**Title Sponsorship Agreement.**

 TITLE SPONSORSHIP AGREEMENT

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 TITLE SPONSORSHIP AGREEMENT

This Title Sponsorship Agreement is made and entered into by and between **KEYCORP** (hereinafter referred to as "KeyCorp"), a corporation organized under the laws of the State of Ohio and authorized to do business in the State of Washington and **THE CITY OF SEATTLE** (hereinafter referred to as "the City"), a municipal corporation of the State of Washington.

 **Recitals:**

A. The City owns and operates at the Seattle Center in Seattle, Washington, a sports and entertainment complex currently known as the Seattle Center Coliseum (hereinafter referred to as the "Building"), which complex is currently being enlarged, modernized and otherwise redeveloped; and

B. Effective June 1, 1993, the City entered into a Premium Seat Tickets, Title Sponsorship & Marquee Changeable-Copy Sign Marketing Agreement with SSI SPORTS, INC. (hereinafter referred to as "SSI"), a corporation organized under the laws of, and authorized to do business in, the State of Washington, which agreement, as amended, authorizes SSI to market and execute agreements with respect to the rights to the use and occupancy of suites in the Building, and rights to the title sponsorship and marquee changeable-copy advertising signs associated with the Building, subject to the prior approval of the Seattle Center Director; and

C. On or about March 4, 1994, the City and SSI executed a Use & Occupancy Agreement with respect to the Building, under which agreement SSI became authorized to use and occupy portions of the Building on certain dates for and in consideration of the payment of certain sums of money to the City including but not limited to certain revenue from the sale of the right to be identified as the title sponsor for the Building and the right to certain advertising opportunities on marquee changeable-copy signs associated with the Building; and

D. SSI has subcontracted its responsibilities under the Premium Seat Tickets, Title Sponsorship & Marquee Changeable-Copy Sign Marketing Agreement with the City to Full House Sports & Entertainment, Inc. (hereinafter referred to as "Full House"), a corporation organized under the laws of, and authorized to do business in, the State of Washington; and

E.The City and SSI have amended their Use *&* Occupancy Agreement; and

F. The City, SSI, Full House, and KeyCorp desire that KeyCorp become the title sponsor for the Building, to have the Building renamed in a manner that makes it associated in the minds of members of the public mind with KeyCorp, and to have KeyCorp acquire the rights to use and control of the marquee changeable-copy advertising signs associated with the Building and its title sponsorship, all under the terms and conditions set forth herein; NOW, THEREFORE,

IN CONSIDERATION of the foregoing, of the mutual covenants, promises and performances of the parties as described herein, the parties hereto agree as follows:

 **1.** **Term of Agreement.** This Agreement shall commence on the date it is fully executed. KeyCorp's rights as the "Title Sponsor" under this Agreement shall be effective on the date that the renovated Building receives a certificate of occupancy (which date shall hereinafter be referred to as the "Effective Date"), and shall continue in full force and effect for a period of fifteen (15) years thereafter unless this Agreement is terminated earlier pursuant to the provisions hereof.

 **2.** **Exclusive Title Sponsorship.** From and after the Effective Date, KeyCorp shall be, and be treated as, the exclusive Title Sponsor of the Building.

 **3.** **Change of Name of Building.** On and as of the Effective Date, the name of the Building shall be the "Key Arena." From and after the Effective Date, any and all announcements relating to the Building or print or broadcast media advertising for the Building or a Building Event as defined in Subsection 8.E hereof, produced by or for the City shall refer to the Building as the "Key Arena."

 **4. Title Sponsor Signage.**

A. Principal Title Sponsor Identification Signs: The City shall have constructed and shall thereafter maintain, at no expense to KeyCorp, upon or adjacent to the monitor at the top on the exterior of the Coliseum roof, a four-faced, pan channeled letter, neon backed sign that shall solely display the words "Key Arena" and the KeyCorp logo, all as specified in the plans and specifications attached hereto or, in the event such plans and specifications are not approved by the City's Department of Construction & Land Use, as otherwise agreed upon by the parties hereto. Such sign shall remain illuminated twenty- four hours per day during the term of this Agreement except when reasonable maintenance or replacement work is being performed on such sign.

