another licensee, the Director will hold the requested dates for University. At the earliest possible opportunity University shall confirm its intention, in writing, to use KeyArena for the requested dates. If the Director receives a third-party request for the use of KeyArena on a date reserved for a post-season Home Game prior to University confirming the date, the Director may request in writing that University confirm or release the date. University will have seventy-two (72)



hours from the time of the request to confirm the date in writing, otherwise the date will be deemed released and the City may license KeyArena to the third party.

F. Director's Endorsement:

The Director shall prepare and issue a written "use date endorsement notice" to University for each Confirmed Date.

V. **PREMISES, EQUIPMENT AND FIXTURES AVAILABLE FOR USE BY UNIVERSITY**

A. Premises:

Subject to the Permitted Hours of Use (Section V.E. below), on each Home Game Day University will have the right to use and to authorize others to use those portions of KeyArena, including equipment and fixtures, that are reasonably necessary for the playing, exhibition, viewing of, and attendance at, a NCAA Division I college basketball event. Such portions include the lower bowl audience seating area, the basketball floor, baskets, timing clocks, scoreboards, video screens on scoreboards, the ring signage system, control room (LED or ring signage and M04C and "north bucket"), sound, lighting, public address systems, home and visiting team locker rooms (including Rooms #E14D1, #E15A and #E14C), training room, media room, media catering room, courtside entry lounge, event level catering space, FSN Lounge, Room #E29F, and any additional areas listed on Exhibit 1. Use of the existing courtside rotating signage is permitted only by separate agreement between University and Women's Basketball Club of Seattle, or University may contract with a third party vendor for use of alternative courtside rotating signage equipment. Additionally, University may use the upper bowl seating area and suites as provided in the Agreement.

B. Suites:

If all of the suites in KeyArena have not been licensed for use by one or more third parties, on each Home Game Day, University will be entitled to use two (2) 16-seat suites that are specified from time to time by the Director. Additionally, University will be entitled to use one additional 16-seat suite (a "Third Suite") for four (4) Home Games per Season until such time as all suites have been licensed for use by third parties. University will notify the Director at least thirty (30) days in advance of those Home Game Days on which University desires to utilize a Third Suite and the Director will identify which unlicensed suites, if any, will be available for University use. University will not relicense or sell the suites, and will use the suites subject to the rules and conditions imposed on suite licensees, but University will not be charged a license or use fee for the suites.



C. Box Office Space:

On each Home Game Day, University will be permitted to use the KeyArena box office spaces identified in Exhibit 1. University is entitled to use the City's existing ticketing equipment, and will not make any alterations to the existing ticketing equipment without the Director's Approval.

D. Exclusive Use Area:

During the Term, University will have the exclusive right to use and occupy Room #E29F for on-site storage ("Exclusive Use Area"). The City will not permit any third party user of KeyArena to access or use the Exclusive Use Area, but University will not be able to use, access, or occupy the Exclusive Use Area during times when KeyArena is licensed for use by a third party.

E. Permitted Hours of Use:

On each Home Game Day, the Premises will be available for University's use during the following hours ("Permitted Hours of Use"):

1. On any Home Game Day on which the Premises do not have to be converted to or from a non-basketball use, University will be permitted to use the Premises beginning at 9:00 a.m. and ending at 11:50 p.m. of that same day.
2. On any Home Game Day on which the Premises must be converted from another use to a basketball facility, University will be permitted to use the Premises beginning at 9:00 a.m. and ending at 11:50 p.m. of that same day, but the use will not be exclusive to University as the City staff will be cleaning the Premises and converting it to basketball use. The City will schedule the conversion work so that the installation and use of the basketball floor by University is a priority.
3. On any Home Game Day on which the Premises must be converted on that same day from a basketball use to a different use, University will be permitted to use the Premises until one hour after the completion of any scheduled Home Game, unless the Director specifies a later time.

University will ensure that no Home Game commences before 12:00 noon without the prior written approval of the Director.

F. KeyArena Areas Not Available to University for Use and Occupancy:

Unless expressly permitted by the Director in writing, University has no right to use or to restrict use by others of the KeyArena areas not expressly made available for University's use and occupancy under this Agreement.



G. Common Areas:

University is hereby granted the right to use the Common Areas of Seattle Center and the KeyArena (including but not limited to lobbies, balconies, mezzanine, corridors, concourses, ramps, stairs, landings, vomitories, elevators and public restrooms) in common with other authorized third parties. Additionally, upon reasonable notice to the City, University may access the areas of the KeyArena that have been specifically licensed for University's use at times other than Home Game Days in order to ensure the delivery of necessary equipment, supplies and materials; to remove waste materials; and to complete other activities reasonably necessary to facilitate the Permitted Use.

H. Practice Sessions:

University may request, and upon Approval from the Director, use the Premises for practice sessions on days when no Home Game or conflicting event is scheduled and the Premises is set up for basketball. If the Premises are used for practice sessions, University will reimburse the City for costs associated with such use.

I. Non-Home Game Events:

Subject to availability and at no additional cost to the City, University may request, at no additional cost, access to the Premises for recruiting potential student-athletes. Subject to availability, University may request access to the Premises to host up to five (5) fan generation or appreciation events each Season on days when no Home Game is scheduled. The decision whether to grant the use shall be at the Director's discretion, and the City will not be obligated to confirm the event any sooner than forty-five (45) days prior to the event. University shall be responsible for reimbursing all City costs associated with the event, but no License Fee will be charged.

VI. PARKING

A. First Avenue North Parking Garage:

University will be entitled to one hundred and fifty (150) parking permits authorizing parking in the First Avenue North Parking Garage for each Home Game Day. The City will also make available to University's full season tickets holders, season parking in the First Avenue North Parking Garage at the same event rates offered to other Seattle Center resident organizations.

B. South KeyArena Parking Lot:

Subject to the permitted hours of use in this Agreement, University is entitled to full use of the South KeyArena Parking Lot, at no additional cost, on Home Game Days for parking for University's players, staff and other special designees.



VII. UNIVERSITY'S RIGHT TO NAME THE BASKETBALL FLOOR

University will have the right to name the basketball floor, so long as the name is not commercial in nature, and is designed to honor or recognize individuals or organizations valued by the University. Any name will be subject to the Director's approval. University may paint or refinish the floor to reflect the name. The City shall ensure that the design on the basketball floor featuring the name of the basketball floor shall remain clearly visible and unobscured at all times when the basketball floor is used by any tenant. In the event University elects to name the basketball floor as provided in this Section, all rights of such name shall be owned by University. University may paint or refinish the floor to reflect the name, conditioned upon compliance with the terms in this Agreement.

VIII. CITY'S RIGHT TO LICENSE OR USE KEYARENA FOR BASKETBALL AND OTHER EVENTS

With the exception of the Exclusive Use Area, the rights granted in this Agreement are not intended to be exclusive. Nothing herein restricts the ability or right of the City to use or permit the use of KeyArena by any other person or entity for any purpose whatsoever on any date not reserved by the City for a University Home Game.

IX. ADVERTISING

A. Temporary Advertising:

Subject to the restrictions and reservations in this Agreement, the City hereby grants University or its designee the right to sell, license, present, and display Temporary Advertising in the KeyArena on all Home Game days. Temporary Advertising may be displayed at the following locations: courtside rotating signage (subject to separate agreement with Women's Basketball Club of Seattle or a third party vendor), basketball floor, clocks, lower bowl seats and seatbacks, backboards, basketball goal support's padding, player benches, scorer's table, press table, team and trainer equipment, visiting team and trainer equipment, video portion of the scoreboard, the concrete walls in the lower bowl, the blimp and similar devices Approved by the building manager, media room, event level catering space, and the courtside entry lounge. University is also granted the right to sell and present Temporary Advertising on ring signage areas, it being understood that the City retains the right to present Advertising on ring signage areas on Home Game Days, and University shall ensure that no less than fifteen percent (15%) of the available ring signage time for each Home Game remains available to the City. University may present Temporary Advertising in other areas of the lower bowl with the Approval of the Director without additional compensation to the City. No other areas of the Premises may be used for the display of Temporary Advertising without the Director's Approval. University shall be entitled to one hundred percent (100%) of the revenue generated from University's sale of Temporary Advertising.



B. Limitations on Copy and Imagery of Advertising Displayable in the Premises:

The copy and imagery for all Temporary Advertising to be displayed in the Premises will be subject to the Approval of both the Director and University. The following guidelines will apply to the presentation of Temporary Advertising:

1. In order to retain a family atmosphere at the Seattle Center, University will not advertise or permit any tobacco product or alcoholic beverage (other than beer and wine), or firearms to be advertised on the Premises.
2. In order to comply with the City's Title Sponsorship Agreement with KeyCorp, University and its designees are prohibited from selling, presenting or displaying Temporary Advertising or any other material at KeyArena that uses, refers to, or promotes either:
 - a) The corporate name of any Retail Bank, or
 - b) Disallowed Products and Services.
3. University or its designee may advertise, display or otherwise promote at KeyArena the corporate name and Allowed Products and Services of any financial services companies who are not Retail Banks.

C. City Rights Reserved:

The City reserves all Advertising rights that are not expressly granted to University under this Agreement, including the right to license or transfer such rights to third parties. The City reserves the right to sell and present Advertising of both a permanent and temporary nature at KeyArena, including in the lower bowl area. Additionally, the City reserves the right from time to time during the Term to enter into title sponsorships for the KeyArena that may preclude University's sale and display of certain categories of Advertising, and University will abide by any Advertising restrictions resulting from title sponsorship applicable to the Premises. The City reserves the right to receive any revenue from permanent or temporary Advertising in any Seattle Center facility, including the Premises, presented by the City or its licensees and directed to the general public or any other person or entity, whether or not the Advertising occurs during University's use of the Premises.

D. Title Sponsor's Right to Display on Basketball Floor:

The title sponsor for the KeyArena will be entitled to require that the title sponsor's own advertisement or display be presented on the basketball floor used by University, without the payment by the City or any other person or entity of any sum of money to University, and City reserves for itself the right to grant any title sponsor the



right to such display opportunities. The location of any title sponsor's advertisement or display will be subject to mutual agreement of the City and University.

E. Display of Seattle Center Identification on Basketball Components and Game Floor:

The City will have the right to display the words "Seattle Center" and the building name on the basketball floor and basketball components of the KeyArena, for example: "KeyArena at Seattle Center".

X. **CONSIDERATION DUE TO THE CITY FROM UNIVERSITY**

A. License Fee:

University will pay the City the following per game amount ("License Fee") for Home Games using only KeyArena's lower bowl. If University uses the upper bowl for any Home Game, University will pay the License Fee and reimburse the City for any additional cost associated with staffing and opening the upper bowl as described further in Section XIV. The License Fee includes the items noted in Exhibit 2. It does not include items that are subject to University's discretion such as incremental support for pre-game, mid-game, and post-game activities or catering. If University elects to hold a Home Game on a City holiday, the License Fee for that Home Game will be increased by Five Thousand Dollars (\$5,000) to cover the additional overtime costs incurred by the City.

Basketball Season	License Fee Per Home Game
2009-2010	\$9,000
2010-2011	\$12,000
2011-2012	\$15,000
2012-2013	\$18,000
2013-2014	\$18,000
Option Period	
2014-2015	Actual average per game Seattle Center expense of producing the 2012-2013 games including the items listed in Exhibit 2, plus any CPI adjustment for 2013-2014 season and 2014-2015 season.
2015-2016	2014-2015 License Fee plus CPI adjustment.

B. Additional Expenses:

University will pay the City as Additional Expenses the cost of all services and labor provided to University that are not included in the License Fee. Unless provided



otherwise in this Agreement, the cost of service and labor hours will be calculated based on the then current Seattle Center Licensing Agreement Personnel Rate Addendum.

C. Cancellation Fee:

University shall pay the City a fee of Ten Thousand Dollars (\$10,000) for each Confirmed Date for a Home Game it cancels with less than sixty (60) days notice to the City. The cancellation fee will be waived if the Home Game is rescheduled during the same basketball season. Upon University's request, if a cancelled Home Game is not rescheduled, the cancellation fee will be waived up to two times during the Term, but not in the same Season, and once during the Extended Term.

D. Additional Consideration:

The City is entering into this Agreement with University, in part, because University's Home Games enhance the offering of Seattle Center and draw people to the Seattle Center campus and lower Queen Anne and South Lake Union business districts. The University is committed to contribute to community, civic and economic vitality of the Center and the surrounding neighborhood.

University will also provide additional public benefits every Season of the Term as follows:

1. A program where one thousand (1,000) tickets per Season will be provided at no cost to local non-profits to distribute to children who might otherwise be unable to attend a Home Game.
2. A significant community service program per Season administered by University's Center for Service and Community Engagement.
3. Assignment of up to five (5) University interns per Season in business, sports administration, marketing, communications, or related fields to the City.
4. University participation, through guest lecturers or other activities, in the Seattle Center's 2012 50th anniversary celebration.
5. A ticket pricing structure that promotes affordable family entertainment, with two hundred (200) tickets per Home Game priced at no greater than Fifteen Dollars (\$15.00) per game, adjusted Seasonally by the CPI, so a broad section of the community is always able to attend Home Games.
6. Consistent with University's own strong policies in support of environmental sustainability, University will provide an opportunity at each Home Game



for public service announcements in support of Seattle Center, Seattle University or City of Seattle environmental sustainability programs.

XI. REPORTING, INVOICING AND TIMING OF PAYMENTS

University shall deliver to the City, in care of the Seattle Center Accounting Office, 305 Harrison Street, Seattle, Washington 98109, or such other address as the Director may specify from time to time, all sums due the City hereunder, together with an accounting worksheet in a form subject to the Director's Approval, that separately identifies the amount of each such payment and the source thereof by reference to the pertinent Section of this Agreement requiring such payment.

A. Payments Due Monthly:

On or before the fifth (5th) day of each month during the Term of this Agreement, the City will invoice University for the aggregate amount of the License Fee and any Additional Expenses that have become due and payable as a consequence of University's use of the Premises during the preceding calendar month.

B. Payments Due After Invoice:

University shall pay all other amounts due to the City pursuant to this Agreement within thirty (30) days following receipt of the City's invoice.

C. Annual Reconciliation:

By April 30 of each Season, University shall provide the City with a report listing the per game and season totals of tickets sold, complimentary tickets issued, season ticket holders, Home Game attendance, and a summary of University's provision of benefits under Section X.D. Thereafter, the Director shall perform a reconciliation, taking into consideration any cancellation fees due from the University; any payment due to University as a result of the redevelopment of KeyArena, any Revenue Sharing due to University, and any outstanding miscellaneous charges or credits otherwise due upon presentation of any invoice. By May 31 of each Season the Director will present University with a summary of the calculations and an invoice for any remaining amounts due, and the University shall pay the City any undisputed amounts within thirty (30) days after receipt of invoice. In the event that the total amount of credit due to University, including University's right to Revenue Sharing payments under Section XII.D, exceeds the amount of outstanding charges, the City will pay University by May 31 that amount by which the credit exceeds the outstanding charges.

D. Delinquencies, Invoicing Service Charge and Interest:

All payments will be delinquent if not paid by the date specified on the invoice. Delinquent payments will be subject to an invoicing service charge of Fifty Dollars (\$50.00) and will also bear interest at a rate of one percent (1%) per month from the



date of the delinquency until paid. Payments made after a delinquency will be applied first to accrued interest, and then to the principal sum due.

E. Books and Records; Audit:

1. The parties shall keep true, accurate, complete and auditable records and receipts relating to the activities under this Agreement, which shall be distinguishable from the records pertaining to other business activities.
2. University will permit the City, from time to time during regular City working hours, as the Director or City Auditor deems necessary, to inspect and audit in King County, Washington records and receipts relating to University's activities under this Agreement.
3. All records to be kept pursuant to this Agreement shall be retained in King County, Washington, for at least thirty-six (36) months after the close of the fiscal year in which they were generated or issued, and shall be retained for six (6) full years following the fiscal year in which the records were generated.
4. Provisions of this section shall survive the expiration or early termination of this Agreement.

XII. CONCESSION OPERATIONS, ALCOHOL SALES, NOVELTIES, AND REVENUE SHARING

A. Concession Operations:

1. The City reserves the exclusive right to engage in Concession Operations or to contract with third parties to provide Concession Operations at the Premises. The City is entitled to one hundred percent (100%) of the revenue generated from the sale of Food at the Premises.

B. Alcohol Sales:

The parties intend that alcohol be sold at Home Games. Sale of alcohol at college events is governed by the Washington State Liquor Control Board ("WSLCB"). The Director will direct the KeyArena concessionaire to request approval from the WSLCB for sale of alcohol at University Home Games; however, the City cannot guarantee sale of alcohol will be allowed by the WSLCB. Additionally University will use its best efforts to obtain any approvals or permits required by the NCAA and any NCAA Division I Athletics Conference which University may join, for alcohol sales at University events. The parties recognize that this Section is subject to the rules, regulations, policies, constitutions, and bylaws of the NCAA and any NCAA Division I Athletics Conference which University may join.



C. Novelties:

The City hereby grants University the exclusive right to sell and display Novelties in the KeyArena at all Home Games in the specific locations designated by the Director. The Director will consult with University regarding the Director's designation of areas allowed for the sale of Novelties. University is entitled to one hundred percent (100%) of the revenue generated from the permitted sale of Novelties.

D. Revenue Sharing:

In consideration of the fact that University enhances the value of KeyArena and that increased events will result in increased opportunities to generate additional advertising and sponsorship revenue, the City will pay to University the following amounts per Season. These payments will be conditioned on University achieving the identified standard for season ticket sales or average attendance per game. As a condition of University's exercising the option to extend the Term of this Agreement, by July 1, 2013, the parties will reach agreement on the terms of University's revenue for the option period.

Basketball Season	Standard	University's Revenue Share
2009-2010	1,000 season tickets sold	\$50,000
2010-2011 2011-2012	2,300 average attendance per home game	\$50,000
2012-2013 2013-2014	If University is a member of a NCAA Division I conference, University must meet or exceed the conference average for the prior season for attendance per home game. If the University is not a member of a NCAA Division I conference, University must meet or exceed an average attendance of 3,000 per home game.	\$50,000
Option Period 2014-2015 2015-2016	TBD	TBD



XIII. UTILITIES, FACILITIES, EQUIPMENT, PERSONNEL, AND SERVICES AND PROVIDED BY THE CITY

A. General Utilities:

The City will provide electricity, water, heating and cooling, ventilation, sewer and solid waste removal, reasonably required for University's use of the Premises for the Permitted Use. Using only a service provider Approved by the City, University will secure, at no expense to the City, whatever telephone service University desires to and from any KeyArena Dressing, Training, Office and Box Office areas and, with the Director's Approval, to and from other areas of the KeyArena. The City shall repair any malfunction or failure of any utility service provided under this Section, and shall be liable for any interruption or impairment of University's use, enjoyment and occupancy of KeyArena resulting from any such utility system malfunction or failure to repair such service, but only if such malfunction or failure is directly caused by an act or omission of Seattle Center Department personnel.

B. First Aid Facility:

On every Home Game Day, the City will make a first aid facility available to the general public in the KeyArena. Additionally, the City will secure emergency medical personnel equipped with cardiac resuscitation and emergency intervention equipment to be on duty at all Home Games.

C. Public Address Facilities:

On every Home Game Day, the City will provide University with exclusive access to, and control of, the public address facilities in the KeyArena, provided that University will not use or allow others to use such public address facilities for any political purpose. Additionally, the City reserves the right to use the public address facilities on any Home Game Day for general safety, health, and legal announcements, including but not limited to, those for emergency or crowd control purposes.

D. Scoreboard:

On every Home Game day, the City will provide a scoreboard capable of presenting, on a fixed-format basis, game-in-progress information, including but not limited to team scores, period in progress, and time remaining in the period. University will use qualified scoreboard operators, subject to the Approval of the Director, to operate the KeyArena scoreboard at Home Games. If University desires operation of the video screen at a Home Game, University will make arrangements with the City for the video screen operation, and any costs related to the video screen operation will be paid by University, either directly to a third party, or as part of Additional Expenses.



