

**2013 STADIUM LEASE**  
**BETWEEN**  
**ERIE COUNTY STADIUM CORPORATION**  
**AND BUFFALO BILLS, INC.**  
**Dated as of [\_\_\_\_\_], 2013**  
**2013 Stadium Lease Term Commencing July 31, 2013**

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**2013 STADIUM LEASE**

**THIS 2013 STADIUM LEASE** (together with all renewals, replacements, modifications and amendments thereof, the "2013 Stadium Lease") is made as of the [ ] day of [ ] 2013, by and between **ERIE COUNTY STADIUM CORPORATION**, a New York business corporation and wholly-owned subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development, which subsidiary is a public benefit corporation having an office and principal place of business at 633 Third Avenue, New York, New York 10017-6754 (the "ECSC"), as sublessor, and **BUFFALO BILLS, INC.**, a New York business corporation having an office and principal place of business at One Bills Drive, Orchard Park, New York 14127 (the "Bills"), as sublessee.

**RECITALS:**

**WHEREAS**, the County of Erie, a New York municipal corporation (the "County"), is the owner of an approximately 197.65-acre parcel of real property situated in the Town of Orchard Park, New York, more particularly described on Exhibit A attached hereto and made a part hereof (the "Land"), which parcel is improved by the Access Roads, the Buildings, the Parking Areas and the Practice Facilities (together with the Land, collectively, the "Stadium Complex"); and

**WHEREAS**, pursuant to its rights as a National Football League franchisee, the Bills is the owner of the "Buffalo Bills" football team (the "Team"); and

**WHEREAS**, pursuant to a certain Agreement of Lease, dated as of October 15, 1971, between the County and the Bills' predecessor in interest (as amended, the "1971 Original Lease"), the Team has used and occupied the County's football stadium for its home games from 1973, through the expiration of the term of the 1971 Original Lease on July 31, 1998; and

**WHEREAS**, upon the expiration of the 1971 Original Lease, (a) the County and the ECSC entered into that certain Master Lease dated as of August 1, 1998 (together with all renewals, replacements, modifications and amendments thereof, the "1998 Master Lease"), pursuant to which 1998 Master Lease the County leased the Stadium Complex to the ECSC, which 1998 Master Lease expires on July 31, 2013, and (b) the ECSC and the Bills entered into that certain Stadium Lease dated as of August 1, 1998 (together with all renewals, replacements, modifications and amendments thereof, the "1998 Stadium Lease"), for the use and occupancy of the Stadium Complex, which 1998 Stadium Lease term expires on July 30, 2013;

**WHEREAS**, pursuant to Chapter 387 of the 1998 Session Laws of New York, the State of New York (the "State") found and declared, among other things, that the refurbishment, renovation, improvement, operation, maintenance, repair and financing of the Stadium Complex constituted a public and governmental purpose for the benefit of the citizens of the County and the State, and authorized the implementation of the actions contained in the 1998 Stadium Lease and related agreements, including, without limitation, the execution and delivery of the 1998 Stadium Lease and certain other documents relating to the Stadium Complex; and

**WHEREAS**, the County, the State and the Bills have determined that the Team, by playing its Home Games at the Stadium Complex and otherwise being associated with the

**Buffalo, New York area, encourages and fosters economic development and prosperity for the citizens of Erie County and Western New York, enhances the image of Erie County and Western New York and provides recreational and other opportunities for the citizens of Erie County and Western New York; and**

**WHEREAS, the citizens of Western New York have supported and enjoyed the Team since its inception such that the Team has become an integral part of the Western New York community; and**

**WHEREAS, the Bills desire to continue the use of the Stadium Complex so that the Team can play Home Games at the Stadium Complex beyond the expiration date of the 1998 Stadium Lease provided that certain improvements are made to the Stadium Complex; and**

**WHEREAS, on December 21, 2012, the County, the Bills and New York State Urban Development Corporation d/b/a Empire State Development, a New York public benefit corporation having an office and principal place of business at 633 Third Avenue, New York, New York 10017-6754 (“ESD”), entered into a Memorandum of Understanding (the “MOU”), setting forth in principle certain actions to be undertaken by each of the parties to enable the Team to continue to play the Home Games at the Stadium Complex through July 30, 2023; and**

**WHEREAS, certain of the actions contemplated by the MOU relate to the refurbishing, renovation and improvement of the Stadium Complex at a cost of approximately ONE HUNDRED THIRTY MILLION DOLLARS (\$130,000,000); and**

**WHEREAS, the refurbishing, renovation and improvement of the Stadium Complex will provide significant economic benefits to the County and the State and their residents and businesses and to the Bills; and**

**WHEREAS, under the New York State Urban Development Corporation Act, Chapter 174 of the 1968 Laws of New York, as amended (the “Act”), the ESD is empowered to lease real property from municipalities and to rehabilitate and improve such real property; and**

**WHEREAS, pursuant to Section 12 of the Act, ESD is empowered to create subsidiary corporations and to confer upon such subsidiary corporations all “privileges, immunities, tax exemptions and other exemptions,” which ESD enjoys, including, without limitation, such privileges, immunities, tax exemptions and other exemptions that inure to ESD by virtue of ESD’s status as a public benefit corporation; and**

**WHEREAS, on February 6, 1998, ESD filed a Certificate of Incorporation with the New York Secretary of State forming the ECSC; and**

**WHEREAS, paragraph seven of such Certificate of Incorporation provides that the ECSC shall enjoy all of the “privileges, immunities, tax exemptions and other exemptions” of ESD; and**