B. Title Sponsor Identification Signs at Main Building Public Entrances: The City shall have constructed and shall thereafter maintain, at no expense to KeyCorp, on the exterior of the Building over both the east and west public entrances to the Building, a sign containing the words "Key Arena" and the KeyCorp logo, all as specified in the plans and specifications attached hereto or as otherwise agreed upon by the parties hereto.

C. Free-Standing, Changeable Copy Sign at West Plaza: The City shall have constructed and shall thereafter maintain, at no expense to KeyCorp, in the West Plaza adjacent to the Building and generally perpendicular to First Avenue North, a free- standing, pylon-mounted, changeable-copy sign that incorporates on the face thereof the words "Key Arena" and the KeyCorp logo, all as specified in the plans and specifications attached hereto or as otherwise agreed upon by the parties hereto.

D. Title Sponsor Identification Signs on Sports Playing Surfaces: If authorized as provided below, the City shall arrange for the display, at no expense to KeyCorp, of the name "Key Arena" and the KeyCorp logo in the ice used for professional hockey games, in the center of the court and field installed for the playing of professional basketball and professional soccer games, respectively, and in the center of the playing surface used for the playing in the Building of any other professional sport controlled by Ackerley Communications, Inc. (a Delaware corporation) or any of its subsidiaries, and in such other authorized locations on all such playing surfaces as are agreed upon by the parties to this Agreement; Provided, that such respective displays shall be subject to authorization by the following:

(1) the Western Hockey League or the successor(s) thereto, as to the hockey ice used by the Seattle Thunderbirds hockey team or its successor(s) in the Building;

(2) the National Basketball Association or the successor(s) thereto, as to the basketball court used by the Seattle SuperSonics basketball team or its successor(s) in the Building;

(3) the Continental Indoor Soccer league or the successor(s) thereto, as to the indoor soccer field used by the Seattle SeaDogs indoor soccer team or its successor(s) in the Building; and

(4) the organization governing the sport playing or performance by any other professional sports team controlled by Ackerley Communications or any of its subsidiaries, or such team's successor(s), as to the playing surface to be used by such team in the Building.

E. Directional Signage on Seattle Center Grounds & Inside Building: The City, at no expense to KeyCorp, shall identify the Building as the "Key Arena" (including the KeyCorp logo with such identification wherever reasonably possible) on all building identifying signs erected on the Seattle Center grounds and at or in Seattle Center parking facilities, and at all major information points on the interior of the Building (which may include building directories, information and reception desks, and ticket booths in or immediately adjacent to and serving the Building).

F. Zamboni Signage: The City shall have the name "Key Arena" and the KeyCorp logo painted on the Zamboni machine used for professional hockey games played in the Building and for other events requiring a performance surface of ice, and shall thereafter maintain such signage, all at no expense to KeyCorp.

G. Flags at East Building Entrance: In the event that one (1) or more flag poles are erected on the East side of the Building, the City shall have one (1) or more flags displaying the name "Key Arena" and the KeyCorp logo constructed, and shall thereafter have such flag(s) raised on such pole(s) on a seasonal basis for the opening of the regular playing season of each sports team using the Building for its "home" games as well as for the opening of any series of playoff games involving such sports team, and shall repair and replace such flag(s), from time to time, as may be necessary to maintain the same in a good appearing condition, all at no expense to KeyCorp.

H. Other Applications for KeyCorp Logo and Building Name: To the extent the display of such signage is under the control of the City, the City shall have the name "Key Arena" and the KeyCorp logo displayed on the uniforms for all Building ushers and, as reasonably appropriate, for other uniformed staff regularly working in the Building, as well as on maps of the City and Seattle Center produced for public distribution, all at no expense to KeyCorp.