E. Personnel:

1. On every Home Game Day, the City will provide appropriately trained personnel including but not limited to ticket takers, admissions personnel, Seattle Center Emergency Services personnel, ushers, peer group security at entrance doors, event service representatives, a sound technician, house lights operator, maintenance and other support personnel necessary to operate the Premises, utilizing the lower bowl seating areas only. The costs of such services and personnel will be included in the License Fee as described in Exhibit 2.

2. The parties agree that there may be mutual benefits in certain pre-game, mid-game and post-game activities at the Premises. University may schedule such activities subject to Director's Approval, provided the activities occur within the permitted hours of use on Home Game Days. The Director will determine the personnel requirements for such activities and the costs for such activities will be paid by University as Additional Expenses.

XIV. SERVICES AND PERSONNEL PROVIDED BY THE UNIVERSITY

A. Use of the Upper Bowl.

Subject to the Director's Approval, University may request that "upper bowl" seating areas be open and available at Home Games. Additional service and labor hours that are not included in the License Fee are necessary to support the upper bowl seating areas. If the Director Approves the use of the upper bowl seating area, University will pay, as Additional Expenses, the cost for necessary services and labor hours. The cost of the service and labor hours will be calculated based on the then current Seattle Center Licensing Agreement Personnel Rate Addendums.

B. Police Personnel.

The City will provide peer security at the entrance doors and off duty Seattle Police Department law enforcement officers to provide crowd control. University will secure, at its own cost, off duty Seattle Police Department law enforcement officers to provide any additional security inside KeyArena or for protection of players, staff and officials in connection with University's use of the Premises. No other public or private security personnel may be used by University on the Premises without the written permission of the Director.

XV. MAINTENANCE

A. City's Maintenance Responsibilities:

1. The City will maintain the Premises, including but not limited to the basketball floor, locker rooms, and City-owned equipment therein, in a neat, clean, safe and sanitary condition, in a good state of repair, and otherwise in compliance with the



standards and conditions set from time to time by the NCAA and communicated to City by University.

2. The City will convert the Premises as may be necessary in an orderly and timely fashion to permit use by University on each Home Game day.

3. The City will supply a basketball floor for University's use at Home Games. All costs associated with painting, repainting, finishing, refinishing, preparing and adding logos to the floor, as well as any changes needed to accommodate the accompanying baskets and courtside seating for University's purposes, will be the sole responsibility of University, unless the costs result from the use of the floor by a third party under a separate agreement with the City. University shall ensure that any floor that is utilized contains the words "KeyArena at Seattle Center" twice in a prominent and television-viewable location, or a similar identification on the floor should the City enter into a new title sponsorship agreement requiring such identification on the floor, unless the display is expressly prohibited by the NCAA. The City will be responsible for modifying the basketball floor in the event the City enters into a new title sponsorship agreement. The City will ensure that the basketball floor and City owned basketball equipment are in a clean and fully usable state of repair throughout the Term of this Agreement.

4. The City will not be responsible for providing or performing any maintenance, repair or servicing of any of University's equipment or other personal property, or Room #E29F, and the maintenance, repair or servicing of all of the same shall be the sole responsibility of University.

5. The City will ensure that the basketball floor and equipment are installed in the KeyArena to University's reasonable satisfaction prior to each Home Game, and will remove and store such equipment after the completion of each such use unless such equipment is required for use on a succeeding day without an intervening use.

B. University's Maintenance Responsibilities:

1. University will be responsible for providing or performing all maintenance, repair or servicing of any of University equipment or other personal property.

2. Except for normal wear and tear, University will not damage the Premises or allow anything to be done to damage the Premises.

3. If University fails to perform maintenance, repair, replacement or renovation work required by this Agreement, then City may provide University with notice that sets forth the nature of the condition requiring such action. If University fails to perform maintenance, repair, replacement, or renovation work within a reasonable time after receipt of such notice then the City may elect to perform such maintenance,



repair, replacement or renovation, or cause the same to be performed for University at commercially reasonable rates, and University will pay the cost as an additional expense.

XVI. CITY'S CONTROL OF BUILDINGS AND GROUNDS AND ACTIVITIES AND RIGHT TO USE BASKETBALL FLOOR AND RELATED EQUIPMENT

The City reserves the exclusive right, without liability of any kind, to do any and all of the following so long as the same does not substantially interfere with the viewing and playing of basketball games by University as contemplated herein:

A. Increase, reduce, and change in any manner whatsoever the number, appearance, dimensions, and locations of the Seattle Center walks, buildings, landscaping, parking, and service areas, and make improvements, alterations, and additions to the portions of the Seattle Center facilities that have not been made available to University for its exclusive use.

B. Regulate all traffic within and adjacent to the Seattle Center.

C. Impose a reasonable charge for admission to the Seattle Center and facilities therein; provided, however, the City will ensure that University's ticketed patrons entering Seattle Center for the sole purpose of attending a University Home Game are not charged any admission fee.

D. Erect, display and remove promotional exhibits and materials and permit special events to occur in and on the Seattle Center grounds, buildings, and facilities, including the Premises.

E. Promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of any area of Seattle Center.

F. Determine the days and hours the Seattle Center and various business operations conducted thereon shall be open to the public.

G. Determine the size, number, and type and identity of concessions, stores, businesses, and operations being conducted or undertaken at Seattle Center; and to operate and authorize others to engage in any and all forms of concession activity at the Seattle Center and in any facility thereof, as City deems appropriate, provided that the City shall require all authorized concessionaires in the Premises to provide reasonable service and food, beverages and merchandise of wholesome quality and at reasonable prices.

H. On other than a Game Day, erect, use and remove, from time to time, as City determines to be necessary or beneficial for City's own purposes, the basketball floor and related equipment and remove or display any and all advertising thereon, all



without becoming obligated to University for any compensation for such use or other actions.

XVII. RIGHTS REGARDING PRESERVATION, TRANSMISSION & REPRODUCTION OF HOME GAMES

Subject to the conditions in this Section, University will retain all rights to the preservation, transmission, and reproduction (including but not limited to radio broadcasting, television broadcasting, motion picture or still photography, video recording, closed circuit pay-per-view or other forms of cablecasting or electronic transmission, or any combination of any such media) of all basketball Home Games played in the Premises under this Agreement, and in the exercising of such rights, may make and execute any contract with respect to television and radio. University will reimburse all additional costs incurred by the City resulting from any such preservation, transmission, and reproduction activity. Each and every agreement University executes for the televising of any Home Game, whether by live or delayed broadcast, shall require that the name of KeyArena, or any successor name of the building, including its location "at Seattle Center", be used at least one time per Home Game period during each such telecast and that "The City of Seattle/Seattle Center" is listed on any credits shown related to such telecast.

XVIII. TICKET ADMINISTRATION

A. University's Responsibilities:

University will utilize Ticketmaster, or a successor company approved by the Director, for all ticket sales at KeyArena. University will have the exclusive responsibility for and control of the printing and distributing of tickets; the undertaking and conducting of group, season and special package ticket sales; the establishing of any and all prices for basic admission to University's events and activities at Premises under this Agreement, and any service charge(s) thereon (excluding any governmental tax on any such admission, facility surcharge or service charges); the collecting and counting of receipts; and accounting. As a part of this responsibility, University shall assume all costs of such ticket administration. University shall pay a surcharge of \$1.00 per ticket sold for Home Games for all tickets priced \$25.00 and lower and \$2.00 per ticket for all tickets priced at \$25.01 and higher (the "Facility Surcharge"). University may choose to pass the Facility Surcharge to the consumer by separately stating the Facility Surcharge on top of the ticket price. The Facility Surcharge shall not apply to complimentary tickets unless such complimentary tickets exceed the limits identified in this Agreement, in which case the Facility Surcharge shall be payable for those complimentary tickets that exceed the limit. University shall pay the Facility Surcharge, less the City of Seattle Admissions Tax and Business and Occupation Tax on the surcharge, at the time of settlement following the Home Game. With reasonable notice, Seattle Center may adjust the amount of the Facility Surcharge. University shall be entitled to one hundred percent (100%) of the net revenue generated from the sale of tickets.



B. Complimentary Tickets:

University shall have the exclusive right to issue complimentary Home Game admission tickets or credentials. During the first and second Seasons of the Term of this Agreement, complimentary tickets provided by University to patrons and students will not be limited. Beginning in the third Season and thereafter, University shall limit the use of complimentary tickets to less than thirty percent (30%) of total tickets per game with a maximum of 2,500 complimentary tickets per game. Complimentary tickets, if used, are subject to both City of Seattle Admissions Tax and Business and Occupation Tax.

C. ADA:

University will conduct its ticket sales according to the method that Seattle Center uses in KeyArena for concerts. This includes holding one percent (to be adjusted with any changes in the applicable Federal or State ADA laws) of remaining sellable capacity up to game time for ADA seating, in all pricing levels, leaving vacant two rows of seats in front of the following ADA sections:

103/104/106/107/108/110/111/117/118/120/121/122/124/125/202/203/204/
205/206/208/209/210/211/212/216/217/218/219/220/222/223/224/225/226,
and leaving vacant one row of seats vacated in front of ADA sections
114/127, when being used as wheelchair/disabled accessible seating
sections.

Both parties acknowledge that the Seattle Center's current policy is to place a physical barrier/cover over the end of the seating rows that must remain vacant. This practice is expected to continue throughout the Term of this contract; however, the City reserves the right to change any policy or procedure as necessary to comply with the requirements of applicable federal and state ADA laws.

D. Admissions:

University will take reasonable steps to ensure that no person with a primary purpose of viewing a University Home Game is admitted to any Home Game at the KeyArena without first presenting an admission ticket.

E. Box Office Statement Provided to Director:

At the end of each Home Game, University shall deliver to the Director, or his designated representative, a box office statement prepared in connection therewith, showing for each such game the number of tickets distributed, by price category, and certified as to accuracy by an authorized employee or agent of University.



F. Restricted Selling to Reduce City Staffing Costs:

Prior to the start of each Season, University and the City will agree in writing on the plan to be implemented by University for selling tickets in a limited number of sections and in a specific sequence of sections, based on ticket demand and the Director's advice regarding how Home Game staffing costs can be minimized.

XIX. RECOGNITION OF SEATTLE CENTER LOCATION

University will ensure that the words "KeyArena at Seattle Center" appear on all tickets for Home Games at KeyArena and will ensure that the words "KeyArena at Seattle Center" appear in or on all advertising material published, printed, or otherwise produced by or on behalf of University (including but not limited to brochures, signs, and logos) that references the location of University's Home Games. In the event KeyArena is renamed during the Term, University will replace the word "KeyArena" with the new name of the facility, and University will continue to comply with all obligations in this Section.

XX. INSURANCE

University shall obtain and maintain insurance as described in Exhibit 3 in full force and effect throughout the Term of this Agreement, and shall otherwise fully comply with requirements of Exhibit 3. The City reserves the right to adjust or otherwise modify the insurance requirements in Exhibit 3 during the Term of this Agreement and with reasonable notice to University.

XXI. INDEMNIFICATION

A. University to Indemnify City:

University will indemnify, defend and hold the City, its elected officials, agents, and employees harmless from all losses, claims, suits, damages, fines, penalties, liabilities and costs (including the City's reasonable attorneys' fees and other costs incurred in connection with claims, regardless of whether such claims involve litigation) resulting from any actual or alleged injury (including death) to any person or property arising out of or in connection with (i) any negligent, reckless, or intentionally wrongful act or omission of University or any of its officers, employees, players, agents, or invitees in or around the Premises, or (ii) University's use or occupancy of the Premises, including, but not limited to any grant of advertising rights or display of advertising in the Premises, or (iii) University's breach of this Agreement. Nothing contained in this subsection shall be construed as requiring University to indemnify the City against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence or willful misconduct solely attributable to the City or its officers, employees, agents, or invitees. The foregoing indemnity specifically covers actions brought by University's own employees. University agrees that the foregoing indemnity is specifically and expressly intended to constitute a



waiver of the University's immunity under Washington's Industrial Insurance Act, RCW Title 51, but only as to the City and to the extent necessary to provide the City with a full and complete indemnity from claims made by University and its employees. University will promptly notify the City of casualties or accidents occurring in or about the Premises. The indemnification provided in this subsection will survive the expiration or earlier termination of this Agreement.

B. City to Indemnify University:

The City will indemnify, defend and hold University harmless from all losses, claims, suits, damages, fines, penalties, liabilities, and costs (including University's reasonable attorneys' fees and other costs incurred in connection with claims, regardless of whether such claims involve litigation) resulting from any actual or alleged injury (including death) to any person or property arising out of or in connection with (i) any negligent, reckless, or intentionally wrongful act or omission of the City or any of its officers, employees, agents, or invitees in connection with City's use, occupancy, or improvement of the Premises, or (ii) the City's breach of this Agreement. Nothing contained in this subsection shall be construed as requiring the City to indemnify University against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence or willful misconduct solely attributable to the University or any of its officers, employees, players, agents, or invitees. The foregoing indemnity specifically covers actions brought by the City's own employees. The City agrees that the foregoing indemnity is specifically and expressly intended to constitute a waiver of University's immunity under Washington's Industrial Insurance Act, RCW Title 51, but only as to University and to the extent necessary to provide University with a full and complete indemnity from claims made by the City and its employees. The indemnification provided in this subsection shall survive the expiration or earlier termination of this Agreement.

C. INDEMNITY PROVISIONS NEGOTIATED:

THE UNIVERSITY AND THE CITY ACKNOWLEDGE THAT THE INDEMNITY PROVISIONS IN THIS SECTION WERE SPECIFICALLY AND MUTUALLY NEGOTIATED AND AGREED UPON.

XXII. COMPLIANCE WITH LAW

University, at its sole cost and expense, will comply with, and will take reasonable steps to ensure that every person it admits to the Premises complies with, all applicable laws of the United States and the State of Washington; the Charter and ordinances of The City of Seattle; rules and regulations of the Seattle Center, Fire, and Police Departments, and the Seattle-King County Department of Public Health, and their respective successors; and with the conditions of all licenses, permits and directives issued by any authorized official thereof. Without limiting or modifying the



foregoing general requirement, specifically, University will comply with all of the following requirements:

A. Licenses:

University will obtain and maintain in effect throughout the Term all licenses, permits and authorizations required by law, and will conform to all applicable requirements of any authorized person acting in connection therewith.

B. Taxes:

University will pay, before delinquency, all taxes, levies, and assessments arising from its activities in, on, or involving occupancy and use of the Premises including, but not limited to, taxes levied on University's property, equipment, improvements on or made to the Premises or any portion thereof; and taxes levied on University's interest in this Agreement and any leasehold interest recognized by Ch. 82.29A of the Revised Code of Washington. If the State of Washington makes any demand upon City for the remittance of leasehold excise taxes payable by University as a consequence of University's occupation of the Premises or withholds funds due to the City to enforce collection of leasehold excise taxes, University will immediately pay the same together with all interest and penalties assessed in connection therewith, or, at its sole expense, shall contest such action and indemnify City for all sums expended by, or withheld from the City by the State in connection with such taxation; provided, that University shall not be deemed to be in default as long as University, in good faith, is contesting the validity or amount of any such taxes. University's obligations under this subsection shall survive the termination or expiration of this Agreement.

C. Nondiscrimination in Employment:

University will comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and City of Seattle, including but not limited to Chapters 14.04, 14.10, 20.42, and 20.45 of the Seattle Municipal Code (SMC), and the Americans with Disabilities Act, as they may be amended, and all rules, regulations, orders, and directives of the associated administrative agencies and their officers.

D. Attendance and Safety Standards:

The Seattle Fire Chief or his/her designee has the authority to determine, in the reasonable exercise of his/her discretion, the number of persons that may be admitted to, and safely and freely move about in the Premises. University will not sell or issue Home Game tickets or credentials for admission to any Home Game or event at the Premises in an aggregate number that exceeds the Seattle Fire Chief's determined number for the same. The City will not admit to the KeyArena more people than the number so determined by the Seattle Fire Chief. No sidewalk, grounds area, entry, passage, vestibule, hall, elevator, abutting street, doorway, or any other way of access



to the Premises shall be obstructed by University or used for any purpose other than for ingress and egress to the Premises.

E. Enforcement:

If University or its authorized representative is informed of any violation of any law, Charter provision, ordinance, rule, regulation, license, permit, or authorization committed by University or any person admitted to KeyArena for a Home Game or other University sponsored event, University immediately shall desist from and/or take reasonable measures to prevent or correct such violation.

F. Firearms:

Firearms are not allowed at events on City property. In addition, it is the policy of Seattle University to prohibit firearms at University events. University events at KeyArena are subject to this policy. Notice of this policy is posted on the University web site. University will further notify staff, players, contractors and coaches of this prohibition prior to the beginning of each Season and will include a printed notice of the prohibition on all event tickets. University will notify security personnel if University becomes aware of any violation of the prohibition against firearms. City shall provide and place signage notifying the public of the prohibition against firearms at all main entrances to the Seattle Center campus and to KeyArena, and shall conduct regular training in implementing the foregoing prohibition for its admission personnel and contract peer group personnel.

XXIII. CITY'S ACCESS TO PREMISES: INSPECTION, REPAIR, AND IMPROVEMENT OF PREMISES AND OTHER PROPERTY

A. Access to Premises:

University will provide the City with access to the Premises at all reasonable times to inspect the same and to make any repair, improvement, alteration or addition thereto or any property owned by or under the control of City, deemed necessary by the Director, but this right of access shall not impose on City any obligation to make any repair, alteration, addition, or improvement except as specifically provided herein.

B. Permitted Interference with University's Operations:

In inspecting, and in making repairs, alterations, additions, and improvements, the City may erect barricades and scaffolding in and outside of any Seattle Center facility, and may otherwise interfere with the conduct of University's business and operations where such action is reasonably required by the nature of City's work; and such interference shall not be deemed to be a breach or default under this Agreement. City will use its best efforts to minimize interference with access to and from the Premises and with University's business and operations, in, on or from the Premises.



C. City's Retention and Use of Keys to Premises:

The City will have the right to use any and all means that the Director deems proper to obtain entry to the Exclusive Use Area for the purpose of inspection or in an emergency without liability to University except for any failure to exercise due care for University's property. Any entry to the Exclusive Use Area or Premises obtained by the City by any reasonable means shall not be construed or be deemed, under any circumstances, to be a forcible or unlawful entry into, or a detainer of, the Premises, or a termination of University's license to use and occupy the Premises or any portion thereof.

XXIV. NO NUISANCES OR OBJECTIONABLE ACTIVITY

University will not knowingly permit any excessive or objectionable noise, odor, dust, vibration, or other similar substance or condition to remain on or be emitted from the Premises; will not create any nuisance in or adjacent to the Premises provided, that noise emanating from the audience or game-related events during a Home Game shall not be subject to this provision. University will not do anything on or around the Premises that will create a danger to life or limb, except such dangers as are the necessary result of basketball playing or practicing.

XXV. NO SUBCONTRACTING, ASSIGNING, OR TRANSFER

University will not subcontract, assign or otherwise transfer to another person or entity any of its rights or responsibilities under this Agreement without the Approval of the Director, except that University may subcontract with other parties for the sale of Temporary Advertising or Novelties. The City may terminate this Agreement if University assigns or transfers without Director's Approval. Additionally, if University assigns, transfers, or subcontracts its rights and obligations under this Agreement, whether with or without the Director's consent, University will not be released or relieved from any of its obligations under this Agreement unless the Director expressly releases University in writing. Any assignment, subcontract, or transfer will be subject to all the terms and provisions of this Agreement. In the event of any assignment of this Agreement, University will deliver to the Director, simultaneously with such assignment or transfer, an instrument, in writing, executed by the assignee or transferee, in which the assignee or transferee assumes all terms and provisions of this Agreement and commits to perform all of University's obligations under this Agreement, including those that have not been fully performed previously.

XXVI. RELATIONSHIP WITH NCAA

A. Warranty and Special Covenant:

University hereby warrants, to the best of its knowledge, as follows:



1. University is authorized to operate a NCAA basketball team in and from the Premises; and

2. No rule, regulation, policy, constitution or bylaw (or any provision of any thereof) of the NCAA prohibits, limits or affects in any manner or respect the right or power of University to enter into, accept, or perform each and every one of the terms, commitments and provisions of this Agreement.