I. Design Elements for Title Sponsorship Identification Subject to City and KeyCorp Approval: KeyCorp shall prepare schematic drawing(s) of all of the signage contemplated in this Section 4 and shall submit such schematic drawing(s) to the Seattle Center Director as soon as possible after the Effective Date of this Agreement. The specific design of all signage contemplated in this Agreement, including but not limited to the size, color and location thereof, shall be subject the following:

(1) approval by the Seattle Center Director, whose approval shall not be unreasonably withheld or delayed;

(2) the requirements of (and any required approval by) any governmental authority(ies) having jurisdiction over the same other than Seattle Center Department, including but not limited to other City officials; and

(3) with respect to the signs contemplated in Subsection 4.D hereof, approval by the applicable professional sports league, association or organization governing the particular sport involved and the playing surface on which such sport is played in the Building.

Once approval has been given with respect to any of the signage contemplated herein, the City shall cause such approved signage to be created and installed consistent with the approved schematic drawing(s) and the applicable requirements and required approval of those governmental authority(ies) that have jurisdiction over the same.

 **5*.* Suite Made Available for KeyCorp Use & Occupancy.** On or by the Effective Date, KeyCorp shall execute a Suite License Agreement substantially in the form appended hereto to authorize use and occupancy of Suite #37 by KeyCorp and its authorized invitees. The amount of the applicable License Fee payable under such Suite License Agreement for the use and occupancy rights associated with Suite #37 shall be allocated as a portion of, and deducted from, the Annual Fee received pursuant to Section 8 hereof.

 **6. Public References to Building After Effective Date.** From and after the Effective Date, the City shall identify the Building as the "Key Arena" in all official documents, press releases, directional signage, and promotional materials produced or disseminated by the City. The City shall require all persons and entities that contract for the use of the Building for any purpose from and after the Effective Date to refer to and identify the Building as the "Key Arena" in all promotional, advertising, and other material disseminated to the public by or on their behalf, and to incorporate the name "Key Arena" on the face of all tickets issued for any Building Event as defined in Subsection 8.E hereof.

 **7. Miscellaneous Title Sponsorship Rights and Limitations Thereon.**

A. KeyCorp's First Right & First Right of Refusal to Remain Building's Title Sponsor: When the City determines what the terms and conditions will be for sale of the rights associated with the Building's Title Sponsorship from and after the expiration of the term of this Agreement (including but not limited to opportunities for the display of the Title Sponsor's name and logo on the marquee changeable-copy signs associated with the Building), the City shall first disclose such terms and conditions and offer such rights to KeyCorp. If, during the term of this Agreement, the City receives from any third party a solicitation or proposal with respect to that party's acquisition of the Building's Title Sponsorship rights (including but not limited to opportunities for the display of the Title Sponsor's name and logo on the marquee changeable-copy signs associated with the Building) for any period following the expiration of the term of this Agreement and the City would be willing to accept the same, the City shall provide notice to KeyCorp of the details of such solicitation or proposal (including but not limited to any time deadline for any required City response thereto) and shall permit KeyCorp to match or better such solicitation or proposal. If the City is required by any such solicitation or proposal to respond to the same on or by a specified time deadline, KeyCorp shall deliver its matching or better proposal on or by a date and time that is at least thirty-six (36) hours earlier than the time deadline for the City's response to such third party's solicitation or proposal, but otherwise shall respond to the City's notice of such third party's solicitation or proposal within thirty (30) days after the date of the City's notice regarding the same.

B. No KeyCorp Right to Continue Title Sponsorship if Agreement Is Terminated: Notwithstanding any other provision hereof, in the event this Agreement is terminated for cause by either party, the first right and first right of refusal granted by Subsection 7.A hereof shall be null and void.

C. City Obligation to Offer KeyCorp Opportunity to Become Title Sponsor or Subordinate Sponsor of Seattle Center-Produced Special Events & Promotions: The City shall not offer the title or any subordinate sponsorship rights to any Seattle Center- produced special event or promotion in the Building to any person or entity other than KeyCorp without having first offered the same to KeyCorp. The City shall not sell such sponsorship rights for such events to any person or entity for an amount less than that offered by KeyCorp for such rights.

D. City Distribution of Promotional Information: To the extent permitted by applicable labor-management contracts, and so long as such activity does not unduly slow the passage of vehicles in or out of Seattle Center parking facilities, as reasonably determined by the head of Transportation Services at the Seattle Center or such official's functional successor, the City shall arrange for the distribution of KeyCorp product information and material promoting attendance at particular KeyCorp-sponsored activities and events at Seattle Center or similar promotional materials. Such distribution shall be performed by Seattle Center parking attendants at or in connection with four (4) Seattle Center events per year, which events shall be selected by the Seattle Center Director and an authorized representative of KeyCorp to reach a jointly selected target audience.

E. Installation of Specialized Customer-Bank Communication Terminals in or Adjacent to Building: In the event and to the extent that the City licenses, permits, or otherwise authorizes any banking institution to install an automatic teller machine, cash machine, cash dispensing machine (other than a bill-changing machine), or other customer-bank communication terminal (other than telephones) inside or within fifty (50) feet of the Building, only KeyCorp shall be so authorized. Nothing in this Agreement grants to KeyCorp any such installation right, however. Notwithstanding the foregoing, KeyCorp acknowledges that the authorized food and beverage concessionaire for the Building may install or have installed in or at the concession premises in the Building one (1) or more point-of-sale devices enabling and facilitating communication between the food and beverage concessionaire and one (1) or more financial institutions through telephone lines to complete debit or credit transactions associated with such concessionaire's business, and that the City's allowing such installations in the Building shall not be deemed to be a breach of this provision.

F. Rights to Key Arena and KeyCorp Logo Trademarks and Tradenames: The use by the City of the Key Arena and KeyCorp logo trademarks and tradenames under the terms and conditions of this Agreement shall inure solely and exclusively to KeyCorp, and the City shall acquire no goodwill or other interest in them. KeyCorp hereby grants to the City, and to any third party that has been authorized by the City to use the Building, and to every such third party's contractors, concessionaires, sublicensees, and agents, the unrestricted license to use the name "Key Arena" for purposes of identification, the provision of directions, the promotion of events and activities of the City or of any such third party at or in the Building, the maintenance of records, the compliance with the provisions of this Agreement, and the performance of any traditional City or third party's function or activity with respect to which the City or such third party previously would have referred to the Building as the "Coliseum" and is to now refer to the Building as the "Key Arena." KeyCorp also hereby grants to the City the unrestricted license to use the KeyCorp logo associated with the name "Key Arena" to carry out the City's obligations under this Agreement. To prevent any public confusion about the location of events and activities proposed or scheduled to be presented in the Building, during the term of this Agreement and for a period of not less than two (2) years after the expiration or earlier termination of this Agreement, as between the parties hereto in Washington State, (1) only the Building shall be known as the "Key Arena;" and (2) KeyCorp shall not have any public performance or entertainment facility other than the Building named the "Key Arena" or consent to have any such facility so named. No provision of this Agreement shall prevent any other public performance or entertainment facility from including the word "Key" in its name (like "Key Dome," "Key Place," "Key Theatre," etc.) so long as the word "Key" is not immediately followed by the word "Arena." The provisions of this subsection shall survive the expiration or earlier termination of this Agreement.

 **8. Title Sponsorship** Fee.

A. Initial Annual Fee: The Annual Fee initially payable by KeyCorp for the rights granted herein, including the use and occupancy rights associated with Suite #37, shall be Seven Hundred Fifty Thousand Dollars ($750,000.00).

B. Adjustment of Annual Fee: Effective August 1, 1996, and on each August 1st thereafter during the term hereof, the amount of the Annual Fee, as initially established in Subsection 8.A hereof or as subsequently adjusted, shall be increased or further increased by four percent (+4%).