B. NCAA and Conference Rules and Regulations:

The parties recognize that University is subject to and solely responsible for compliance with the rules, regulations, policies, constitutions, and bylaws of the NCAA and any successor Division I Athletics Conferences which University may join. In the event the NCAA or Division I Athletics Conference, amends or enacts rules, regulations, policies, constitutions, and bylaws, University may request that the Director modify or amend this Agreement in order to satisfy University's compliance requirements. The Director will not unreasonably refuse to modify or amend this Agreement.

XXVII. IMPROVEMENTS, ADDITIONS, AND ALTERATIONS TO PREMISES

A. Improvements By City:

Upon execution of this Agreement, the City will paint and re-carpet Room #E14D1 of the Premises and any additional work agreed to by the parties under the procedures in this Section XXVII ("Initial Improvements"). After completion of the Initial Improvements, the City will thereafter maintain the space in a neat, clean, safe and sanitary condition and in a good state of repair. University will submit to the Director, for Approval, drawings and/or specifications for any and all Initial Improvements desired by University for the operation of University's business. No construction or installation of any Initial Improvement, addition, or alteration on the Premises shall be started for University until after the Director has Approved the same.

B. No Representation or Liability Created by Approval:

The Approval by the Director of University's drawings and specifications for improvements to the Premises shall not constitute an opinion or representation by City as to their compliance with any law or ordinance or their adequacy for other than the Seattle Center Department's own purposes; and such Approval shall not create or form the basis of any liability on the part of City or any of its officers, employees, or agents for any injury or damage resulting from any inadequacy or error therein or any failure to comply with applicable laws or ordinances.

C. Cost Limits and Payment for Work:

The parties will agree on the total cost and scope of the Initial Improvements including labor, materials, and City project management time. The City shall pay one



half of the total cost of the Initial Improvements up to a maximum of ten thousand dollars (\$10,000) and University shall pay the remaining balance. The City will provide University with an itemized report and invoice detailing all expenses related to the Initial Improvements.

D. Extra Charges:

In the event any improvement made or desired to be made by University requires or would require any change in any facility, utility or service provided by City, University shall pay, as an additional charge, any costs incurred by City in making such change or otherwise in connection therewith.

E. Improvements, Additions, and Alterations Become City Property:

All Initial Improvements made to the Premises by or for University will become the property of City upon the expiration or termination of the Term, whichever is earlier, and will remain in, and be surrendered with the Premises, as a part thereof at that time without molestation, disturbance, or injury. University's trade fixtures and equipment will remain the property of University and may be removed by University upon the expiration or earlier termination of the Term hereof.

F. Additional Improvements and Alterations:

University will not make any improvements or alterations to the Premises without the Approval of the Director, which may be conditioned or withheld in the Director's sole discretion.

XXVIII. DAMAGE AND DESTRUCTION

A. Notice:

University will submit a written notice to the Director regarding the circumstances of any damage or destruction to the Premises within forty-eight (48) hours after University becomes aware of any such damage or destruction.

B. Suspension of Obligation to Pay Fees and Charges in Event of Unusability of Premises:

In the event that fire or other casualty not occasioned by any act or omission of University destroys or damages the Premises so extensively as to render it unusable for NCAA Division I basketball purposes, and University has given notice thereof to City as provided in this Section, University's obligation to pay fees and charges, and provide additional consideration, for the use of such Premises will be suspended until the Premises are made usable for University's purposes; but in the event that only a portion of such Premises is destroyed or damaged and not to an extent that would prevent the playing and viewing of NCAA Division I basketball, then the fees and charges payable



pursuant to this Agreement, will be prorated, and University will pay only an amount that is proportionate to the extent the Premises remain usable for the purposes intended.

C. Termination of Agreement upon City's Determination Not to Rebuild KeyArena:

If KeyArena is destroyed by fire or other casualty during the Term of this Agreement, or the facility is damaged so extensively as to render it unusable for the playing, exhibition, and viewing of a Home Game, the City reserves the right to determine not to rebuild or repair the facility, whether or not adequate insurance proceeds are available, the City may terminate this Agreement.

D. Notice of Termination:

Any notice of termination pursuant to this Section shall be provided within one hundred twenty (120) days after the occurrence of the damage or destruction and shall specify the effective date of such termination.

E. No Liability for Termination:

The City will not be liable to University for terminating this Agreement as provided in this Section.

F. University's Damage of Premises:

Neither University nor any of its officers, employees, contractors, agents or invitees will damage or in any manner deface any portion of the Premises or cause or allow anything to be done whereby any portion of the Premises is defaced or damaged in any manner. University will take reasonable precautions to prevent persons admitted to the Premises from damaging or defacing the same. If any portion of the Premises is damaged or defaced by the act or omission of University or any of its officers, employees, contractors or agents, including but not limited to University's failing to take reasonable precautions to prevent or avoid such damage or defacement, the City will repair or replace the damaged element of the Premises or arrange for its repair or replacement and University will pay the City such sum as is necessary to restore that damaged portion of the Premises to the same condition it had immediately prior to the damage or defacement, which sum will be paid as an Additional Expense.

XXIX. FORCE MAJEURE

Whenever a party's performance of any obligation under this Agreement is prevented by an event of Force Majeure, the performance of the affected obligation will be suspended, but only for so long as performance remains beyond the reasonable control of the obligated party. As used in this Section, "Force Majeure" means an act of nature; war or war like operation; civil commotion; riot; labor disputes, including a strike or walk-out; sabotage; or governmental regulation or control.



XXX. CITY OBLIGATIONS IN EVENT OF REDEVELOPMENT

The City reserves the right to redevelop, amend, alter, or re-construct KeyArena during the Term of this Agreement. The City will keep University reasonably informed of the City's efforts to redevelop KeyArena or efforts to have an NBA or NHL team as a tenant at KeyArena. The parties acknowledge that it is not feasible to redevelop KeyArena without impact on University, and University expressly acknowledges that the Premises may be unavailable for a portion of the Term as a result of redevelopment. In the event of redevelopment, the City will use its best efforts to minimize negative financial and operational impacts of renovation and construction projects on University, subject to the City's other financial and policy considerations and will endeavor to provide University with one year's notice of redevelopment plans so that University may arrange for an alternative facility to play its basketball games. For any complete Season that KeyArena is unavailable to University due to redevelopment, the City will pay University, as University's sole remedy, the amount by which its net revenue from advertising, ticket sales, and novelty sales compared to the prior complete season at KeyArena, exceeds the amount of net revenue University receives in the season when KeyArena is not available. Any City payment of damages to University resulting from University's loss of revenue during redevelopment shall not exceed Two Hundred and Fifty Thousand Dollars (\$250,000).

XXXI. NOTICES

Any notice or communication to be given by one party to the other under this Agreement must be in writing. Such notices or communications shall be delivered or sent to the following respective addresses or to such other addresses as the parties, from time to time, may specify in writing:

If to City:

Seattle Center Director
Seattle Center Department
The City of Seattle
305 Harrison Street
Seattle, WA 98109

If to University:

Bill Hogan
Director of Athletics
901 – 12th Avenue
P.O. Box 222000
Seattle, WA 98122

With a copy to:

Mary S. Petersen
Vice President & University Counsel
901 – 12th Avenue
P.O. Box 222000
Seattle, WA 98122



XXXII. DEFAULT AND REMEDIES

A. Default by University:

1. Event of Default. "University Default" means the University's failure to do any of the following:

a) Pay the City any monetary obligation under this Agreement when it comes due;

b) Materially comply with its obligation to provide public benefits under this Agreement; or

c) Perform any other obligation required under this Agreement.

2. Notice to Cure. The Director shall notify University in writing of any University Default and University shall have a reasonable period to cure such University Default, which period shall not exceed thirty (30) days from the date the Director provides notice. If University's Default is not susceptible of cure within thirty (30) days, University will not be in Default provided the University commences to cure University Default within the thirty (30) day period and diligently pursues the same to completion.

3. City's Rights upon the University's Failure to Cure the University Default. If University fails to cure its University Default as required under Subsection XXXII.A.2, in addition to any other remedies available to it under this Agreement at law or in equity, the City may terminate this Agreement upon fifteen (15) days' notice to University and without any further proceedings re-enter the Premises, and lease or license the Premises to others for any date previously reserved for University's use and receive rent and license fees thereof, all as if this Agreement has not been made.

B. Default by City:

1. Event of Default. The City will be in Default ("City Default") if it fails to perform any term, obligation, covenant, warranty or representation it is required to perform under this Agreement.

2. Notice to Cure. University shall notify the Director in writing of any City Default and the City shall have a reasonable period to cure such default, which period shall not exceed thirty (30) days from the date University provides notice, unless such City Default is not susceptible of cure within thirty (30) days, in which event the City shall not be in default provided the City commences to cure the City Default within the thirty (30) day period and diligently pursues the same to completion.

3. University's Rights upon Failure to Cure City Default. If the City fails to cure any City Default within the time required under Subsection XXXII.B.2, in



addition to any other remedies available to it under this Agreement or at law or in equity, University may terminate this Agreement upon fifteen (15) days' notice to the City and without any further proceedings.

XXXIII. SURRENDER OF PREMISES; HOLDING OVER

A. Surrender and Delivery:

Upon the expiration or termination of the Term hereof, University will surrender, and promptly deliver to the Director, all keys that University, its officers, agents, and employees may have to the Premises made available to University, as well as all Seattle Center parking passes or permits.

B. Removal of University's Property:

1. Upon expiration of the Term of this Agreement, or at the reasonable request by the Director in order to facilitate the imminent redevelopment of KeyArena, or if this Agreement is terminated, within thirty (30) days after the termination date, University will remove, at its sole expense, all of University's trade equipment and personal property located in any portion of the Premises.

2. In removing any trade equipment or personal property from the KeyArena, University will take due care not to unreasonably injure or damage the Premises. University will reimburse the City for the cost of making such repairs to the Premises as are necessary to restore the same to their condition, ordinary wear and tear, improvements, additions and alterations to the Premises approved by the City excepted. Reimbursement will be paid together with the balance of University's payments due under this Agreement, or upon invoice therefore. Improvements, additions and alterations made or provided to the Premises by or on behalf of University will not be removed.

C. Storage of University's Property:

If University fails to remove trade equipment and other personal property owned by University on or by the time specified in this Agreement, the City may, but shall not be required to, remove such material from the Premises and store the same, all at University's expense; and in the event the City removes or arranges for the storage of such material, University will reimburse City for all costs incurred in connection with such removal or storage, including any administrative costs.

D. Hold-over Use and Occupancy of Premises:

If University holds over after the expiration or termination of this Agreement, University will be bound by all of the provisions of this Agreement.



XXXIV. DISPUTE RESOLUTION

If a dispute arises between the parties to this Agreement, the representatives authorized to administer this Agreement on behalf of each party will make good faith efforts to resolve the dispute. If those representatives are unable to resolve the matter, the dispute will be referred to the Director and University's Executive Vice President or his/her designee with equivalent decision making authority, and they will meet to address and resolve the dispute. Either party may schedule such a meeting by providing reasonable prior notice. If the above individuals are unable to resolve the dispute, prior to filing any lawsuit or claim, the parties will engage an independent mediator or mediation service acceptable to both parties, and will participate in mediation in good faith and for a time reasonable under the circumstances. The cost of the mediation services will be shared equally by the parties. If the dispute is not resolved through mediation, the parties remain free to pursue any other legal processes that may be available.

XXXV. MISCELLANEOUS PROVISIONS

A. Captions:

The titles of sections are for convenience only and do not define or limit the contents.

B. Amendments:

No modification or amendment of the provisions of this Agreement shall be effective unless written and signed by an authorized representative of each of the parties hereto. The parties hereto expressly reserve the right to modify this Agreement from time to time by mutual agreement.

C. Time of Essence:

Time is of the essence of this Agreement.

D. Remedies Cumulative:

Rights under this Agreement are cumulative; any failure to exercise on any occasion any right shall not operate to forfeit such right on another occasion. Each party shall also have any other remedy given by the law. The use of one remedy shall not be taken to exclude or waive the right to use another.

E. No Waiver:

No action other than a written notice by one party to the other specifically stating that such notice has the effect of a waiver will constitute a waiver of any particular breach or default of such other party. If either party expressly waives any right under



this Agreement, that waiver will not be extended or deemed to waive any other failure to fully comply with any other term, condition, or provision of this Agreement, irrespective of any knowledge either party or its officer, employee, or agent may have of any breach, default, or noncompliance with the other term, condition, or provision. No waiver of full performance by either party will be construed or operate as a waiver of any subsequent default of any of the terms, covenants and conditions of this Agreement. The payment or acceptance of fees or charges for any period after a default will not be deemed a waiver of any right or acceptance of defective performance.

F. Limited Effect of Approval by Director:

Action of the Director pursuant to or in implementation of this Agreement does not constitute any official action by any other City department or official that may be required by law, City Charter, ordinance, rule or regulation before University may rightfully commence, suspend, enlarge, or terminate any particular undertaking.

G. No Relationship:

In no event will the City be construed to be a partner, associate, or joint venturer of University, or any party associated with University, with respect to the undertakings authorized by this Agreement. University is not an agent of the City for any purpose whatsoever hereunder. University will not create any obligation or responsibility on behalf of City or bind City in any manner.

H. Power of City:

Nothing contained in this Agreement will be considered to diminish the governmental or police powers of City.

I. Binding Effect:

The provisions, covenants and conditions of this Agreement apply to bind the parties, their legal representatives, successors, and assigns.

J. Specific Enforcement Available:

The obligations of the parties to this Agreement are unique in nature; this Agreement may be specifically enforced by either party.

K. Invalidity of Particular Provisions:

Should any term, provision, condition or other portion of this Agreement or the application thereof be held to be inoperative, invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.



L. Applicable Law; Venue:

This Agreement will be governed by the laws of the State of Washington. Venue for any action brought hereunder will be in Superior Court for King County, Washington.

M. University's Tax-Exempt Status:

The City recognizes that University is a 501©(3) tax-exempt organization. The City shall not take any actions that would jeopardize University's tax-exempt status.

N. Seattle Storm:

If the Seattle Storm WNBA team terminates its tenancy at KeyArena, within sixty (60) days of such termination, University shall notify the City in writing of University's interest in using space or facilities previously licensed for use by the Women's Basketball Club of Seattle. University and the Director will discuss amending this Agreement in regards to University's use of space or facilities at KeyArena including items such as locker rooms, coach and administrative offices, and storage rooms.

O. Incorporation of Exhibits; Entire Agreement:

The following exhibits are incorporated and made a part of this Agreement:

- Exhibit 1 Premises Licensed for Use and Occupancy By University
- Exhibit 2 Staffing and Items Included in License Fee
- Exhibit 3 Insurance

This Agreement constitutes all of the covenants, promises, agreements, and conditions, either oral or written, between the parties regarding the terms and conditions of University's use and occupancy of the KeyArena under this Agreement.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by having their authorized representatives affix their signatures in the spaces below:

SEATTLE UNIVERSITY

THE CITY OF SEATTLE

By: _____
Timothy Leary
Executive Vice President

By: _____
Robert Nellams
Seattle Center Director

SEATTLE UNIVERSITY

By: _____
William Hogan
Director of Athletics



STATE OF WASHINGTON)
) ss. (UNIVERSITY'S ACKNOWLEDGMENT)
COUNTY OF KING)

On this ____ day of _____, 2009, before me personally appeared Timothy Leary, to me known to be Executive Vice President of Seattle University, a Washington non-profit corporation, who executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument for said corporation.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

(Signature) (Print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at _____.
My appointment expires _____.



STATE OF WASHINGTON)
) ss. (UNIVERSITY'S ACKNOWLEDGMENT)
COUNTY OF KING)

On this ____ day of _____, 2009, before me personally appeared William Hogan, to me known to be Director of Athletics for Seattle University, a Washington non-profit corporation, who executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument for said corporation.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

(Signature)

(Print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at _____.
My appointment expires _____.



STATE OF WASHINGTON)
) ss: (CITY'S ACKNOWLEDGMENT)
COUNTY OF KING)

On this _____ day of _____, 2009, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Robert Nellams, to me known to be the Seattle Center Director, who executed the foregoing instrument, and acknowledge said instrument to be the free and voluntary act and deed of The City of Seattle, for the uses and purposes herein mentioned, and on oath stated that she is authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

(Signature)

(Print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at _____.
My appointment expires _____.



Exhibit 3

A. University's Liability Insurance:

1. Minimum Insurance Required.

University shall obtain and maintain continuously throughout the Term of this Agreement, at its own expense, insurance as specified:

including: a) **Commercial General Liability (CGL)** insurance,

- Premises/Operations
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual
- Independent Contractors
- Stop Gap or Employers Liability
- Liquor Liability
- Fire/Tenant Legal

Such insurance must provide a minimum limit of liability of **\$2,000,000** each occurrence combined single limit bodily injury and property damage (CSL) except:

- \$ 1,000,000** each offense Personal & Advertising Injury
- \$ 1,000,000** each accident/disease Stop Gap or Employers Liability
- \$ 500,000** each occurrence Fire/Tenant Legal

b) **Business Automobile Liability** insurance, including coverage for owned, non-owned, leased or hired vehicles, with a minimum limit of liability of **\$1,000,000** CSL.

The minimum limits of liability specified above may be evidenced with primary insurance or any combination of primary and excess or umbrella insurance.

c) **Worker's Compensation** insurance securing University's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington; provided, that if University is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, University shall certify that qualification by a letter that is signed by a corporate officer of University and is delivered to the City's Risk Manager setting forth the limits of any policy of self insurance covering its employees.

2. General Requirements for University's Insurance (Not Applicable to Worker's Compensation).



a) The CGL and Business Automobile Liability insurance shall include "The City of Seattle" as an additional insured for primary and non-contributory limits of liability.

b) The limits of liability specified herein are minimum limits of liability only and shall not be deemed to limit the liability of University or its insurers to less than the limits of liability of any of University's insurance policies. Where the City is required to be an additional insured, it shall be so for the total limits of liability available to University under its risk financing program, whether such limits are primary, excess, contingent or otherwise.

c) Each insurer shall provide not less than forty-five (45) days written notice to the City before any policy required hereunder may be cancelled, except ten (10) days written notice as respects cancellation for non-payment of premium.

d) All insurance required hereunder shall be subject to approval by the City as to insurer, policy form and coverage. All policies shall be issued by an insurer rated A-:VII or higher in the A.M. Best's Key Rating Guide and licensed to do business in the State of Washington or issued as surplus lines by a Washington surplus lines broker.

e) Any deductible or self-insured retention must be disclosed to, and shall be subject to approval by, the City. The cost of any claim payments falling within the deductible shall be the responsibility of University or its contractor, as appropriate.

3. Evidence of Insurance. Acceptable certification shall be provided to the City as evidence of insurance coverage maintained by University not less than ten (10) days prior to University's first use of any of the Premises pursuant to this Agreement; and evidence of continuous coverage shall be maintained on file as follows:

a) A copy of the policy's declarations pages, showing the Insuring Company, coverages, policy period and limits of liability, and the Schedule of Forms and Endorsements.

b) A copy of the CGL policy provision(s) documenting that the City of Seattle is an additional insured for primary and non-contributory limits of liability.

4. Address for Delivery of Evidence of University's Insurance.

The evidence specified in Subsection A.3 hereof shall be delivered to the following addresses:



Seattle Center Director
The City of Seattle
305 Harrison Street
Seattle, WA 98109

An electronic copy shall be emailed to riskmanagement@seattle.gov or faxed to (206) 470-1279.

B. Assumption of Risk:

The placement and storage by University of personal or business property on the Premises shall be the responsibility, and at the sole risk, of University.

C. Adjustments of Claims:

University shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of University under this Agreement. University shall ensure that all such claims, whether processed by University or University's insurer, either directly or by means of an agent, will be handled by a person with a permanent business office in the Seattle area.

D. Remedies upon Failure to Insure:

The Director shall notify University whenever the Director has a reasonable belief that University has failed to secure or maintain insurance as required by this Agreement. In addition to any other remedy allowed under this Agreement, the City is entitled to prohibit University from entering upon the Premises without liability to University until University has secured and is maintaining insurance as required by this Agreement.

E. Mutual Release and Waiver:

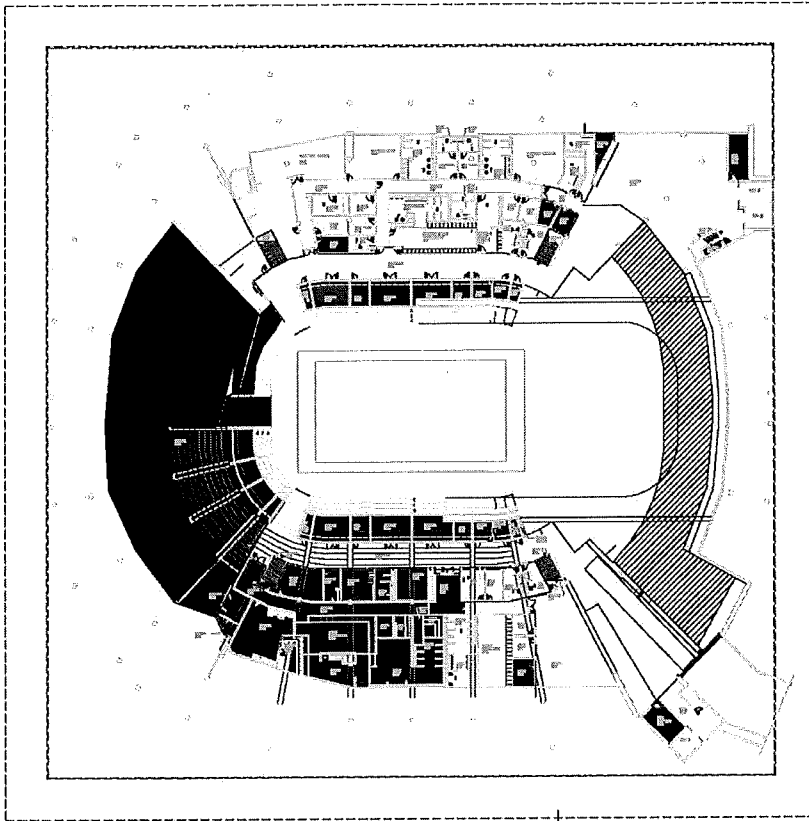
For and in consideration of the execution of this Agreement, the City and University each hereby releases and relieves the other and waives its claim of recovery from the other for loss or damage to owned or rented property arising out of or incident to fire, lightning and the perils to the extent covered under any extended coverage insurance policy or endorsement approved for use in the State of Washington, whether such loss or damage is due to negligence of either party or any agent or employee of either or any other person, unless an insurance policy secured by either party hereto pursuant to this Agreement or otherwise would become void upon the making of such release and waiver.



Exhibit 1

Premises Licensed for Use and Occupancy By University

EVENT LEVEL



■ SEATTLE U EXCLUSIVE SPACE
E29F

■ NON-SEATTLE U SPACE

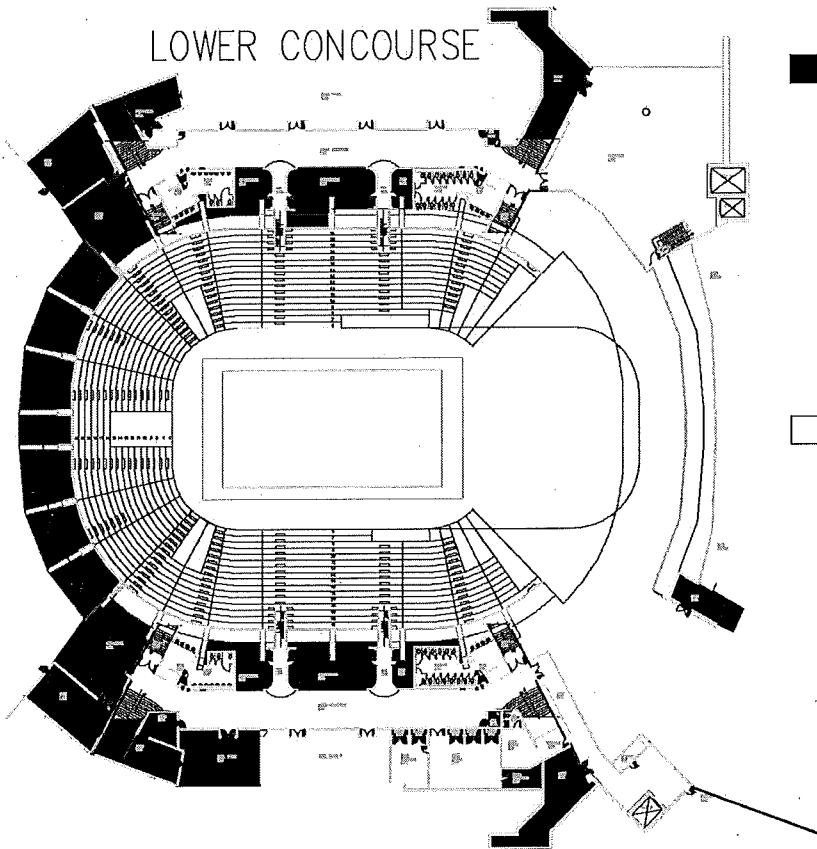
E01L, E01M, E02G, E02H, E03D,
E03E, E03H, E03J, E05A, E05C,
E12A, E13D, E13E, E14A, E14G,
E14J, E15B, E15C, E15F, E15G,
E15H, E15J, E15K, E16A, E16C,
E16D, E16E, E16G, E16H, E16J,
E17B, E17C, E17D, E17E, E17F,
E17G, E18A, E18C, E18D, E19A,
E19B, E19E, E22A, E28A, E28B,
E28C, E28E, E28F, E28G, E28H,
E29A, E29B, E29C, E29D, E29E,
E29F, E30B, E30E, E30F

□ GAME DAY SHARED
SPACE

E01A, E01B, E01C, E01D, E01E,
E01F, E01G, E01H, E01J, E01K,
E02A, E02B, E02C, E02D, E02E,
E02F, E03A, E03B, E03C, E03F,
E03G, E04A, E13A, E13B, E13C,
E14B, E14C, E14E, E14F, E15A,
E15D, E15E, E16B, E18B, E28D,
E29A, E29B, E29C, E29D, E30B,
E30A, E30C, E30D



Exhibit 1 (Cont'd)



■ NON-SEATTLE U SPACE

L01C, L02A, L03A, L03B, L03D, L10A,
L13A, L13B, L13E, L13H, L14C, L14D,
L14E, L15B, L15D, L15E, L16A, L17A,
L17B, L18B, L18D, L18E, L19A, L19B,
L27A, L27B, L28A, L28C, L30A

□ GAME DAY SHARED SPACE

L01A, L01B, L02B, L03A, L05A, L12A,
L12B, L13C, L13F, L13G, L14A, L14B,
L15C, L16C, SHELL SPACE 3, L18A, L29B



Exhibit 2

Staffing and Items Included in License Fee

a. Staffing and Items Included in License Fee for Lower Bowl Games

- i. Admissions Personnel (Ushers, Door Attendants, Ticket Splitters)
- ii. Stage Personnel (House Lights Operator)
- iii. One Sound Technician during the game
- iv. Laborers for event turnovers
- v. Security at the Communication Center
- vi. Maintenance staff during the game
- vii. Event Service Representative for day of game
- viii. Utilities
- ix. Stand by Electrician during the game
- x. Seattle Police, for house, not the bench, players or officials
- xi. Peer Security for bag searches
- xii. Medics for house first aid
- xiii. Use of Scoreboard, but not an operator
- xiv. Basketball rim testing
- xv. Parking Attendants
- xvi. Parking and electrical power for television vehicles

b. Staffing and Items Not Included in License Fee

- i. Use of the upper level of KeyArena
- ii. Installation and use of the upper level curtain
- iii. Catering
- iv. Telephone and internet service
- v. Staffing for pre-game, mid-game, and post-game activities
- vi. Videoboard Operators
- vii. Scoreboard Operators
- viii. Other items not included under "a", above.



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Center	Robert Nellams 684-7334 Kerry Smith 615-0358	Amy Williams 233-2651

Legislation Title:

AN ORDINANCE relating to the Seattle Center Department; authorizing the execution of a facility use agreement with Seattle University, for use and occupancy of KeyArena and adjacent areas at the Seattle Center.

• **Summary of the Legislation:**

This legislation authorizes the execution of a five-year agreement, with a two-year extension option, with Seattle University to use KeyArena for their home men's basketball games. The agreement stipulates the rent and public benefits Seattle University will provide for use of the building and the revenue that Seattle Center will share with Seattle University upon achieving certain ticket sales and attendance goals.

Background: *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

Approval of this legislation will mark the next step toward the end of Seattle University's 29-year hiatus from Division I men's basketball and Seattle Center. The Redhawks, or the Chieftans as they were called then, played men's basketball in KeyArena (formerly known as the Seattle Center Coliseum) for a number of years. In 1980, facing athletic challenges and economic pressures, Seattle University made the difficult decision to leave Division I athletics and KeyArena.

In January, 2009, Seattle University restarted their men's basketball tradition by playing a home game at KeyArena against the same Division I school they last played there, Loyola Marymount. The game was successful, attracting nearly 5,000 fans. The experience reinforced Seattle University's commitment to playing basketball at KeyArena and demonstrated the positive impact the Seattle University games could have at Seattle Center and in the surrounding community. The addition of Seattle University men's basketball at KeyArena complements the existing event mix, reinforces KeyArena's desirability as a basketball venue, and provides an economic benefit to Seattle Center and the adjacent neighborhood.

With the departure of the Seattle Supersonics and the Seattle Thunderbirds hockey team, KeyArena has ample date availability for the Redhawk home basketball games. Seattle Storm home games occur primarily during the summer, so the two team's schedules complement each other well.

Agreement Terms:

The Agreement authorized by this legislation provides for a five-year agreement under which



Seattle University will play all of its home games in KeyArena. The term includes a two-year extension option to be exercised by Seattle University conditioned upon their achieving membership in a National Collegiate Athletic Association (NCAA) Division I conference and being eligible to participate in the NCAA men's basketball tournament, and upon agreement between Seattle Center and Seattle University on sharing of revenue from advertising and sponsorships for those two years.

In addition to the many benefits which Seattle University currently provides to our community, Seattle University has agreed to provide the following specific benefits related to their use of KeyArena:

- The University will provide one thousand (1,000) tickets per season at no cost to local nonprofits for distribution to children who might otherwise be unable to attend a game.
- Each season through the agreement term, the University will provide a significant community service program administered by the University's Center for Service and Community Engagement.
- Seattle University will assign up to five (5) interns per season in business, sports administration, marketing, communications, or related fields to work at Seattle Center.
- The University will participate, through guest lecturers or other activities, in the Seattle Center's 2012 50th anniversary celebration.
- A ticket pricing structure that promotes affordable family entertainment, with two hundred (200) tickets per game priced at no greater than fifteen (\$15.00) dollars.
- The University will provide an opportunity at each game for public service announcements in support of Seattle Center, Seattle University or City of Seattle environmental sustainability programs.

Seattle University's transition to Division I status is a sequenced process of steps expected to take five years to complete. As the number of events and attendance increases, so too does the value that Seattle University brings to Seattle Center. In addition Seattle University's presence in KeyArena enhances certain Seattle Center revenues, such as title sponsorship, suite sales and advertising. As a reflection of these considerations, the agreement sets up a graduated rent and revenue-sharing structure with Seattle University, with rent increasing over time and revenue sharing tied to Seattle University reaching identified ticket sales and attendance goals. The proposed terms of the agreement include the following:

- Seattle University will pay a per game License Fee for the lower bowl configuration as shown below, plus additional charges for upper bowl use. License Fees include basic staffing, with additional staffing to be reimbursed by Seattle University.



Basketball Season	License Fee/Game
2009-2010	\$9,000
2010-2011	\$12,000
2011-2012	\$15,000
2012-2013	\$18,000
2013-2014	\$18,000
Option Period	
2014-2015	Actual average per game Seattle Center expense of producing the 2012-2013 games plus CPI (for 2013-2014 season) plus CPI (for 2014-2015)
2015-2016	2014-2015 license fee plus CPI.

- As part of the revenue sharing arrangement, Seattle University will receive an annual payment of \$50,000 if they achieve specific standards for ticket sales or attendance as follows:

Basketball Season	Standard	University's Revenue Share
2009 - 2010	1,000 season tickets sold	\$50,000
2010 - 2011 2011 - 2012	2,300 average attendance per home game	\$50,000
2012 - 2013 2013 - 2014	If Seattle University is a member of a NCAA Division I conference, the University must meet or exceed the conference average for the prior year for attendance per home game. OR If the University is not a member of a NCAA Division I conference, the University must meet or exceed an average attendance of 3,000 per home game.	\$50,000

Revenue sharing during the two season term extension option periods will be determined at that time. Mutual agreement between Seattle University and Seattle Center regarding this revenue sharing is a condition of the extension.

- The City retains the right to sell advertising and retain all advertising revenues at KeyArena, but grants to Seattle University the ability to sell temporary advertising in the lower bowl areas on game days.
- The City retains all concession revenues from the games.



- Up to 15% of the ring signage advertising time at each game is available for the City's use.
- Seattle University will have the exclusive right to sell programs and novelties at Redhawk games, and to retain associated revenues.
- Seattle Center will repaint, at Seattle University expense, a City basketball floor using the Redhawk colors and logos.
- Seattle University may request, subject to Seattle Center approval, use of the KeyArena for practice sessions on days when no home game or conflicting event is scheduled and the building is set up for basketball. The University will reimburse the Center for costs associated with such use.
- Seattle University may have access to KeyArena for recruiting potential student-athletes.
- Assuming the suites have not all been licensed, Seattle University may use two suites for each home game. In addition, they may use one additional suite up to four times a season.
- Seattle University is granted the use of the South KeyArena parking lot and 150 parking permits in the 1st Avenue North Parking Garage for each home game. Seattle Center will make available to full season ticket holders season parking in the 1st Avenue North Parking Garage at the same event rates offered to other resident organizations.
- Seattle Center will renovate a locker room for Seattle University as their home locker room and will pay for one half of the total cost up to a maximum of \$10,000. The University will pay the other half of the cost and any amount in excess of \$20,000.
- *Please check one of the following:*

 This legislation does not have any financial implications. *(Stop here and delete the remainder of this document prior to saving and printing.)*

 X **This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

Appropriations:

Fund Name and Number	Department	Budget Control Level*	2009 Appropriation	2010 Anticipated Appropriation
			None	None
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

Notes:

All necessary appropriations to implement this agreement have been included in Seattle Center's 2009 Adopted and 2010 Proposed Budget.



Anticipated Revenue/Reimbursement: Resulting From This Legislation:

Fund Name and Number	Department	Revenue Source	2009 Revenue	2010 Revenue
Seattle Center Fund (11410)	Seattle Center	License Fee	\$36,000	\$120,000
TOTAL				

Notes:

Seattle Center's 2009 Adopted Budget and 2010 Proposed Budget assumed that Seattle University would be using KeyArena so the anticipated revenue has already been included in the budget.

- **What is the financial cost of not implementing the legislation?**
The cost of not implementing the legislation is the loss of a long-term tenant in the KeyArena. Without this agreement the team would seek another venue for its home games.
- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
The objective of providing additional long-term tenants in KeyArena can only be achieved by Seattle University or other users willing to make a commitment to the facility. Seattle University's objective of transitioning to Division I status could be achieved by entering into an agreement with another facility owner.
- **Is the legislation subject to public hearing requirements:**
No





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

September 1, 2009

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill authorizing the execution of an agreement with Seattle University for use of KeyArena. The agreement, with a five year term and two year extension option, enables the renewal of a great tradition in Northwest college sports as Seattle University ends a 29-year hiatus from Division I men's basketball and returns to Seattle Center.

Seattle University has returned to Division I men's basketball to better align its athletic programs with its excellent academic programs. The University's current home court, Connolly Center North Court, only holds about 1,000 people. Using KeyArena for home games will allow Seattle University to meet the renewed interest in men's basketball as well as provide a larger venue to attract and accommodate visiting teams for non-conference games. Under the agreement authorized by this Bill, Seattle University will initially use KeyArena to play a minimum of 11 home basketball games a season. The University will provide public benefits such as offering free tickets to local nonprofits for distribution to children who might otherwise be unable to attend a game. The return of Seattle University basketball to Seattle Center also provides new and exciting events at KeyArena, which will attract people to Seattle Center and to the Queen Anne community.

With more than 7,500 students and 60,000 alumni, Seattle University plays a vital role in Seattle. In addition to having a regional economic impact of \$580 million, more than 75% of Seattle University students demonstrate a commitment to some type of community or public service. The school also partners with many other public, private, and nonprofit organizations on a variety of initiatives benefitting our community. Please join me in welcoming the Seattle University Redhawks back to the Seattle Center and KeyArena. Thank you for your consideration of this legislation. Should you have questions, please contact Robert Nellams at 684-7334.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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**AGREEMENT BETWEEN
THE CITY OF SEATTLE
AND
SEATTLE UNIVERSITY
REGARDING USE OF KEYARENA**

FINAL authorized by Ordinance 123124
October 5, 2009

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**AGREEMENT BETWEEN
THE CITY OF SEATTLE
AND
SEATTLE UNIVERSITY
REGARDING USE OF KEYARENA**

THIS AGREEMENT ("Agreement") is entered into by and between **The City of Seattle** ("City"), a municipal corporation of the State of Washington, acting by and through its Seattle Center Department and the Director thereof ("Department" and "Director", respectively), and **Seattle University** ("University"), a Washington non-profit corporation organized and existing under the laws of the State of Washington.

RECITALS:

- A. Founded in 1891, the University is a nationally recognized non-profit educational institution with a reputation for academic excellence and a mission of empowering leaders for a just and humane world.
- B. The City is the owner and operator of KeyArena as defined herein.
- C. The University contributes to the social and economic environment of the City by having three out of four University students serve the community through volunteer activities, internships and professional development; and the University generates an annual overall economic benefit of \$580.4 million.
- D. The University's basketball games were once one of Seattle Center's popular attractions, and the University's return to Seattle Center was envisioned as a possibility in the Century 21 Master Plan.
- E. The parties are entering into this Agreement, in part, because the University's basketball games enhance the offerings of Seattle Center, draw people to the Seattle Center campus and lower Queen Anne and South Lake Union business districts, and contribute to community, civic, and economic vitality of the Seattle Center and the surrounding neighborhood.

IN CONSIDERATION of the mutual promises, covenants, agreements, and performances described herein, and other good and valuable consideration, the parties hereto agree as follows:

I. DEFINITIONS

All words in this Agreement bearing initial capitals, other than proper nouns, section headings or words required to be capitalized for proper usage, are defined terms and shall have the meanings specifically assigned to them in this Agreement. Unless otherwise expressly provided, use of the singular includes the plural and *vice versa*.

A. Additional Expenses

"Additional Expenses" means any reimbursement for services or labor or any other amount University is required to pay the City under this Agreement, other than the License Fee.

B. Advertising

"Advertising" means any printed or verbal announcement or display of any kind intended to sponsor or promote, directly or indirectly, the sale or rental of a service, an admission ticket to an event, an interest in a product, commodity or other form of property, or the expression of any other commercial or noncommercial message other than directional, health or safety messages.

C. Allowed Products and Services

"Allowed Products and Services" means and includes insurance, brokerage services, mutual funds, IRA, retirement accounts, 529 plans, college savings plans, student loans, gift certificates, gift checks, gift cards, travelers checks, financial planning, trust and estate planning, investment management, credit cards, charge cards, travel and entertainment charge cards, credit card processing, investment banking, real estate capital and wire transfers.

D. Agreement

"Agreement" means this Agreement, as from time to time amended in accordance with the terms hereof, including the license to use the KeyArena for Home Games.

E. Approval

"Approval" or "Approve" means the prior written consent of a party hereto or a designated representative thereof.

F. Consumer Price Index

"Consumer Price Index" or "CPI" means the Consumer Price Index for All Urban Consumer Items, Seattle-Tacoma-Bremerton Metropolitan Statistical Area using the base 1982-84 = 100, as published by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor.

G. Common Areas

"Common Areas" means and includes any Seattle Center area designated by the City as being for the general use of tenants, licensees, concessionaires, patrons, employees, and invitees of the Seattle Center and not within the exclusive control of any tenant, licensee, or concessionaire, and shall include but not be limited to parking

areas, landscaped areas, areaways, roads, walks, corridors, malls, public toilets, public lounges, public stairs, ramps, elevators, escalators, and shelters.