C. Date(s) for KeyCorp's Annual Fee Payment: KeyCorp shall pay the Annual Fee specified herein according to the following schedule:

(1) Immediately upon KeyCorp's execution of this Agreement, Five Hundred Thousand Dollars ($500,000) of the Initial Annual Fee;

(2) On or by January 15, 1996, the remainder of the Initial Annual Fee;

(3) On or by August 1, 1996, and on or by each August 1st thereafter during the term hereof, the adjusted Annual Fee for the immediately succeeding License Year, as that term is defined in Subsection 8.E hereof.

In the event any annual payment or portion thereof is not paid by the date it is due and payable, such amount shall be delinquent. Delinquent sums shall bear interest at a rate of twelve percent (12 %) per annum, from the date of delinquency to the date full payment is received by the City.

D. Remittances of Annual Fee Payments to Be Made to City: Notwithstanding any provision in the separate agreements between the City and SSI that indicates or suggests otherwise, KeyCorp shall remit directly to the City all of the payments contemplated in this section. Such remittances shall be made payable to the Seattle Finance Director, in care of the address specified in or pursuant to Section 13 hereof. To the extent required by the City's separate agreements with SSI, such payments shall be treated by the City as having been made by or through SSI. The City shall allocate and credit all such payments first against the applicable Suite License Fee due under the appended Suite License Agreement or any extension or renewal thereof, and then against the Annual Fee for the Title Sponsorship due under Section 8 hereof.

E. Reduction in Portion of Annual Fee Allocated to Title Sponsorship Rights:

(1) If, and only if, a sports league, association or organization controlling the design of the surface on which are played the professional basketball games, professional hockey games, or professional indoor soccer games contemplated in this Agreement prohibits the display of the name "Key Arena" anywhere on such sport's playing surface in the Building, KeyCorp shall be entitled to a reduction in the portion of the initial or adjusted Annual Fee, as appropriate, in an amount that is agreed upon by the parties hereto at the time of such event.

(2) The Annual Fee payable hereunder is fully earned by the City and payable by KeyCorp irrespective of any cancellation, postponement or inability to schedule any Event (as defined immediately below) or any series of Events, for any reason. If, however, fewer than one hundred twenty-five (125) Events (as defined herein) are presented in the Building during any complete License Year (as defined herein), KeyCorp shall be entitled to a pro rata reduction in the portion of the Annual Fee allocated towards Title Sponsorship rights. The amount of such reduction shall be equal to eight-tenths of one percent (.008%) multiplied by the amount of such Annual Fee portion for each Event less than one hundred twenty-five (125) that is presented during that License Year. For the purpose of this Agreement (and in contrast to the definition of "Event" in the appended Suite License Agreement), the terms "Event" and "License Year" shall have the particular meanings set forth below:

"Event" shall mean and include every presentation or performance that occurs in the Building and is a part of any major, multi-day Seattle Center festival including but not limited to the "Northwest Folklife Festival" (which occurs over the Memorial Day weekend), the International Children's Festival (which occurs over approximately a week in the late Spring), the "Bite of Seattle Festival (which occurs over a long, weekend in mid-Summer), the "Bumbershoot Festival" (which occurs over the Labor Day weekend) and the "Winterfest Festival" (which occurs approximately between Thanksgiving and New Year's), whether or not tickets are issued or offered for sale for admission to any such presentation or performance, as well as every other presentation or performance that occurs in the Building to which members of the general public are admitted for a paid entrance fee of not less than $5.00. Each performance of a multi-performance presentation (such as a circus or concert), and each day of a multi-day presentation (such as an auto show) shall count as a separate Event.

"License Year" shall mean and include each successive twelve (12)-month period from and after the day the Building is officially opened for use by any Suite Licensee, as determined by the Seattle Center Director.

9. Binding Effect; Change of Name of Title Sponsor.

A. General: This Agreement shall be binding on, and shall inure to the benefit of, the parties hereto and their successors and assigns.