H. Concession Operations

“Concession Operations” means any and all activity associated with securing, storing, preparing, offering for sale, selling, dispensing or distributing, in any manner, any item of Food in or from any portion of KeyArena.

I. Disallowed Products and Services

“Disallowed Products and Services” means and includes checking accounts, savings accounts, debit cards, certificates of deposit, check-cashing services, automobile loans, boat loans, home equity loans/lines of credit, personal lines of credit, mortgage services and primary home loans, safe deposit boxes, online banking, online bill pay, business equity lines of credit, business equipment loans, equipment leasing, equipment finance, SBA loans, cash management, foreign currency exchange, asset based lending and syndicated finance.

J. First Avenue North Parking Garage

“First Avenue North Parking Garage” means the multi-deck parking facility at Warren Avenue and Thomas Street, a portion of which facility is made available for use and occupancy by University as provided in this Agreement.

K. Food

“Food” means any item of food or drink without limitation, except for water made available from public drinking fountains or sinks, that is sold, given without charge, or in any other manner dispensed in or from KeyArena.

L. Game Day

“Game Day” or “Home Game Day” means the calendar day upon which a Home Game of the University men’s basketball team is scheduled to be played in the KeyArena pursuant to this Agreement.

M. Novelties

“Novelties” means merchandise, goods, wares, game programs, and publications bearing the symbol, mark or name of University, the Seattle University basketball team, or any other Seattle University sports team, but excludes Food.

N. Home Game

“Home Game” means any NCAA college men’s basketball game for which University’s team is the host team, including any pre-season, exhibition, regular season, post-season, or conference playoff or championship game.

O. KeyArena

“KeyArena” means the multi-purpose, public performance facility located at Seattle Center, together with all City-owned equipment and other appurtenances incorporated therein. If KeyArena is redeveloped or renamed during the Term of this Agreement, all references to KeyArena herein will be deemed to refer to the redeveloped or renamed facility. KeyArena is located on the following real property:

<u>Block(s)</u>	<u>Plat</u>	<u>As Recorded in Records of King County, Washington</u>
31	Supplemental Plat of D.T. Denny's Plan of N. Seattle, EXCEPT the West 93.06 feet of Lots 9 & 10 thereof.	Vol. 3 of Plats, Page 80
32 & 35	D.T. Denny's Home Addition to Seattle	Vol. 3 of Plats, Page 115
36	D.T. Denny's Third Addition to Seattle	Vol. 1 of Plats, Page 145

P. NCAA

“NCAA” means the National Collegiate Athletic Association.

Q. Permitted Use

“Permitted Use” means the playing, exhibition, viewing, and broadcasting of men’s college basketball games; the selling of Novelties; the presentation of Temporary Advertising; the hosting of pre-game, mid-game, and post-game activities and receptions; ticket sales; and other administrative functions reasonably necessary for the playing of Home Games.

R. Premises

“Premises” means those portions of KeyArena and the South KeyArena Parking Lot that are licensed and made available to University for its use and occupancy under this Agreement.

S. Retail Bank

"Retail Bank" means financial institutions that offer a walk-in retail location in the state of Washington, and includes banks, savings and loans, and credit unions.

T. Season

"Season" means the twelve month period from July 1 through June 30, except the first Season will be from the commencement of the Agreement through June 30 of the following calendar year.

U. Scheduling Window

"Scheduling Window" means the time period between the second Friday of November through the last day of the immediately following March.

V. South KeyArena Parking Lot

"South KeyArena Parking Lot" means the vehicle parking area on the south side of the KeyArena.

W. Temporary Advertising

"Temporary Advertising" means that Advertising in KeyArena which may only be displayed during Home Games or approved University events.

II. USE

In consideration of the mutual covenants and subject to the restrictions herein, the City grants University the right to use, and to authorize others to use the Premises for the Permitted Use.

III. TERM OF AGREEMENT

A. Term:

This Agreement shall commence upon execution by an authorized representative of both parties and expire on June 30, 2014, unless terminated earlier or extended pursuant to the provisions hereof (the "Term"). University shall have the option to extend the Term of the Agreement to June 30, 2016 ("Extended Term"), subject to the following conditions:

1. University achieving membership in a NCAA Division I Athletics Conference and being eligible to participate in the NCAA men's basketball tournament; and

2. University and the Director will negotiate and agree upon revenue sharing under Section XII.D., if any, for the Extended Term.

The option to extend shall be exercisable by University, in writing, at any time prior to July 1, 2013, time being of the essence.

IV. SCHEDULING OF UNIVERSITY HOME GAMES IN KEYARENA

A. Minimum Level of KeyArena Use:

University will play at least the following number of Home Games in KeyArena:

Season	Number of Home Games
Season 1 (2009-2010)	11
Season 2 (2010-2011)	11
Season 3 (2011-2012)	13
Season 4 (2012-2013)	13
Season 5 (2013-2014)	13
Option Period	
Season 6 (2014-2015)	13
Season 7 (2015-2016)	13

B. Scheduling Window and Procedures:

The City will not be required to Approve or confirm University's request to schedule KeyArena for any Home Game, including any pre-season, regular season or post-season game, unless the game occurs during the Scheduling Window and the scheduling procedures in this Agreement are followed. The Scheduling Window is based upon the official NCAA season and tournament schedule. During the Term, if the NCAA season moves outside the Scheduling Window or University joins a NCAA Division I Athletics Conference which requires a different schedule, the parties agree to amend the Scheduling Window and this Section to reflect the amended NCAA season or University's scheduling obligations to its Athletics Conference, subject to the City's contractual commitments with other users of KeyArena.

C. Selection of Regular Season Home Games Dates:

1. By the April 1 immediately preceding each NCAA season during the Term of this Agreement, the Director will provide University with a list of a minimum of eighteen (18) potential regular season Home Game dates occurring during the Scheduling Window.

2. If University increases the number of regular season Home Games, the City will proportionately increase the offered number of potential Home Game dates conditioned upon the following:

a) University notifies the City of the number of additional Home Game dates added prior to the time the City makes its annual date offer; and

b) The increased number of regular season Home Games falls within the Scheduling Window.

If University requests additional potential dates after the City makes its annual date offer, the City will use its best efforts to provide additional dates in light of City commitments to other clients.

3. By July 1 immediately following the City's annual date offer, University will notify the Director, in writing, of those dates on the Director's list on which University wishes to license the KeyArena for a regular season Home Game. Such dates will be reserved for University's Home Games and will be referred to as "Confirmed Dates". Any dates not selected by University as Confirmed Dates by July 1 will be deemed relinquished and will be available for the City to use or license, at its discretion.

D. Scheduling of Pre-Season Home Games:

At any time, University may ask the Director to hold potential dates for pre-season Home Games. The Director will hold the requested dates for University, provided that the dates are within the Scheduling Window and are not already held for or contractually committed to another licensee. At the earliest possible opportunity, but in any case, no less than sixty (60) days prior to each potential pre-season Home Game date, University will confirm its intention, in writing, to use KeyArena for the requested dates. Any dates not so confirmed will be deemed released and will not be held for University. If the Director receives a third-party request for the use of KeyArena on a date reserved for a pre-season Home Game prior to the time when University is required to confirm the date, the Director may request in writing that University confirm or release the date. University will have seventy-two (72) hours from the time of the request to confirm the date in writing, otherwise the date will be deemed released and the City may license KeyArena to the third party.

E. Scheduling of Post-Season Home Games:

In the event University is eligible to participate in a post-season tournament which may require additional Home Game dates, University shall notify the Director, in writing, of those dates which it wishes to use KeyArena for post-season Home Games. Provided such dates are within the Scheduling Window and that KeyArena is not already held for or contractually committed to another licensee, the Director will hold the requested dates for University. At the earliest possible opportunity University shall confirm its intention, in writing, to use KeyArena for the requested dates. If the Director receives a third-party request for the use of KeyArena on a date reserved for a post-season Home Game prior to University confirming the date, the Director may request in writing that University confirm or release the date. University will have seventy-two (72)

hours from the time of the request to confirm the date in writing, otherwise the date will be deemed released and the City may license KeyArena to the third party.

F. Director's Endorsement:

The Director shall prepare and issue a written "use date endorsement notice" to University for each Confirmed Date.

V. PREMISES, EQUIPMENT AND FIXTURES AVAILABLE FOR USE BY UNIVERSITY

A. Premises:

Subject to the Permitted Hours of Use (Section V.E. below), on each Home Game Day University will have the right to use and to authorize others to use those portions of KeyArena, including equipment and fixtures, that are reasonably necessary for the playing, exhibition, viewing of, and attendance at, a NCAA Division I college basketball event. Such portions include the lower bowl audience seating area, the basketball floor, baskets, timing clocks, scoreboards, video screens on scoreboards, the ring signage system, control room (LED or ring signage and M04C and "north bucket"), sound, lighting, public address systems, home and visiting team locker rooms (including Rooms #E14D1, #E15A and #E14C), training room, media room, media catering room, courtside entry lounge, event level catering space, FSN Lounge, Room #E29F, and any additional areas listed on Exhibit 1. Use of the existing courtside rotating signage is permitted only by separate agreement between University and Women's Basketball Club of Seattle, or University may contract with a third party vendor for use of alternative courtside rotating signage equipment. Additionally, University may use the upper bowl seating area and suites as provided in the Agreement.

B. Suites:

If all of the suites in KeyArena have not been licensed for use by one or more third parties, on each Home Game Day, University will be entitled to use two (2) 16-seat suites that are specified from time to time by the Director. Additionally, University will be entitled to use one additional 16-seat suite (a "Third Suite") for four (4) Home Games per Season until such time as all suites have been licensed for use by third parties. University will notify the Director at least thirty (30) days in advance of those Home Game Days on which University desires to utilize a Third Suite and the Director will identify which unlicensed suites, if any, will be available for University use. University will not relicense or sell the suites, and will use the suites subject to the rules and conditions imposed on suite licensees, but University will not be charged a license or use fee for the suites.

C. Box Office Space:

On each Home Game Day, University will be permitted to use the KeyArena box office spaces identified in Exhibit 1. University is entitled to use the City's existing ticketing equipment, and will not make any alterations to the existing ticketing equipment without the Director's Approval.

D. Exclusive Use Area:

During the Term, University will have the exclusive right to use and occupy Room #E29F for on-site storage ("Exclusive Use Area"). The City will not permit any third party user of KeyArena to access or use the Exclusive Use Area, but University will not be able to use, access, or occupy the Exclusive Use Area during times when KeyArena is licensed for use by a third party.

E. Permitted Hours of Use:

On each Home Game Day, the Premises will be available for University's use during the following hours ("Permitted Hours of Use"):

1. On any Home Game Day on which the Premises do not have to be converted to or from a non-basketball use, University will be permitted to use the Premises beginning at 9:00 a.m. and ending at 11:50 p.m. of that same day.
2. On any Home Game Day on which the Premises must be converted from another use to a basketball facility, University will be permitted to use the Premises beginning at 9:00 a.m. and ending at 11:50 p.m. of that same day, but the use will not be exclusive to University as the City staff will be cleaning the Premises and converting it to basketball use. The City will schedule the conversion work so that the installation and use of the basketball floor by University is a priority.
3. On any Home Game Day on which the Premises must be converted on that same day from a basketball use to a different use, University will be permitted to use the Premises until one hour after the completion of any scheduled Home Game, unless the Director specifies a later time.

University will ensure that no Home Game commences before 12:00 noon without the prior written approval of the Director.

F. KeyArena Areas Not Available to University for Use and Occupancy:

Unless expressly permitted by the Director in writing, University has no right to use or to restrict use by others of the KeyArena areas not expressly made available for University's use and occupancy under this Agreement.

G. Common Areas:

University is hereby granted the right to use the Common Areas of Seattle Center and the KeyArena (including but not limited to lobbies, balconies, mezzanine, corridors, concourses, ramps, stairs, landings, vomitories, elevators and public restrooms) in common with other authorized third parties. Additionally, upon reasonable notice to the City, University may access the areas of the KeyArena that have been specifically licensed for University's use at times other than Home Game Days in order to ensure the delivery of necessary equipment, supplies and materials; to remove waste materials; and to complete other activities reasonably necessary to facilitate the Permitted Use.

H. Practice Sessions:

University may request, and upon Approval from the Director, use the Premises for practice sessions on days when no Home Game or conflicting event is scheduled and the Premises is set up for basketball. If the Premises are used for practice sessions, University will reimburse the City for costs associated with such use.

I. Non-Home Game Events:

Subject to availability and at no additional cost to the City, University may request, at no additional cost, access to the Premises for recruiting potential student-athletes. Subject to availability, University may request access to the Premises to host up to five (5) fan generation or appreciation events each Season on days when no Home Game is scheduled. The decision whether to grant the use shall be at the Director's discretion, and the City will not be obligated to confirm the event any sooner than forty-five (45) days prior to the event. University shall be responsible for reimbursing all City costs associated with the event, but no License Fee will be charged.

VI. PARKING

A. First Avenue North Parking Garage:

University will be entitled to one hundred and fifty (150) parking permits authorizing parking in the First Avenue North Parking Garage for each Home Game Day. The City will also make available to University's full season tickets holders, season parking in the First Avenue North Parking Garage at the same event rates offered to other Seattle Center resident organizations.

B. South KeyArena Parking Lot:

Subject to the permitted hours of use in this Agreement, University is entitled to full use of the South KeyArena Parking Lot, at no additional cost, on Home Game Days for parking for University's players, staff and other special designees.

VII. UNIVERSITY'S RIGHT TO NAME THE BASKETBALL FLOOR

University will have the right to name the basketball floor, so long as the name is not commercial in nature, and is designed to honor or recognize individuals or organizations valued by the University. Any name will be subject to the Director's approval. University may paint or refinish the floor to reflect the name. The City shall ensure that the design on the basketball floor featuring the name of the basketball floor shall remain clearly visible and unobscured at all times when the basketball floor is used by any tenant. In the event University elects to name the basketball floor as provided in this Section, all rights of such name shall be owned by University. University may paint or refinish the floor to reflect the name, conditioned upon compliance with the terms in this Agreement.

VIII. CITY'S RIGHT TO LICENSE OR USE KEYARENA FOR BASKETBALL AND OTHER EVENTS

With the exception of the Exclusive Use Area, the rights granted in this Agreement are not intended to be exclusive. Nothing herein restricts the ability or right of the City to use or permit the use of KeyArena by any other person or entity for any purpose whatsoever on any date not reserved by the City for a University Home Game.

IX. ADVERTISING

A. Temporary Advertising:

Subject to the restrictions and reservations in this Agreement, the City hereby grants University or its designee the right to sell, license, present, and display Temporary Advertising in the KeyArena on all Home Game days. Temporary Advertising may be displayed at the following locations: courtside rotating signage (subject to separate agreement with Women's Basketball Club of Seattle or a third party vendor), basketball floor, clocks, lower bowl seats and seatbacks, backboards, basketball goal support's padding, player benches, scorer's table, press table, team and trainer equipment, visiting team and trainer equipment, video portion of the scoreboard, the concrete walls in the lower bowl, the blimp and similar devices Approved by the building manager, media room, event level catering space, and the courtside entry lounge. University is also granted the right to sell and present Temporary Advertising on ring signage areas, it being understood that the City retains the right to present Advertising on ring signage areas on Home Game Days, and University shall ensure that no less than fifteen percent (15%) of the available ring signage time for each Home Game remains available to the City. University may present Temporary Advertising in other areas of the lower bowl with the Approval of the Director without additional compensation to the City. No other areas of the Premises may be used for the display of Temporary Advertising without the Director's Approval. University shall be entitled to one hundred percent (100%) of the revenue generated from University's sale of Temporary Advertising.

B. Limitations on Copy and Imagery of Advertising Displayable in the Premises:

The copy and imagery for all Temporary Advertising to be displayed in the Premises will be subject to the Approval of both the Director and University. The following guidelines will apply to the presentation of Temporary Advertising:

1. In order to retain a family atmosphere at the Seattle Center, University will not advertise or permit any tobacco product or alcoholic beverage (other than beer and wine), or firearms to be advertised on the Premises.

2. In order to comply with the City's Title Sponsorship Agreement with KeyCorp, University and its designees are prohibited from selling, presenting or displaying Temporary Advertising or any other material at KeyArena that uses, refers to, or promotes either:

- a) The corporate name of any Retail Bank, or
- b) Disallowed Products and Services.

3. University or its designee may advertise, display or otherwise promote at KeyArena the corporate name and Allowed Products and Services of any financial services companies who are not Retail Banks.

C. City Rights Reserved:

The City reserves all Advertising rights that are not expressly granted to University under this Agreement, including the right to license or transfer such rights to third parties. The City reserves the right to sell and present Advertising of both a permanent and temporary nature at KeyArena, including in the lower bowl area. Additionally, the City reserves the right from time to time during the Term to enter into title sponsorships for the KeyArena that may preclude University's sale and display of certain categories of Advertising, and University will abide by any Advertising restrictions resulting from title sponsorship applicable to the Premises. The City reserves the right to receive any revenue from permanent or temporary Advertising in any Seattle Center facility, including the Premises, presented by the City or its licensees and directed to the general public or any other person or entity, whether or not the Advertising occurs during University's use of the Premises.

D. Title Sponsor's Right to Display on Basketball Floor:

The title sponsor for the KeyArena will be entitled to require that the title sponsor's own advertisement or display be presented on the basketball floor used by University, without the payment by the City or any other person or entity of any sum of money to University, and City reserves for itself the right to grant any title sponsor the

right to such display opportunities. The location of any title sponsor's advertisement or display will be subject to mutual agreement of the City and University.

E. Display of Seattle Center Identification on Basketball Components and Game Floor:

The City will have the right to display the words "Seattle Center" and the building name on the basketball floor and basketball components of the KeyArena, for example: "KeyArena at Seattle Center".

X. **CONSIDERATION DUE TO THE CITY FROM UNIVERSITY**

A. License Fee:

University will pay the City the following per game amount ("License Fee") for Home Games using only KeyArena's lower bowl. If University uses the upper bowl for any Home Game, University will pay the License Fee and reimburse the City for any additional cost associated with staffing and opening the upper bowl as described further in Section XIV. The License Fee includes the items noted in Exhibit 2. It does not include items that are subject to University's discretion such as incremental support for pre-game, mid-game, and post-game activities or catering. If University elects to hold a Home Game on a City holiday, the License Fee for that Home Game will be increased by Five Thousand Dollars (\$5,000) to cover the additional overtime costs incurred by the City.

Basketball Season	License Fee Per Home Game
2009-2010	\$9,000
2010-2011	\$12,000
2011-2012	\$15,000
2012-2013	\$18,000
2013-2014	\$18,000
Option Period	
2014-2015	Actual average per game Seattle Center expense of producing the 2012-2013 games including the items listed in Exhibit 2, plus any CPI adjustment for 2013-2014 season and 2014-2015 season.
2015-2016	2014-2015 License Fee plus CPI adjustment.

B. Additional Expenses:

University will pay the City as Additional Expenses the cost of all services and labor provided to University that are not included in the License Fee. Unless provided

otherwise in this Agreement, the cost of service and labor hours will be calculated based on the then current Seattle Center Licensing Agreement Personnel Rate Addendum.

C. Cancellation Fee:

University shall pay the City a fee of Ten Thousand Dollars (\$10,000) for each Confirmed Date for a Home Game it cancels with less than sixty (60) days notice to the City. The cancellation fee will be waived if the Home Game is rescheduled during the same basketball season. Upon University's request, if a cancelled Home Game is not rescheduled, the cancellation fee will be waived up to two times during the Term, but not in the same Season, and once during the Extended Term.

D. Additional Consideration:

The City is entering into this Agreement with University, in part, because University's Home Games enhance the offering of Seattle Center and draw people to the Seattle Center campus and lower Queen Anne and South Lake Union business districts. The University is committed to contribute to community, civic and economic vitality of the Center and the surrounding neighborhood.