B. Change of Signage Relating to Building in Event of Change of Name of KeyCorp or Assignment of KeyCorp Title Sponsorship Rights: Notwithstanding any other provision hereof, if, during the term of this Agreement, the name of KeyCorp is changed because of a merger, consolidation, or other action, or in the event KeyCorp assigns its rights under this Agreement to a third party, then the name of the Building may be changed from "Key Arena" to another name; Provided, that any name other than "Key Arena" shall be subject to the prior written approval of the City, which approval shall not be unreasonably delayed or withheld; Provided, further, that no name shall be proposed as the name of the Building that includes any word, number, symbol, or any combination thereof, that either is the same or substantially the same as the legal, business or trade name of any tobacco or tobacco-related distributor, manufacturer, or product, or of any alcohol or alcohol-related distributor, manufacturer, or product. If the City approves any such new name proposed for the Building, all references to the "Key Arena" that are provided for herein, including but not limited to signage contemplated in Section 4 hereof, shall be changed to the new, approved name for the Building. All work required to effectuate any such name changing shall be performed by or through the City. All costs and expenses associated with any such name changing, including but not limited to City project management expenses, shall be paid by KeyCorp within thirty (30) days after the date of the City's invoice therefor.

 **10. Termination**.

A. Defaults *&* Material Breaches: Each of the following shall constitute a breach and material default of this Agreement:

(1) The failure by the City to approve a change in the name of the Building to a name that has been proposed by KeyCorp or its successor and is otherwise permitted under Section 9 hereof;

(2) The failure by KeyCorp to cure a payment default under this Agreement (notwithstanding the right of the City to interest on any such sums that become delinquent);

(3) Either party's failure to comply with a material term or condition of, or to satisfy a material obligation it has assumed under, this Agreement;

(4) The termination, for cause, by SSI or one of its successors or assigns, of the aforementioned Use & Occupancy Agreement;

(5) The failure or refusal of SSI or any of its successors or assigns to have the Seattle SuperSonics or that team's successor National Basketball Association team play its "Home Games" in the Building as contemplated in the aforementioned Use & Occupancy Agreement, as now or hereafter amended (including but not limited to the vacating or abandoning of the Building, and whether or not such failure or refusal constitutes a breach of such Amended Use & Occupancy Agreement), except where such failure or refusal is based upon a Force Majeure Event as that term is defined in Section 11 hereof, for which exceptional circumstance the provisions of Section 11 shall govern the parties' respective right to terminate this Agreement.

B. Termination for Failure to Correct, Remedy, or Cease Failure or Violation of Agreement Within Reasonable Time After Receipt of Notice Thereof: In the event either party to this Agreement fails to perform any obligation hereunder, or violates any provision of this Agreement, the other party may give notice to such party of such failure and demand the performance of such party's obligations hereunder or compliance with the terms and conditions hereof within a reasonable period after the date of such notice, which period shall not exceed ninety (90) days. In the event the party receiving notice of such failure or violation does not correct, remedy, or cease such failure or violation within the time specified in such notice, the other party may terminate this Agreement, whereupon all obligations of the parties hereto that had not been incurred as of the effective termination date, including but not limited to the obligation to pay future Annual Fees, to thereafter identify the Building as the "Key Arena," and to display the KeyCorp logo in connection therewith, shall terminate.

C. No Termination Based on Matters Outside of Control of City: Notwithstanding any other provision hereof, this Agreement shall remain in full force and effect regardless of the existence of any labor dispute involving or affecting one or more of the players or officials associated with the Seattle franchise of the National Basketball Association or its successors or assigns, even if such labor dispute results in the suspension or cancellation of one or more "home games" of the Seattle SuperSonics; Provided, that the provisions of Subsection 8.E shall remain in full force and effect during any such labor dispute.

D. No Termination Based on Expiration or Earlier Termination of Separate Advertising Agreement With Principal Building Tenant: Although KeyCorp and SSI or its subcontractor, affiliate or subsidiary Full House may have executed a separate sponsorship agreement under which KeyCorp not only is granted certain advertising exclusivity rights, access to certain signage on the interior of the Building, and other rights but also is designated as a principal sponsor of the Seattle SuperSonics, all for a term commensurate with the term of this Title Sponsorship Agreement, nothing in that other agreement, as now existing or as hereafter amended, or any action taken with respect thereto including but not limited to its termination, for cause or otherwise, shall be cause for the termination of this Agreement.