University will also provide additional public benefits every Season of the Term as follows:

1. A program where one thousand (1,000) tickets per Season will be provided at no cost to local non-profits to distribute to children who might otherwise be unable to attend a Home Game.
2. A significant community service program per Season administered by University's Center for Service and Community Engagement.
3. Assignment of up to five (5) University interns per Season in business, sports administration, marketing, communications, or related fields to the City.
4. University participation, through guest lecturers or other activities, in the Seattle Center's 2012 50th anniversary celebration.
5. A ticket pricing structure that promotes affordable family entertainment, with two hundred (200) tickets per Home Game priced at no greater than Fifteen Dollars (\$15.00) per game, adjusted Seasonally by the CPI, so a broad section of the community is always able to attend Home Games.
6. Consistent with University's own strong policies in support of environmental sustainability, University will provide an opportunity at each Home Game

for public service announcements in support of Seattle Center, Seattle University or City of Seattle environmental sustainability programs.

XI. REPORTING, INVOICING AND TIMING OF PAYMENTS

University shall deliver to the City, in care of the Seattle Center Accounting Office, 305 Harrison Street, Seattle, Washington 98109, or such other address as the Director may specify from time to time, all sums due the City hereunder, together with an accounting worksheet in a form subject to the Director's Approval, that separately identifies the amount of each such payment and the source thereof by reference to the pertinent Section of this Agreement requiring such payment.

A. Payments Due Monthly:

On or before the fifth (5th) day of each month during the Term of this Agreement, the City will invoice University for the aggregate amount of the License Fee and any Additional Expenses that have become due and payable as a consequence of University's use of the Premises during the preceding calendar month.

B. Payments Due After Invoice:

University shall pay all other amounts due to the City pursuant to this Agreement within thirty (30) days following receipt of the City's invoice.

C. Annual Reconciliation:

By April 30 of each Season, University shall provide the City with a report listing the per game and season totals of tickets sold, complimentary tickets issued, season ticket holders, Home Game attendance, and a summary of University's provision of benefits under Section X.D. Thereafter, the Director shall perform a reconciliation, taking into consideration any cancellation fees due from the University; any payment due to University as a result of the redevelopment of KeyArena, any Revenue Sharing due to University, and any outstanding miscellaneous charges or credits otherwise due upon presentation of any invoice. By May 31 of each Season the Director will present University with a summary of the calculations and an invoice for any remaining amounts due, and the University shall pay the City any undisputed amounts within thirty (30) days after receipt of invoice. In the event that the total amount of credit due to University, including University's right to Revenue Sharing payments under Section XII.D, exceeds the amount of outstanding charges, the City will pay University by May 31 that amount by which the credit exceeds the outstanding charges.

D. Delinquencies, Invoicing Service Charge and Interest:

All payments will be delinquent if not paid by the date specified on the invoice. Delinquent payments will be subject to an invoicing service charge of Fifty Dollars (\$50.00) and will also bear interest at a rate of one percent (1%) per month from the

date of the delinquency until paid. Payments made after a delinquency will be applied first to accrued interest, and then to the principal sum due.

E. Books and Records; Audit:

1. The parties shall keep true, accurate, complete and auditable records and receipts relating to the activities under this Agreement, which shall be distinguishable from the records pertaining to other business activities.

2. University will permit the City, from time to time during regular City working hours, as the Director or City Auditor deems necessary, to inspect and audit in King County, Washington records and receipts relating to University's activities under this Agreement.

3. All records to be kept pursuant to this Agreement shall be retained in King County, Washington, for at least thirty-six (36) months after the close of the fiscal year in which they were generated or issued, and shall be retained for six (6) full years following the fiscal year in which the records were generated.

4. Provisions of this section shall survive the expiration or early termination of this Agreement.

XII. CONCESSION OPERATIONS, ALCOHOL SALES, NOVELTIES, AND REVENUE SHARING

A. Concession Operations:

1. The City reserves the exclusive right to engage in Concession Operations or to contract with third parties to provide Concession Operations at the Premises. The City is entitled to one hundred percent (100%) of the revenue generated from the sale of Food at the Premises.

B. Alcohol Sales:

The parties intend that alcohol be sold at Home Games. Sale of alcohol at college events is governed by the Washington State Liquor Control Board ("WSLCB"). The Director will direct the KeyArena concessionaire to request approval from the WSLCB for sale of alcohol at University Home Games; however, the City cannot guarantee sale of alcohol will be allowed by the WSLCB. Additionally University will use its best efforts to obtain any approvals or permits required by the NCAA and any NCAA Division I Athletics Conference which University may join, for alcohol sales at University events. The parties recognize that this Section is subject to the rules, regulations, policies, constitutions, and bylaws of the NCAA and any NCAA Division I Athletics Conference which University may join.

C. Novelties:

The City hereby grants University the exclusive right to sell and display Novelties in the KeyArena at all Home Games in the specific locations designated by the Director. The Director will consult with University regarding the Director's designation of areas allowed for the sale of Novelties. University is entitled to one hundred percent (100%) of the revenue generated from the permitted sale of Novelties.

D. Revenue Sharing:

In consideration of the fact that University enhances the value of KeyArena and that increased events will result in increased opportunities to generate additional advertising and sponsorship revenue, the City will pay to University the following amounts per Season. These payments will be conditioned on University achieving the identified standard for season ticket sales or average attendance per game. As a condition of University's exercising the option to extend the Term of this Agreement, by July 1, 2013, the parties will reach agreement on the terms of University's revenue for the option period.

Basketball Season	Standard	University's Revenue Share
2009-2010	1,000 season tickets sold	\$50,000
2010-2011 2011-2012	2,300 average attendance per home game	\$50,000
2012-2013 2013-2014	If University is a member of a NCAA Division I conference, University must meet or exceed the conference average for the prior season for attendance per home game. If the University is not a member of a NCAA Division I conference, University must meet or exceed an average attendance of 3,000 per home game.	\$50,000
Option Period 2014-2015 2015-2016	TBD	TBD

XIII. UTILITIES, FACILITIES, EQUIPMENT, PERSONNEL, AND SERVICES AND PROVIDED BY THE CITY

A. General Utilities:

The City will provide electricity, water, heating and cooling, ventilation, sewer and solid waste removal, reasonably required for University's use of the Premises for the Permitted Use. Using only a service provider Approved by the City, University will secure, at no expense to the City, whatever telephone service University desires to and from any KeyArena Dressing, Training, Office and Box Office areas and, with the Director's Approval, to and from other areas of the KeyArena. The City shall repair any malfunction or failure of any utility service provided under this Section, and shall be liable for any interruption or impairment of University's use, enjoyment and occupancy of KeyArena resulting from any such utility system malfunction or failure to repair such service, but only if such malfunction or failure is directly caused by an act or omission of Seattle Center Department personnel.

B. First Aid Facility:

On every Home Game Day, the City will make a first aid facility available to the general public in the KeyArena. Additionally, the City will secure emergency medical personnel equipped with cardiac resuscitation and emergency intervention equipment to be on duty at all Home Games.

C. Public Address Facilities:

On every Home Game Day, the City will provide University with exclusive access to, and control of, the public address facilities in the KeyArena, provided that University will not use or allow others to use such public address facilities for any political purpose. Additionally, the City reserves the right to use the public address facilities on any Home Game Day for general safety, health, and legal announcements, including but not limited to, those for emergency or crowd control purposes.

D. Scoreboard:

On every Home Game day, the City will provide a scoreboard capable of presenting, on a fixed-format basis, game-in-progress information, including but not limited to team scores, period in progress, and time remaining in the period. University will use qualified scoreboard operators, subject to the Approval of the Director, to operate the KeyArena scoreboard at Home Games. If University desires operation of the video screen at a Home Game, University will make arrangements with the City for the video screen operation, and any costs related to the video screen operation will be paid by University, either directly to a third party, or as part of Additional Expenses.

E. Personnel:

1. On every Home Game Day, the City will provide appropriately trained personnel including but not limited to ticket takers, admissions personnel, Seattle Center Emergency Services personnel, ushers, peer group security at entrance doors, event service representatives, a sound technician, house lights operator, maintenance and other support personnel necessary to operate the Premises, utilizing the lower bowl seating areas only. The costs of such services and personnel will be included in the License Fee as described in Exhibit 2.

2. The parties agree that there may be mutual benefits in certain pre-game, mid-game and post-game activities at the Premises. University may schedule such activities subject to Director's Approval, provided the activities occur within the permitted hours of use on Home Game Days. The Director will determine the personnel requirements for such activities and the costs for such activities will be paid by University as Additional Expenses.

XIV. SERVICES AND PERSONNEL PROVIDED BY THE UNIVERSITY

A. Use of the Upper Bowl.

Subject to the Director's Approval, University may request that "upper bowl" seating areas be open and available at Home Games. Additional service and labor hours that are not included in the License Fee are necessary to support the upper bowl seating areas. If the Director Approves the use of the upper bowl seating area, University will pay, as Additional Expenses, the cost for necessary services and labor hours. The cost of the service and labor hours will be calculated based on the then current Seattle Center Licensing Agreement Personnel Rate Addendums.

B. Police Personnel.

The City will provide peer security at the entrance doors and off duty Seattle Police Department law enforcement officers to provide crowd control. University will secure, at its own cost, off duty Seattle Police Department law enforcement officers to provide any additional security inside KeyArena or for protection of players, staff and officials in connection with University's use of the Premises. No other public or private security personnel may be used by University on the Premises without the written permission of the Director.

XV. MAINTENANCE

A. City's Maintenance Responsibilities:

1. The City will maintain the Premises, including but not limited to the basketball floor, locker rooms, and City-owned equipment therein, in a neat, clean, safe and sanitary condition, in a good state of repair, and otherwise in compliance with the

standards and conditions set from time to time by the NCAA and communicated to City by University.

2. The City will convert the Premises as may be necessary in an orderly and timely fashion to permit use by University on each Home Game day.

3. The City will supply a basketball floor for University's use at Home Games. All costs associated with painting, repainting, finishing, refinishing, preparing and adding logos to the floor, as well as any changes needed to accommodate the accompanying baskets and courtside seating for University's purposes, will be the sole responsibility of University, unless the costs result from the use of the floor by a third party under a separate agreement with the City. University shall ensure that any floor that is utilized contains the words "KeyArena at Seattle Center" twice in a prominent and television-viewable location, or a similar identification on the floor should the City enter into a new title sponsorship agreement requiring such identification on the floor, unless the display is expressly prohibited by the NCAA. The City will be responsible for modifying the basketball floor in the event the City enters into a new title sponsorship agreement. The City will ensure that the basketball floor and City owned basketball equipment are in a clean and fully usable state of repair throughout the Term of this Agreement.

4. The City will not be responsible for providing or performing any maintenance, repair or servicing of any of University's equipment or other personal property, or Room #E29F, and the maintenance, repair or servicing of all of the same shall be the sole responsibility of University.

5. The City will ensure that the basketball floor and equipment are installed in the KeyArena to University's reasonable satisfaction prior to each Home Game, and will remove and store such equipment after the completion of each such use unless such equipment is required for use on a succeeding day without an intervening use.

B. University's Maintenance Responsibilities:

1. University will be responsible for providing or performing all maintenance, repair or servicing of any of University equipment or other personal property.

2. Except for normal wear and tear, University will not damage the Premises or allow anything to be done to damage the Premises.

3. If University fails to perform maintenance, repair, replacement or renovation work required by this Agreement, then City may provide University with notice that sets forth the nature of the condition requiring such action. If University fails to perform maintenance, repair, replacement, or renovation work within a reasonable time after receipt of such notice then the City may elect to perform such maintenance,

repair, replacement or renovation, or cause the same to be performed for University at commercially reasonable rates, and University will pay the cost as an additional expense.

XVI. CITY'S CONTROL OF BUILDINGS AND GROUNDS AND ACTIVITIES AND RIGHT TO USE BASKETBALL FLOOR AND RELATED EQUIPMENT

The City reserves the exclusive right, without liability of any kind, to do any and all of the following so long as the same does not substantially interfere with the viewing and playing of basketball games by University as contemplated herein:

A. Increase, reduce, and change in any manner whatsoever the number, appearance, dimensions, and locations of the Seattle Center walks, buildings, landscaping, parking, and service areas, and make improvements, alterations, and additions to the portions of the Seattle Center facilities that have not been made available to University for its exclusive use.

B. Regulate all traffic within and adjacent to the Seattle Center.

C. Impose a reasonable charge for admission to the Seattle Center and facilities therein; provided, however, the City will ensure that University's ticketed patrons entering Seattle Center for the sole purpose of attending a University Home Game are not charged any admission fee.

D. Erect, display and remove promotional exhibits and materials and permit special events to occur in and on the Seattle Center grounds, buildings, and facilities, including the Premises.

E. Promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of any area of Seattle Center.

F. Determine the days and hours the Seattle Center and various business operations conducted thereon shall be open to the public.

G. Determine the size, number, and type and identity of concessions, stores, businesses, and operations being conducted or undertaken at Seattle Center; and to operate and authorize others to engage in any and all forms of concession activity at the Seattle Center and in any facility thereof, as City deems appropriate, provided that the City shall require all authorized concessionaires in the Premises to provide reasonable service and food, beverages and merchandise of wholesome quality and at reasonable prices.

H. On other than a Game Day, erect, use and remove, from time to time, as City determines to be necessary or beneficial for City's own purposes, the basketball floor and related equipment and remove or display any and all advertising thereon, all

without becoming obligated to University for any compensation for such use or other actions.

XVII. RIGHTS REGARDING PRESERVATION, TRANSMISSION & REPRODUCTION OF HOME GAMES

Subject to the conditions in this Section, University will retain all rights to the preservation, transmission, and reproduction (including but not limited to radio broadcasting, television broadcasting, motion picture or still photography, video recording, closed circuit pay-per-view or other forms of cablecasting or electronic transmission, or any combination of any such media) of all basketball Home Games played in the Premises under this Agreement, and in the exercising of such rights, may make and execute any contract with respect to television and radio. University will reimburse all additional costs incurred by the City resulting from any such preservation, transmission, and reproduction activity. Each and every agreement University executes for the televising of any Home Game, whether by live or delayed broadcast, shall require that the name of KeyArena, or any successor name of the building, including its location "at Seattle Center", be used at least one time per Home Game period during each such telecast and that "The City of Seattle/Seattle Center" is listed on any credits shown related to such telecast.

XVIII. TICKET ADMINISTRATION

A. University's Responsibilities:

University will utilize Ticketmaster, or a successor company approved by the Director, for all ticket sales at KeyArena. University will have the exclusive responsibility for and control of the printing and distributing of tickets; the undertaking and conducting of group, season and special package ticket sales; the establishing of any and all prices for basic admission to University's events and activities at Premises under this Agreement, and any service charge(s) thereon (excluding any governmental tax on any such admission, facility surcharge or service charges); the collecting and counting of receipts; and accounting. As a part of this responsibility, University shall assume all costs of such ticket administration. University shall pay a surcharge of \$1.00 per ticket sold for Home Games for all tickets priced \$25.00 and lower and \$2.00 per ticket for all tickets priced at \$25.01 and higher (the "Facility Surcharge"). University may choose to pass the Facility Surcharge to the consumer by separately stating the Facility Surcharge on top of the ticket price. The Facility Surcharge shall not apply to complimentary tickets unless such complimentary tickets exceed the limits identified in this Agreement, in which case the Facility Surcharge shall be payable for those complimentary tickets that exceed the limit. University shall pay the Facility Surcharge, less the City of Seattle Admissions Tax and Business and Occupation Tax on the surcharge, at the time of settlement following the Home Game. With reasonable notice, Seattle Center may adjust the amount of the Facility Surcharge. University shall be entitled to one hundred percent (100%) of the net revenue generated from the sale of tickets.

B. Complimentary Tickets:

University shall have the exclusive right to issue complimentary Home Game admission tickets or credentials. During the first and second Seasons of the Term of this Agreement, complimentary tickets provided by University to patrons and students will not be limited. Beginning in the third Season and thereafter, University shall limit the use of complimentary tickets to less than thirty percent (30%) of total tickets per game with a maximum of 2,500 complimentary tickets per game. Complimentary tickets, if used, are subject to both City of Seattle Admissions Tax and Business and Occupation Tax.

C. ADA:

University will conduct its ticket sales according to the method that Seattle Center uses in KeyArena for concerts. This includes holding one percent (to be adjusted with any changes in the applicable Federal or State ADA laws) of remaining sellable capacity up to game time for ADA seating, in all pricing levels, leaving vacant two rows of seats in front of the following ADA sections:

103/104/106/107/108/110/111/117/118/120/121/122/124/125/202/203/204/
205/206/208/209/210/211/212/216/217/218/219/220/222/223/224/225/226,
and leaving vacant one row of seats vacated in front of ADA sections
114/127, when being used as wheelchair/disabled accessible seating
sections.

Both parties acknowledge that the Seattle Center's current policy is to place a physical barrier/cover over the end of the seating rows that must remain vacant. This practice is expected to continue throughout the Term of this contract; however, the City reserves the right to change any policy or procedure as necessary to comply with the requirements of applicable federal and state ADA laws.

D. Admissions:

University will take reasonable steps to ensure that no person with a primary purpose of viewing a University Home Game is admitted to any Home Game at the KeyArena without first presenting an admission ticket.

E. Box Office Statement Provided to Director:

At the end of each Home Game, University shall deliver to the Director, or his designated representative, a box office statement prepared in connection therewith, showing for each such game the number of tickets distributed, by price category, and certified as to accuracy by an authorized employee or agent of University.

F. Restricted Selling to Reduce City Staffing Costs:

Prior to the start of each Season, University and the City will agree in writing on the plan to be implemented by University for selling tickets in a limited number of sections and in a specific sequence of sections, based on ticket demand and the Director's advice regarding how Home Game staffing costs can be minimized.

XIX. RECOGNITION OF SEATTLE CENTER LOCATION

University will ensure that the words "KeyArena at Seattle Center" appear on all tickets for Home Games at KeyArena and will ensure that the words "KeyArena at Seattle Center" appear in or on all advertising material published, printed, or otherwise produced by or on behalf of University (including but not limited to brochures, signs, and logos) that references the location of University's Home Games. In the event KeyArena is renamed during the Term, University will replace the word "KeyArena" with the new name of the facility, and University will continue to comply with all obligations in this Section.

XX. INSURANCE

University shall obtain and maintain insurance as described in Exhibit 3 in full force and effect throughout the Term of this Agreement, and shall otherwise fully comply with requirements of Exhibit 3. The City reserves the right to adjust or otherwise modify the insurance requirements in Exhibit 3 during the Term of this Agreement and with reasonable notice to University.

XXI. INDEMNIFICATION

A. University to Indemnify City:

University will indemnify, defend and hold the City, its elected officials, agents, and employees harmless from all losses, claims, suits, damages, fines, penalties, liabilities and costs (including the City's reasonable attorneys' fees and other costs incurred in connection with claims, regardless of whether such claims involve litigation) resulting from any actual or alleged injury (including death) to any person or property arising out of or in connection with (i) any negligent, reckless, or intentionally wrongful act or omission of University or any of its officers, employees, players, agents, or invitees in or around the Premises, or (ii) University's use or occupancy of the Premises, including, but not limited to any grant of advertising rights or display of advertising in the Premises, or (iii) University's breach of this Agreement. Nothing contained in this subsection shall be construed as requiring University to indemnify the City against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence or willful misconduct solely attributable to the City or its officers, employees, agents, or invitees. The foregoing indemnity specifically covers actions brought by University's own employees. University agrees that the foregoing indemnity is specifically and expressly intended to constitute a

waiver of the University's immunity under Washington's Industrial Insurance Act, RCW Title 51, but only as to the City and to the extent necessary to provide the City with a full and complete indemnity from claims made by University and its employees. University will promptly notify the City of casualties or accidents occurring in or about the Premises. The indemnification provided in this subsection will survive the expiration or earlier termination of this Agreement.

B. City to Indemnify University:

The City will indemnify, defend and hold University harmless from all losses, claims, suits, damages, fines, penalties, liabilities, and costs (including University's reasonable attorneys' fees and other costs incurred in connection with claims, regardless of whether such claims involve litigation) resulting from any actual or alleged injury (including death) to any person or property arising out of or in connection with (i) any negligent, reckless, or intentionally wrongful act or omission of the City or any of its officers, employees, agents, or invitees in connection with City's use, occupancy, or improvement of the Premises, or (ii) the City's breach of this Agreement. Nothing contained in this subsection shall be construed as requiring the City to indemnify University against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence or willful misconduct solely attributable to the University or any of its officers, employees, players, agents, or invitees. The foregoing indemnity specifically covers actions brought by the City's own employees. The City agrees that the foregoing indemnity is specifically and expressly intended to constitute a waiver of University's immunity under Washington's Industrial Insurance Act, RCW Title 51, but only as to University and to the extent necessary to provide University with a full and complete indemnity from claims made by the City and its employees. The indemnification provided in this subsection shall survive the expiration or earlier termination of this Agreement.

C. INDEMNITY PROVISIONS NEGOTIATED:

THE UNIVERSITY AND THE CITY ACKNOWLEDGE THAT THE INDEMNITY PROVISIONS IN THIS SECTION WERE SPECIFICALLY AND MUTUALLY NEGOTIATED AND AGREED UPON.

XXII. COMPLIANCE WITH LAW

University, at its sole cost and expense, will comply with, and will take reasonable steps to ensure that every person it admits to the Premises complies with, all applicable laws of the United States and the State of Washington; the Charter and ordinances of The City of Seattle; rules and regulations of the Seattle Center, Fire, and Police Departments, and the Seattle-King County Department of Public Health, and their respective successors; and with the conditions of all licenses, permits and directives issued by any authorized official thereof. Without limiting or modifying the

foregoing general requirement, specifically, University will comply with all of the following requirements:

A. Licenses:

University will obtain and maintain in effect throughout the Term all licenses, permits and authorizations required by law, and will conform to all applicable requirements of any authorized person acting in connection therewith.

B. Taxes:

University will pay, before delinquency, all taxes, levies, and assessments arising from its activities in, on, or involving occupancy and use of the Premises including, but not limited to, taxes levied on University's property, equipment, improvements on or made to the Premises or any portion thereof; and taxes levied on University's interest in this Agreement and any leasehold interest recognized by Ch. 82.29A of the Revised Code of Washington. If the State of Washington makes any demand upon City for the remittance of leasehold excise taxes payable by University as a consequence of University's occupation of the Premises or withholds funds due to the City to enforce collection of leasehold excise taxes, University will immediately pay the same together with all interest and penalties assessed in connection therewith, or, at its sole expense, shall contest such action and indemnify City for all sums expended by, or withheld from the City by the State in connection with such taxation; provided, that University shall not be deemed to be in default as long as University, in good faith, is contesting the validity or amount of any such taxes. University's obligations under this subsection shall survive the termination or expiration of this Agreement.

C. Nondiscrimination in Employment:

University will comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and City of Seattle, including but not limited to Chapters 14.04, 14.10, 20.42, and 20.45 of the Seattle Municipal Code (SMC), and the Americans with Disabilities Act, as they may be amended, and all rules, regulations, orders, and directives of the associated administrative agencies and their officers.

D. Attendance and Safety Standards:

The Seattle Fire Chief or his/her designee has the authority to determine, in the reasonable exercise of his/her discretion, the number of persons that may be admitted to, and safely and freely move about in the Premises. University will not sell or issue Home Game tickets or credentials for admission to any Home Game or event at the Premises in an aggregate number that exceeds the Seattle Fire Chief's determined number for the same. The City will not admit to the KeyArena more people than the number so determined by the Seattle Fire Chief. No sidewalk, grounds area, entry, passage, vestibule, hall, elevator, abutting street, doorway, or any other way of access

to the Premises shall be obstructed by University or used for any purpose other than for ingress and egress to the Premises.

E. Enforcement:

If University or its authorized representative is informed of any violation of any law, Charter provision, ordinance, rule, regulation, license, permit, or authorization committed by University or any person admitted to KeyArena for a Home Game or other University sponsored event, University immediately shall desist from and/or take reasonable measures to prevent or correct such violation.

F. Firearms:

Firearms are not allowed at events on City property. In addition, it is the policy of Seattle University to prohibit firearms at University events. University events at KeyArena are subject to this policy. Notice of this policy is posted on the University web site. University will further notify staff, players, contractors and coaches of this prohibition prior to the beginning of each Season and will include a printed notice of the prohibition on all event tickets. University will notify security personnel if University becomes aware of any violation of the prohibition against firearms. City shall provide and place signage notifying the public of the prohibition against firearms at all main entrances to the Seattle Center campus and to KeyArena, and shall conduct regular training in implementing the foregoing prohibition for its admission personnel and contract peer group personnel.

XXIII. CITY'S ACCESS TO PREMISES: INSPECTION, REPAIR, AND IMPROVEMENT OF PREMISES AND OTHER PROPERTY

A. Access to Premises:

University will provide the City with access to the Premises at all reasonable times to inspect the same and to make any repair, improvement, alteration or addition thereto or any property owned by or under the control of City, deemed necessary by the Director, but this right of access shall not impose on City any obligation to make any repair, alteration, addition, or improvement except as specifically provided herein.

B. Permitted Interference with University's Operations:

In inspecting, and in making repairs, alterations, additions, and improvements, the City may erect barricades and scaffolding in and outside of any Seattle Center facility, and may otherwise interfere with the conduct of University's business and operations where such action is reasonably required by the nature of City's work; and such interference shall not be deemed to be a breach or default under this Agreement. City will use its best efforts to minimize interference with access to and from the Premises and with University's business and operations, in, on or from the Premises.

C. City's Retention and Use of Keys to Premises:

The City will have the right to use any and all means that the Director deems proper to obtain entry to the Exclusive Use Area for the purpose of inspection or in an emergency without liability to University except for any failure to exercise due care for University's property. Any entry to the Exclusive Use Area or Premises obtained by the City by any reasonable means shall not be construed or be deemed, under any circumstances, to be a forcible or unlawful entry into, or a detainer of, the Premises, or a termination of University's license to use and occupy the Premises or any portion thereof.

XXIV. NO NUISANCES OR OBJECTIONABLE ACTIVITY

University will not knowingly permit any excessive or objectionable noise, odor, dust, vibration, or other similar substance or condition to remain on or be emitted from the Premises; will not create any nuisance in or adjacent to the Premises provided, that noise emanating from the audience or game-related events during a Home Game shall not be subject to this provision. University will not do anything on or around the Premises that will create a danger to life or limb, except such dangers as are the necessary result of basketball playing or practicing.

XXV. NO SUBCONTRACTING, ASSIGNING, OR TRANSFER

University will not subcontract, assign or otherwise transfer to another person or entity any of its rights or responsibilities under this Agreement without the Approval of the Director, except that University may subcontract with other parties for the sale of Temporary Advertising or Novelties. The City may terminate this Agreement if University assigns or transfers without Director's Approval. Additionally, if University assigns, transfers, or subcontracts its rights and obligations under this Agreement, whether with or without the Director's consent, University will not be released or relieved from any of its obligations under this Agreement unless the Director expressly releases University in writing. Any assignment, subcontract, or transfer will be subject to all the terms and provisions of this Agreement. In the event of any assignment of this Agreement, University will deliver to the Director, simultaneously with such assignment or transfer, an instrument, in writing, executed by the assignee or transferee, in which the assignee or transferee assumes all terms and provisions of this Agreement and commits to perform all of University's obligations under this Agreement, including those that have not been fully performed previously.

XXVI. RELATIONSHIP WITH NCAA

A. Warranty and Special Covenant:

University hereby warrants, to the best of its knowledge, as follows:

1. University is authorized to operate a NCAA basketball team in and from the Premises; and

2. No rule, regulation, policy, constitution or bylaw (or any provision of any thereof) of the NCAA prohibits, limits or affects in any manner or respect the right or power of University to enter into, accept, or perform each and every one of the terms, commitments and provisions of this Agreement.

B. NCAA and Conference Rules and Regulations:

The parties recognize that University is subject to and solely responsible for compliance with the rules, regulations, policies, constitutions, and bylaws of the NCAA and any successor Division I Athletics Conferences which University may join. In the event the NCAA or Division I Athletics Conference, amends or enacts rules, regulations, policies, constitutions, and bylaws, University may request that the Director modify or amend this Agreement in order to satisfy University's compliance requirements. The Director will not unreasonably refuse to modify or amend this Agreement.

XXVII. IMPROVEMENTS, ADDITIONS, AND ALTERATIONS TO PREMISES

A. Improvements By City:

Upon execution of this Agreement, the City will paint and re-carpet Room #E14D1 of the Premises and any additional work agreed to by the parties under the procedures in this Section XXVII ("Initial Improvements"). After completion of the Initial Improvements, the City will thereafter maintain the space in a neat, clean, safe and sanitary condition and in a good state of repair. University will submit to the Director, for Approval, drawings and/or specifications for any and all Initial Improvements desired by University for the operation of University's business. No construction or installation of any Initial Improvement, addition, or alteration on the Premises shall be started for University until after the Director has Approved the same.

B. No Representation or Liability Created by Approval:

The Approval by the Director of University's drawings and specifications for improvements to the Premises shall not constitute an opinion or representation by City as to their compliance with any law or ordinance or their adequacy for other than the Seattle Center Department's own purposes; and such Approval shall not create or form the basis of any liability on the part of City or any of its officers, employees, or agents for any injury or damage resulting from any inadequacy or error therein or any failure to comply with applicable laws or ordinances.

C. Cost Limits and Payment for Work:

The parties will agree on the total cost and scope of the Initial Improvements including labor, materials, and City project management time. The City shall pay one

half of the total cost of the Initial Improvements up to a maximum of ten thousand dollars (\$10,000) and University shall pay the remaining balance. The City will provide University with an itemized report and invoice detailing all expenses related to the Initial Improvements.

D. Extra Charges:

In the event any improvement made or desired to be made by University requires or would require any change in any facility, utility or service provided by City, University shall pay, as an additional charge, any costs incurred by City in making such change or otherwise in connection therewith.

E. Improvements, Additions, and Alterations Become City Property:

All Initial Improvements made to the Premises by or for University will become the property of City upon the expiration or termination of the Term, whichever is earlier, and will remain in, and be surrendered with the Premises, as a part thereof at that time without molestation, disturbance, or injury. University's trade fixtures and equipment will remain the property of University and may be removed by University upon the expiration or earlier termination of the Term hereof.

F. Additional Improvements and Alterations:

University will not make any improvements or alterations to the Premises without the Approval of the Director, which may be conditioned or withheld in the Director's sole discretion.

XXVIII. DAMAGE AND DESTRUCTION

A. Notice:

University will submit a written notice to the Director regarding the circumstances of any damage or destruction to the Premises within forty-eight (48) hours after University becomes aware of any such damage or destruction.

B. Suspension of Obligation to Pay Fees and Charges in Event of Unusability of Premises:

In the event that fire or other casualty not occasioned by any act or omission of University destroys or damages the Premises so extensively as to render it unusable for NCAA Division I basketball purposes, and University has given notice thereof to City as provided in this Section, University's obligation to pay fees and charges, and provide additional consideration, for the use of such Premises will be suspended until the Premises are made usable for University's purposes; but in the event that only a portion of such Premises is destroyed or damaged and not to an extent that would prevent the playing and viewing of NCAA Division I basketball, then the fees and charges payable

pursuant to this Agreement, will be prorated, and University will pay only an amount that is proportionate to the extent the Premises remain usable for the purposes intended.

C. Termination of Agreement upon City's Determination Not to Rebuild KeyArena:

If KeyArena is destroyed by fire or other casualty during the Term of this Agreement, or the facility is damaged so extensively as to render it unusable for the playing, exhibition, and viewing of a Home Game, the City reserves the right to determine not to rebuild or repair the facility, whether or not adequate insurance proceeds are available, the City may terminate this Agreement.

D. Notice of Termination:

Any notice of termination pursuant to this Section shall be provided within one hundred twenty (120) days after the occurrence of the damage or destruction and shall specify the effective date of such termination.

E. No Liability for Termination:

The City will not be liable to University for terminating this Agreement as provided in this Section.

F. University's Damage of Premises:

Neither University nor any of its officers, employees, contractors, agents or invitees will damage or in any manner deface any portion of the Premises or cause or allow anything to be done whereby any portion of the Premises is defaced or damaged in any manner. University will take reasonable precautions to prevent persons admitted to the Premises from damaging or defacing the same. If any portion of the Premises is damaged or defaced by the act or omission of University or any of its officers, employees, contractors or agents, including but not limited to University's failing to take reasonable precautions to prevent or avoid such damage or defacement, the City will repair or replace the damaged element of the Premises or arrange for its repair or replacement and University will pay the City such sum as is necessary to restore that damaged portion of the Premises to the same condition it had immediately prior to the damage or defacement, which sum will be paid as an Additional Expense.

XXIX. FORCE MAJEURE

Whenever a party's performance of any obligation under this Agreement is prevented by an event of Force Majeure, the performance of the affected obligation will be suspended, but only for so long as performance remains beyond the reasonable control of the obligated party. As used in this Section, "Force Majeure" means an act of nature; war or war like operation; civil commotion; riot; labor disputes, including a strike or walk-out; sabotage; or governmental regulation or control.

XXX. CITY OBLIGATIONS IN EVENT OF REDEVELOPMENT

The City reserves the right to redevelop, amend, alter, or re-construct KeyArena during the Term of this Agreement. The City will keep University reasonably informed of the City's efforts to redevelop KeyArena or efforts to have an NBA or NHL team as a tenant at KeyArena. The parties acknowledge that it is not feasible to redevelop KeyArena without impact on University, and University expressly acknowledges that the Premises may be unavailable for a portion of the Term as a result of redevelopment. In the event of redevelopment, the City will use its best efforts to minimize negative financial and operational impacts of renovation and construction projects on University, subject to the City's other financial and policy considerations and will endeavor to provide University with one year's notice of redevelopment plans so that University may arrange for an alternative facility to play its basketball games. For any complete Season that KeyArena is unavailable to University due to redevelopment, the City will pay University, as University's sole remedy, the amount by which its net revenue from advertising, ticket sales, and novelty sales compared to the prior complete season at KeyArena, exceeds the amount of net revenue University receives in the season when KeyArena is not available. Any City payment of damages to University resulting from University's loss of revenue during redevelopment shall not exceed Two Hundred and Fifty Thousand Dollars (\$250,000).

XXXI. NOTICES

Any notice or communication to be given by one party to the other under this Agreement must be in writing. Such notices or communications shall be delivered or sent to the following respective addresses or to such other addresses as the parties, from time to time, may specify in writing:

If to City:

Seattle Center Director
Seattle Center Department
The City of Seattle
305 Harrison Street
Seattle, WA 98109

If to University:

Bill Hogan
Director of Athletics
901 – 12th Avenue
P.O. Box 222000
Seattle, WA 98122

With a copy to:

Mary S. Petersen
Vice President & University Counsel
901 – 12th Avenue
P.O. Box 222000
Seattle, WA 98122

XXXII. DEFAULT AND REMEDIES

A. Default by University:

1. Event of Default. "University Default" means the University's failure to do any of the following:

- a) Pay the City any monetary obligation under this Agreement when it comes due;
- b) Materially comply with its obligation to provide public benefits under this Agreement; or
- c) Perform any other obligation required under this Agreement.

2. Notice to Cure. The Director shall notify University in writing of any University Default and University shall have a reasonable period to cure such University Default, which period shall not exceed thirty (30) days from the date the Director provides notice. If University's Default is not susceptible of cure within thirty (30) days, University will not be in Default provided the University commences to cure University Default within the thirty (30) day period and diligently pursues the same to completion.

3. City's Rights upon the University's Failure to Cure the University Default. If University fails to cure its University Default as required under Subsection XXXII.A.2, in addition to any other remedies available to it under this Agreement at law or in equity, the City may terminate this Agreement upon fifteen (15) days' notice to University and without any further proceedings re-enter the Premises, and lease or license the Premises to others for any date previously reserved for University's use and receive rent and license fees thereof, all as if this Agreement has not been made.

B. Default by City:

1. Event of Default. The City will be in Default ("City Default") if it fails to perform any term, obligation, covenant, warranty or representation it is required to perform under this Agreement.

2. Notice to Cure. University shall notify the Director in writing of any City Default and the City shall have a reasonable period to cure such default, which period shall not exceed thirty (30) days from the date University provides notice, unless such City Default is not susceptible of cure within thirty (30) days, in which event the City shall not be in default provided the City commences to cure the City Default within the thirty (30) day period and diligently pursues the same to completion.

3. University's Rights upon Failure to Cure City Default. If the City fails to cure any City Default within the time required under Subsection XXXII.B.2, in

addition to any other remedies available to it under this Agreement or at law or in equity, University may terminate this Agreement upon fifteen (15) days' notice to the City and without any further proceedings.

XXXIII. SURRENDER OF PREMISES; HOLDING OVER

A. Surrender and Delivery:

Upon the expiration or termination of the Term hereof, University will surrender, and promptly deliver to the Director, all keys that University, its officers, agents, and employees may have to the Premises made available to University, as well as all Seattle Center parking passes or permits.

B. Removal of University's Property:

1. Upon expiration of the Term of this Agreement, or at the reasonable request by the Director in order to facilitate the imminent redevelopment of KeyArena, or if this Agreement is terminated, within thirty (30) days after the termination date, University will remove, at its sole expense, all of University's trade equipment and personal property located in any portion of the Premises.

2. In removing any trade equipment or personal property from the KeyArena, University will take due care not to unreasonably injure or damage the Premises. University will reimburse the City for the cost of making such repairs to the Premises as are necessary to restore the same to their condition, ordinary wear and tear, improvements, additions and alterations to the Premises approved by the City excepted. Reimbursement will be paid together with the balance of University's payments due under this Agreement, or upon invoice therefore. Improvements, additions and alterations made or provided to the Premises by or on behalf of University will not be removed.

C. Storage of University's Property:

If University fails to remove trade equipment and other personal property owned by University on or by the time specified in this Agreement, the City may, but shall not be required to, remove such material from the Premises and store the same, all at University's expense; and in the event the City removes or arranges for the storage of such material, University will reimburse City for all costs incurred in connection with such removal or storage, including any administrative costs.

D. Hold-over Use and Occupancy of Premises:

If University holds over after the expiration or termination of this Agreement, University will be bound by all of the provisions of this Agreement.

XXXIV. DISPUTE RESOLUTION

If a dispute arises between the parties to this Agreement, the representatives authorized to administer this Agreement on behalf of each party will make good faith efforts to resolve the dispute. If those representatives are unable to resolve the matter, the dispute will be referred to the Director and University's Executive Vice President or his/her designee with equivalent decision making authority, and they will meet to address and resolve the dispute. Either party may schedule such a meeting by providing reasonable prior notice. If the above individuals are unable to resolve the dispute, prior to filing any lawsuit or claim, the parties will engage an independent mediator or mediation service acceptable to both parties, and will participate in mediation in good faith and for a time reasonable under the circumstances. The cost of the mediation services will be shared equally by the parties. If the dispute is not resolved through mediation, the parties remain free to pursue any other legal processes that may be available.

XXXV. MISCELLANEOUS PROVISIONS

A. Captions:

The titles of sections are for convenience only and do not define or limit the contents.

B. Amendments:

No modification or amendment of the provisions of this Agreement shall be effective unless written and signed by an authorized representative of each of the parties hereto. The parties hereto expressly reserve the right to modify this Agreement from time to time by mutual agreement.

C. Time of Essence:

Time is of the essence of this Agreement.

D. Remedies Cumulative:

Rights under this Agreement are cumulative; any failure to exercise on any occasion any right shall not operate to forfeit such right on another occasion. Each party shall also have any other remedy given by the law. The use of one remedy shall not be taken to exclude or waive the right to use another.

E. No Waiver:

No action other than a written notice by one party to the other specifically stating that such notice has the effect of a waiver will constitute a waiver of any particular breach or default of such other party. If either party expressly waives any right under

this Agreement, that waiver will not be extended or deemed to waive any other failure to fully comply with any other term, condition, or provision of this Agreement, irrespective of any knowledge either party or its officer, employee, or agent may have of any breach, default, or noncompliance with the other term, condition, or provision. No waiver of full performance by either party will be construed or operate as a waiver of any subsequent default of any of the terms, covenants and conditions of this Agreement. The payment or acceptance of fees or charges for any period after a default will not be deemed a waiver of any right or acceptance of defective performance.

F. Limited Effect of Approval by Director:

Action of the Director pursuant to or in implementation of this Agreement does not constitute any official action by any other City department or official that may be required by law, City Charter, ordinance, rule or regulation before University may rightfully commence, suspend, enlarge, or terminate any particular undertaking.