E. Remedies Available Upon Termination of a Party's Rights:

(1) KeyCorp Remedies: In the event that the City's rights under this Agreement are terminated by KeyCorp pursuant to this section, the Annual Fee payable pursuant to Section 8 hereof shall be prorated on the basis of 365 calendar days, and the amount of the Annual Fee that is attributable to the period of time after the effective date of such termination shall be refunded to KeyCorp or its successor or assignee, as appropriate. Notwithstanding KeyCorp's termination rights under this Agreement, the City shall not be liable in damages to KeyCorp in the event the Seattle SuperSonics, Seattle Thunderbirds, Seattle SeaDogs, or any of their successors by another name, or any combination thereof ceases to play substantially all of such team's regular season and playoff "home games" in the Building as required by the particular agreement under which such team is authorized to use and occupy the Building from time to time.

(2) City Remedies: In the event that KeyCorp's rights under this Agreement are terminated by the City pursuant to this section, the City, without any further proceedings, may grant and license the title sponsorship rights to the Building to one or more other persons or entities during any portion of the term remaining under this Agreement had it not been terminated, and receive license fees therefor; Provided, that notwithstanding such termination, KeyCorp's liability for the additional Annual Fee to be paid to the City hereunder shall not be extinguished, and KeyCorp shall pay to the City the difference between said annual fee and the sum the City receives for the title sponsorship from such other persons or entities during the period beginning on the date KeyCorp's rights under this Agreement are terminated and ending on the scheduled expiration date of this Agreement. Such payment shall be made monthly, within fifteen (15) days after the date of the City's invoice to KeyCorp. Such termination and payments shall not relieve KeyCorp from liability to the City for any damages caused by KeyCorp's default and breach and expenses incurred in the relicensing of the title sponsorship rights with respect to the Building. In the event that KeyCorp's rights under this Agreement are terminated pursuant to this section, the City shall make a good faith effort to obtain the fair market value for the title sponsorship rights that are licensed to any third party or parties during that portion of the term of this Agreement that follows the effective termination of KeyCorp's rights. If the City fails to negotiate a fair market value upon resale of the title sponsorship rights, KeyCorp's liability under this subsection shall be limited to an amount equal to the difference between the additional annual fees to be paid hereunder and the current fair market value of such title sponsorship rights.

 **11. Force Majeure; Substantial Damage.** In the event that either party to this Agreement is unable to perform its obligations hereunder or to enjoy any of its benefits because of the substantial damage or destruction of the Building due to any cause, a natural disaster, or action or decree of a governmental body with appropriate jurisdiction (hereinafter referred to as a "Force Majeure Event"), the party that has been so affected shall immediately give notice to the other party of such fact and shall do everything possible to resume its performance. Upon the other party's receipt of such notice, each party's obligations hereunder shall be suspended for the period of such Force Majeure Event and, if applicable, the Annual Fee shall be reduced pro rata as provided in Subsection 8.E.(2) hereof, and KeyCorp shall be refunded the difference between the Annual Fee paid and the amount of the reduced Annual Fee. If the Force Majeure Event lasts for a period of two (2) or more years from and after the date that the other party receives notice of such Force Majeure Event and the party that received such notice has been able to perform its obligations hereunder despite such Force Majeure Event, the party that received such notice may terminate this Agreement by giving notice thereof to the party unable to perform because of such Force Majeure Event.

 **12. Indemnification.** Each party hereto shall indemnify and hold the others (hereinafter the "indemnified parties") harmless from any and all losses, claims, actions, damages, and expenses arising out of or resulting from every act or omission of the indemnifying party or any of its officers or employees under this Agreement. The City also agrees to and shall indemnify KeyCorp and hold it harmless from any and all losses, claims, actions, damages, and expenses arising out of or resulting from the erection or maintenance of any of the signs contemplated in Section 4 hereof and any structural defect in the Building. In the event that any suit based upon any such loss, claim, action, damage, or expense is brought against the indemnified parties, the indemnifying party, upon notice of the commencement thereof, shall defend the same at its sole cost and expense; and if final judgment be adverse to the indemnified parties or the indemnified parties and the indemnifying party, jointly, the indemnifying party shall promptly satisfy the same.

 **13. Assignments.** No assignment of the rights associated with the Title Sponsorship of the Coliseum and otherwise granted herein shall be effective without the prior written approval of the Seattle Center Director or President of KeyCorp, as appropriate, whose approval shall not be unreasonably withheld; Provided, that a party's approval or disapproval of an assignment shall be based solely on the financial and operational capacity of the proposed assignee to perform the obligations it would assume were approval granted for such assignment except where the assignment would involve a change in the name of the Building, in which case the assignment shall also be subject to the provisions of Subsection 9.B.

 **14. Notices.** Any notice or communication to be given by one party to the other under this Agreement must be in writing; and if given by registered or certified mail, such notice or communication shall be deemed to have been given and received when a registered or certified letter containing such notice or communication, properly addressed, with postage prepaid, is deposited in the United States mail, but if given otherwise than by registered or certified mail, it shall be deemed to have been given when received by the party to whom it is addressed. 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 the City:

 Seattle Center Director

 Seattle Center Department

 The City of Seattle

 305 Harrison Street

 Seattle, WA 98109

 If to KeyCorp:

 KeyCorp

 Attn: Ms. Joan Peloso, Corporate Advertising

 127 Public Square

 Cleveland, Ohio 44114-1305

 **15. Amendments.** No addition to, deletion from, or other modification of any of the provisions hereof shall be valid unless made in writing and signed by an authorized representative of each of the parties hereto.

 **16. Applicable Law; Venue.** This Agreement shall be construed under the Laws of the State of Washington. The venue for any action brought hereunder shall be in the Superior Court of the State of Washington in and for King County.

 **17. Director's Authority**. The term "Director" as used throughout this Agreement in regard to permission, warrant, consent, approval, lights, interpretations, and discretionary matters, shall mean the Seattle Center Director or such official's designee; Provided, that the 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, ordinance, rule or regulation before KeyCorp may rightfully commence, suspend, enlarge, or terminate any particular undertaking or may obtain or exercise any particular right or privilege under this Agreement. Decisions to be made by the Director shall be left to such official's reasonable discretion.

 **18. Captions.** The titles of the articles, sections, and subsections of this Agreement are for convenience only, and do not define or emit the contents.

 **19. Waivers.** No action, other than a notice by one party to the other specifically stating that such notice has the effect of a waiver, shall constitute a waiver of any particular breach or default of such other party. Only the Seattle Center Director shall be authorized to grant a waiver on behalf of the City. No such waiver notice from either party shall waive the other party's failure to fully comply with any other term, condition, or provision of this Agreement, irrespective of any knowledge any City or KeyCorp officer, employee, or agent may have of any breach or default of, or noncompliance with, such other term, condition, or provision. No waiver of full performance by either party shall 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 shall not be deemed a waiver of any right or acceptance of defective performance.

 **20. Cumulative Rights.** All remedies available at law or in equity to either party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

 **21. Entire Agreement.** The parties to this Agreement acknowledge that it is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof. This Agreement constitutes the entire agreement between the parties hereto respecting the subject matter hereof, and there are no understandings or agreements between them respecting the subject matter hereof, written or oral, other than as set forth herein.

 **22. Agreement Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect.

 **In Witness Whereof,** the parties hereto have executed this Agreement by having their duly authorized representative(s) sign his/her/their name(s) in the respective spaces provided below:

|  |  |
| --- | --- |
| For **KEYCORP:** | For **THE CITY OF SEATTLE:** |
| By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  (Signature) |  (Signature) |
|  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  (Type or print name of signer) |  (Type or print name of signer) |
|  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  (Type or print name of signer) |  (Type or print name of signer) |
|  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  (Date) |  (Date) |