G. No Relationship:

In no event will the City be construed to be a partner, associate, or joint venturer of University, or any party associated with University, with respect to the undertakings authorized by this Agreement. University is not an agent of the City for any purpose whatsoever hereunder. University will not create any obligation or responsibility on behalf of City or bind City in any manner.

H. Power of City:

Nothing contained in this Agreement will be considered to diminish the governmental or police powers of City.

I. Binding Effect:

The provisions, covenants and conditions of this Agreement apply to bind the parties, their legal representatives, successors, and assigns.

J. Specific Enforcement Available:

The obligations of the parties to this Agreement are unique in nature; this Agreement may be specifically enforced by either party.

K. Invalidity of Particular Provisions:

Should any term, provision, condition or other portion of this Agreement or the application thereof be held to be inoperative, invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

L. Applicable Law; Venue:

This Agreement will be governed by the laws of the State of Washington. Venue for any action brought hereunder will be in Superior Court for King County, Washington.

M. University's Tax-Exempt Status:

The City recognizes that University is a 501©(3) tax-exempt organization. The City shall not take any actions that would jeopardize University's tax-exempt status.

N. Seattle Storm:

If the Seattle Storm WNBA team terminates its tenancy at KeyArena, within sixty (60) days of such termination, University shall notify the City in writing of University's interest in using space or facilities previously licensed for use by the Women's Basketball Club of Seattle. University and the Director will discuss amending this Agreement in regards to University's use of space or facilities at KeyArena including items such as locker rooms, coach and administrative offices, and storage rooms.

O. Incorporation of Exhibits; Entire Agreement:

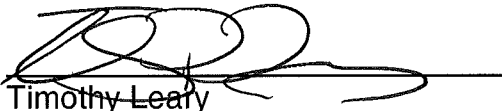
The following exhibits are incorporated and made a part of this Agreement:

- Exhibit 1 Premises Licensed for Use and Occupancy By University
- Exhibit 2 Staffing and Items Included in License Fee
- Exhibit 3 Insurance


This Agreement constitutes all of the covenants, promises, agreements, and conditions, either oral or written, between the parties regarding the terms and conditions of University's use and occupancy of the KeyArena under this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by having their authorized representatives affix their signatures in the spaces below:

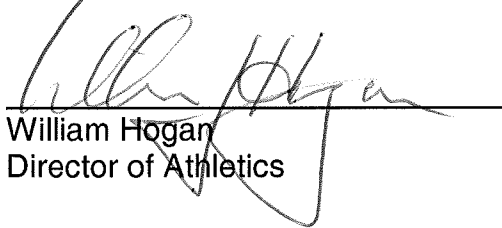
SEATTLE UNIVERSITY

By: 
Timothy Leary
Executive Vice President

THE CITY OF SEATTLE

By: 
Robert Nellams
Seattle Center Director


SEATTLE UNIVERSITY

By: 
William Hogan
Director of Athletics

STATE OF WASHINGTON)
) ss. (UNIVERSITY'S ACKNOWLEDGMENT)
COUNTY OF KING)

On this 15 day of October, 2009, before me personally appeared Timothy Leary, to me known to be Executive Vice President of Seattle University, a Washington non-profit corporation, who executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument for said corporation.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.


(Signature)

JAMES I. ADOLPHSON

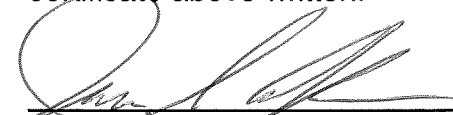
(Print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at Seattle.
My appointment expires 9/23/11.

STATE OF WASHINGTON)
) ss. (UNIVERSITY'S ACKNOWLEDGMENT)
COUNTY OF KING)

On this 15th day of October, 2009, before me personally appeared William Hogan, to me known to be Director of Athletics for Seattle University, a Washington non-profit corporation, who executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument for said corporation.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



(Signature)

JAMES I. ADOLPHSON

(Print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at Seattle.
My appointment expires 9/23/11.

STATE OF WASHINGTON)
) ss: (CITY'S ACKNOWLEDGMENT)
COUNTY OF KING)

On this 21st day of October, 2009, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Robert Nellams, to me known to be the Seattle Center Director, who executed the foregoing instrument, and acknowledge said instrument to be the free and voluntary act and deed of The City of Seattle, for the uses and purposes herein mentioned, and on oath stated that she is authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

[Signature]
(Signature)

Denise G. Wells
(Print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at Ammerisk, wa
My appointment expires 1-30-2010

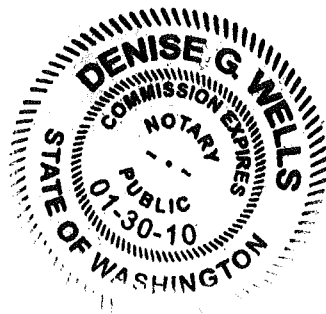
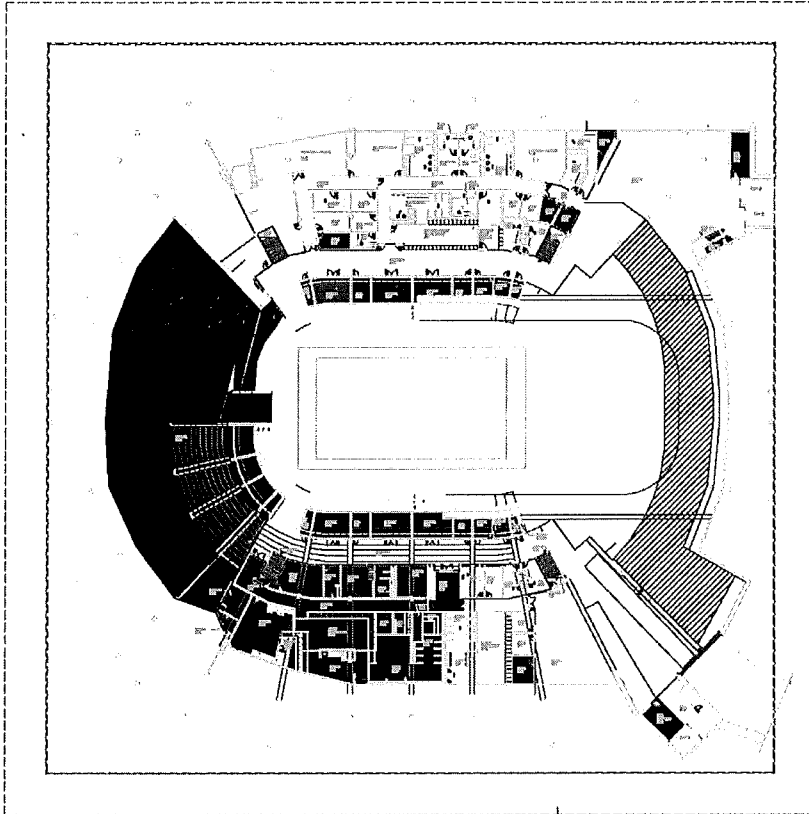


Exhibit 1

Premises Licensed for Use and Occupancy By University

EVENT LEVEL



■ SEATTLE U EXCLUSIVE SPACE
E29F

■ NON-SEATTLE U SPACE

E01L, E01M, E02G, E02H, E03D,
E03E, E03H, E03J, E05A, E05C,
E12A, E13D, E13E, E14A, E14C,
E14J, E15B, E15C, E15F, E15G,
E15H, E15J, E15K, E16A, E16C,
E16D, E16E, E16G, E16H, E16J,
E17B, E17C, E17D, E17E, E17F,
E17G, E18A, E18C, E18D, E19A,
E19B, E19E, E22A, E28A, E28B,
E28C, E28E, E28F, E28G, E28H,
E29A, E29B, E29C, E29D, E29E,
E29F, E30B, E30E, E30F

□ GAME DAY SHARED
SPACE

E01A, E01B, E01C, E01D, E01E,
E01F, E01G, E01H, E01J, E01K,
E02A, E02B, E02C, E02D, E02E,
E02F, E03A, E03B, E03C, E03F,
E03G, E04A, E13A, E13B, E13C,
E14B, E14C, E14E, E14F, E15A,
E15D, E15E, E16B, E18B, E28D,
E29A, E29B, E29C, E29D, E30B,
E30A, E30C, E30D

Exhibit 1 (Cont'd)

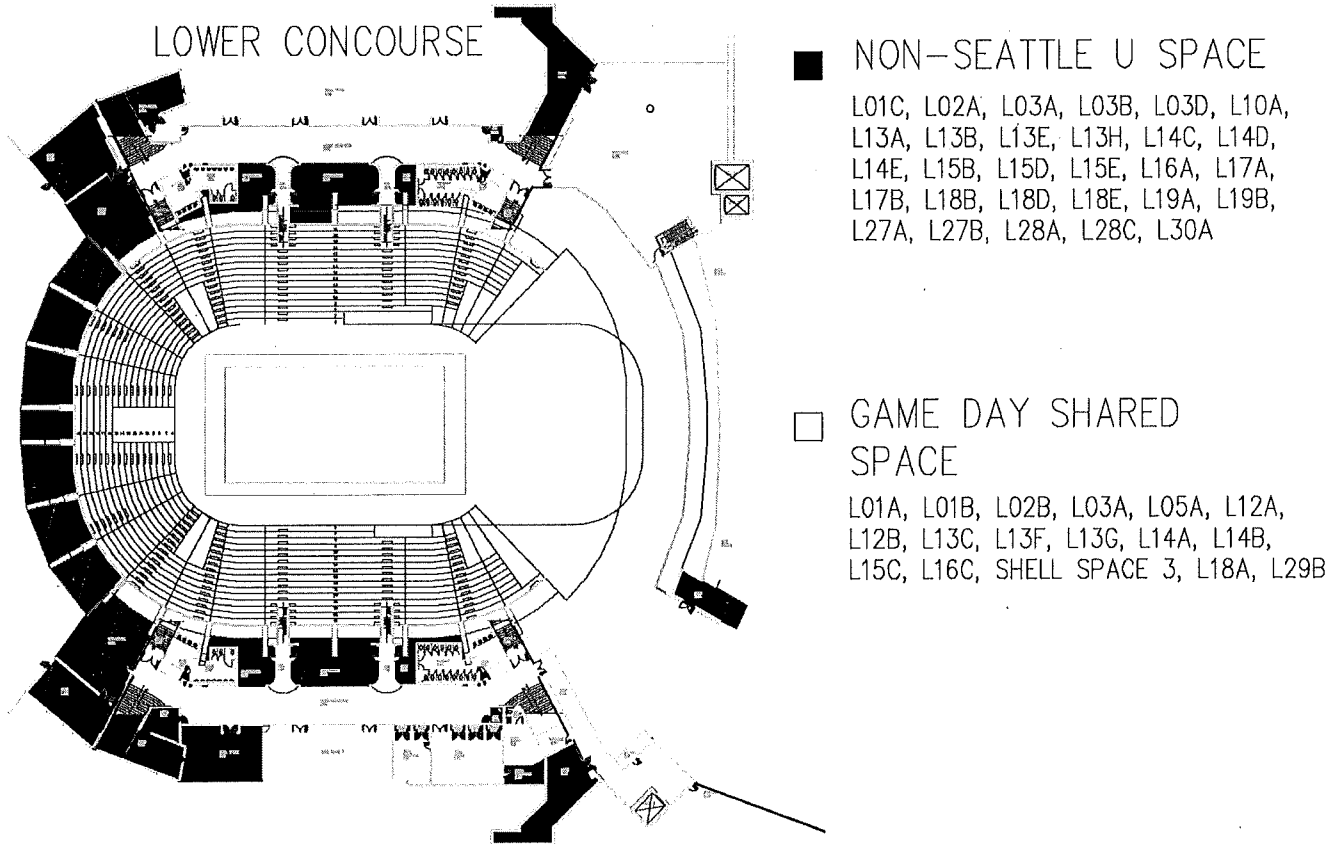


Exhibit 2

Staffing and Items Included in License Fee

- a. Staffing and Items Included in License Fee for Lower Bowl Games**
- i. Admissions Personnel (Ushers, Door Attendants, Ticket Splitters)
 - ii. Stage Personnel (House Lights Operator)
 - iii. One Sound Technician during the game
 - iv. Laborers for event turnovers
 - v. Security at the Communication Center
 - vi. Maintenance staff during the game
 - vii. Event Service Representative for day of game
 - viii. Utilities
 - ix. Stand by Electrician during the game
 - x. Seattle Police, for house, not the bench, players or officials
 - xi. Peer Security for bag searches
 - xii. Medics for house first aid
 - xiii. Use of Scoreboard, but not an operator
 - xiv. Basketball rim testing
 - xv. Parking Attendants
 - xvi. Parking and electrical power for television vehicles
- b. Staffing and Items Not Included in License Fee**
- i. Use of the upper level of KeyArena
 - ii. Installation and use of the upper level curtain
 - iii. Catering
 - iv. Telephone and internet service
 - v. Staffing for pre-game, mid-game, and post-game activities
 - vi. Videoboard Operators
 - vii. Scoreboard Operators
 - viii. Other items not included in Paragraph 1, above.

Exhibit 3

A. University's Liability Insurance:

1. Minimum Insurance Required.

University shall obtain and maintain continuously throughout the Term of this Agreement, at its own expense, insurance as specified:

including: a) **Commercial General Liability (CGL)** insurance,

- Premises/Operations
- Products/Completed Operations
- Personal/Advertising Injury
- Contractual
- Independent Contractors
- Stop Gap or Employers Liability
- Liquor Liability
- Fire/Tenant Legal

Such insurance must provide a minimum limit of liability of **\$2,000,000** each occurrence combined single limit bodily injury and property damage (CSL) except:

- \$ **1,000,000** each offense Personal & Advertising Injury
- \$ **1,000,000** each accident/disease Stop Gap or Employers Liability
- \$ **500,000** each occurrence Fire/Tenant Legal

b) **Business Automobile Liability** insurance, including coverage for owned, non-owned, leased or hired vehicles, with a minimum limit of liability of **\$1,000,000** CSL.

The minimum limits of liability specified above may be evidenced with primary insurance or any combination of primary and excess or umbrella insurance.

c) **Worker's Compensation** insurance securing University's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington; provided, that if University is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, University shall certify that qualification by a letter that is signed by a corporate officer of University and is delivered to the City's Risk Manager setting forth the limits of any policy of self insurance covering its employees.

2. General Requirements for University's Insurance (Not Applicable to Worker's Compensation).

a) The CGL and Business Automobile Liability insurance shall include "The City of Seattle" as an additional insured for primary and non-contributory limits of liability.

b) The limits of liability specified herein are minimum limits of liability only and shall not be deemed to limit the liability of University or its insurers to less than the limits of liability of any of University's insurance policies. Where the City is required to be an additional insured, it shall be so for the total limits of liability available to University under its risk financing program, whether such limits are primary, excess, contingent or otherwise.

c) Each insurer shall provide not less than forty-five (45) days written notice to the City before any policy required hereunder may be cancelled, except ten (10) days written notice as respects cancellation for non-payment of premium.

d) All insurance required hereunder shall be subject to approval by the City as to insurer, policy form and coverage. All policies shall be issued by an insurer rated A-:VII or higher in the A.M. Best's Key Rating Guide and licensed to do business in the State of Washington or issued as surplus lines by a Washington surplus lines broker.

e) Any deductible or self-insured retention must be disclosed to, and shall be subject to approval by, the City. The cost of any claim payments falling within the deductible shall be the responsibility of University or its contractor, as appropriate.

3. Evidence of Insurance. Acceptable certification shall be provided to the City as evidence of insurance coverage maintained by University not less than ten (10) days prior to University's first use of any of the Premises pursuant to this Agreement; and evidence of continuous coverage shall be maintained on file as follows:

a) A copy of the policy's declarations pages, showing the Insuring Company, coverages, policy period and limits of liability, and the Schedule of Forms and Endorsements.

b) A copy of the CGL policy provision(s) documenting that the City of Seattle is an additional insured for primary and non-contributory limits of liability.

4. Address for Delivery of Evidence of University's Insurance.

The evidence specified in Subsection A.3 hereof shall be delivered to the following addresses:

Seattle Center Director
The City of Seattle
305 Harrison Street
Seattle, WA 98109

An electronic copy shall be emailed to riskmanagement@seattle.gov or faxed to (206) 470-1279.

B. Assumption of Risk:

The placement and storage by University of personal or business property on the Premises shall be the responsibility, and at the sole risk, of University.

C. Adjustments of Claims:

University shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of University under this Agreement. University shall ensure that all such claims, whether processed by University or University's insurer, either directly or by means of an agent, will be handled by a person with a permanent business office in the Seattle area.

D. Remedies upon Failure to Insure:

The Director shall notify University whenever the Director has a reasonable belief that University has failed to secure or maintain insurance as required by this Agreement. In addition to any other remedy allowed under this Agreement, the City is entitled to prohibit University from entering upon the Premises without liability to University until University has secured and is maintaining insurance as required by this Agreement.

E. Mutual Release and Waiver:

For and in consideration of the execution of this Agreement, the City and University each hereby releases and relieves the other and waives its claim of recovery from the other for loss or damage to owned or rented property arising out of or incident to fire, lightning and the perils to the extent covered under any extended coverage insurance policy or endorsement approved for use in the State of Washington, whether such loss or damage is due to negligence of either party or any agent or employee of either or any other person, unless an insurance policy secured by either party hereto pursuant to this Agreement or otherwise would become void upon the making of such release and waiver.

123114

FILED
CITY OF SEATTLE
2010 JAN 12 PM 3:37
CITY CLERK

STATE OF WASHINGTON – KING COUNTY

--SS.

245936
CITY OF SEATTLE, CLERKS OFFICE

No. TITLE ONLY

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

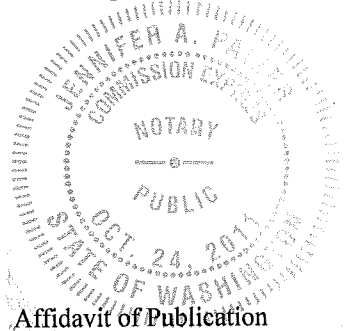
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123117-19,21,23,24,26.

was published on

10/14/09

The amount of the fee charged for the foregoing publication is the sum of \$ 106.13, which amount has been paid in full.



Handwritten signature of Pamela Oglesby

Subscribed and sworn to before me on

10/14/09

Handwritten signature of Notary Public

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on October 5, 2009, and published here by title only, will be mailed upon request, or can be accessed

at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 123127

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 123126

AN ORDINANCE relating to the City Light Department, declaring as surplus and authorizing the Superintendent of the City Light Department to release three (3) easements for electrical service over properties located at 1318 Western Avenue, 12738 33rd Avenue NE, and 14027 Lake City Way NE in Seattle, Washington, and ratifying and confirming certain prior acts.

ORDINANCE NO. 123124

AN ORDINANCE relating to the Seattle Center Department; authorizing the execution of a facility use agreement with Seattle University, for use and occupancy of KeyArena and adjacent areas at the Seattle Center.

ORDINANCE NO. 123123

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of an agreement with Theatre Puget Sound to manage and operate space in the Seattle Center House for use by non-profit arts organizations and individual artists.

ORDINANCE NO. 123121

AN ORDINANCE authorizing the Superintendent of the Department of Parks and Recreation to execute a lease amendment between the City of Seattle and Fu Quan, LLC, a Washington limited liability company, for property located at 800 Maynard Avenue South.

ORDINANCE NO. 123119

AN ORDINANCE relating to the City Light Department; authorizing execution of a 20-year agreement with the King County Wastewater Treatment Division for the purchase of renewable power and environmental attributes of power generated at the West Point Wastewater Treatment Facility and other related agreements that are necessary or convenient to establish and operate the generator interconnection.

ORDINANCE NO. 123117

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of an agreement with AEG Management WA, LLC for AEG to provide certain marketing, sales, technical operations and other services related to KeyArena at Seattle Center.

ORDINANCE NO. 123118

AN ORDINANCE relating to the Seattle Streetcar, authorizing an agreement with the Central Puget Sound Regional Transit Authority for implementation of the First Hill Streetcar Connector Project.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily
Journal of Commerce, October 14, 2009.

10/14(245936)