**WHEREAS, the State has confirmed that the ECSC is a public benefit corporation; and**

**WHEREAS**, prior to or simultaneously with the execution of this 2013 Stadium Lease, the Bills shall enter into various agreements, directly or indirectly, with members of the Project Team (as defined below) in connection with certain pre-construction work related to the refurbishing, renovation and improvement of the Stadium Complex, which may include agreements relating to architectural, design, engineering, surveying, environmental, code compliance, Americans with Disabilities Act compliance, and construction planning services (collectively, the “Pre-Construction Agreements”); and

**WHEREAS**, to implement the refurbishing, renovation and improvement of the Stadium Complex, the ECSC, the County and the Bills have entered into a certain 2013 Construction Coordinating Agreement dated as of the Effective Date (together with all renewals, replacements, modifications and amendments thereof, the “2013 Construction Coordinating Agreement”); and

**WHEREAS**, pursuant to the terms of the 2013 Construction Coordinating Agreement, the ECSC, the Bills and the County have agreed to pay for such refurbishing, renovation and improvement; and

**WHEREAS**, the County has leased the Stadium Complex to the ECSC pursuant to that certain 2013 Master Lease, dated as of the Effective Date, between the County, as lessor, and the ECSC, as lessee (together with all renewals, replacements, modifications and amendments thereof, the “2013 Master Lease”); and

**WHEREAS**, the ECSC has agreed to simultaneously sublease the Stadium Complex to the Bills on the terms and conditions set forth in this 2013 Stadium Lease; and

**WHEREAS**, as a material inducement for the County and ECSC to enter into the 2013 Master Lease and the ECSC to enter into the 2013 Stadium Lease with the Bills, the Bills have agreed to certain Franchise Maintenance Covenants to assure that the Bills will, during the Term of this 2013 Stadium Lease, play its Home Games at the Stadium on the terms and conditions set forth herein; and

**WHEREAS**, in its capacity as “lead agency,” the County has issued, on its own behalf and on behalf of all other involved agencies, a “negative declaration” under the New York State Environmental Quality Review Act covering the refurbishing, renovation and improvement of the Stadium Complex.

**NOW, THEREFORE**, for one dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the ECSC and the Bills agree as follows:

## **ARTICLE 1 BASIC LEASE INFORMATION**

1.1 **Recitals.** The recitals set forth above form an integral part of this 2013 Stadium Lease, and are incorporated herein by reference in all respects.



1.2 **Definitions.** As used in this 2013 Stadium Lease, the following terms shall have the meanings ascribed thereto:

1.2.1 **1971 Original Lease:** Shall have the meaning ascribed to such term in the recitals hereof.

1.2.2 **1998 Construction Coordinating Agreement:** The Construction Coordinating Agreement dated as of August 1, 1998 among the ECSC, the County and the Bills, together with all renewals, replacements, modifications and amendments thereof.

1.2.3 **1998 Master Lease:** Shall have the meaning ascribed to such term in the recitals hereof.

1.2.4 **1998 Stadium Lease:** Shall have the meaning ascribed to such term in the recitals hereof.

1.2.5 **2013 Construction Coordinating Agreement:** Shall have the meaning ascribed to such term in the recitals hereof.

1.2.6 **2013 Master Lease:** Shall have the meaning ascribed to such term in the recitals hereof.

1.2.7 **2013 Stadium Lease:** This lease, as more particularly defined in the introductory paragraph of this lease.

1.2.8 **2013 Stadium Lease Expiration Date:** July 30, 2023, or such earlier date provided for in this 2013 Stadium Lease upon which this 2013 Stadium Lease shall expire.

1.2.9 **2013 Stadium Lease Term:** The ten (10) year term of this 2013 Stadium Lease, beginning on the Commencement Date and ending on the 2013 Stadium Lease Expiration Date.

1.2.10 **Access Roads:** All paved roads and driveways now or hereafter situated on the Land.

1.2.11 **Accessible ACIA Funds:** Shall have the meaning ascribed to such term in Section 10.6(d) of this 2013 Stadium Lease.

1.2.12 **Act:** Shall have the meaning ascribed to such term in the recitals hereof.

1.2.13 **Additional Rent:** All amounts that the Bills are obligated to pay to the ECSC pursuant to this 2013 Stadium Lease and/or its Schedules and/or Exhibits other than Annual Rent up to an amount equal to Base Annual Rent in any given Lease Year. Any Annual Rent exceeding Base Annual Rent in any Lease Year shall be deemed Additional Rent. All Additional Rent received by the ECSC shall be contributed to the New Stadium Fund.

**1.2.14 Administration Building:** The approximately 85,000 square foot, four story building situated on the Land immediately adjacent to the Stadium and presently housing but not necessarily limited to the following uses: Team's maintenance shop, mechanical equipment, Game officials locker room, Bills' and visitor team locker rooms, lobby, merchandise storage room, copy center, game day family area, miscellaneous storage rooms, Bills' offices, archive storage and miscellaneous offices.

**1.2.15 Advertising Rights:** Any advertising or marketing of any kind on or in the Stadium Complex including, but not limited to, Scoreboard announcements, Video Replay System announcements, Signage, ticket advertising, Playing Field advertising, sponsor advertising on concession or "give away" merchandise, programs, year books and all other print and display advertising distributed at the Stadium Complex.

**1.2.16 Affiliate:** (i) As to any Person other than a Governmental Authority, any other Person which directly or indirectly controls, or is under common control with, or is controlled by, such Person, and (ii) as to any Governmental Authority, any agency, department, board or authority thereof. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

**1.2.17 Alternate Site:** The Team shall use good faith efforts to locate a facility in New York State that meets NFL criteria. If no such facility exists, then the Team shall be permitted to arrange for an Alternate Site outside of the State. Notwithstanding the foregoing, any Alternate Site shall be subject to the prior approval of the NFL, in its sole and absolute discretion.

**1.2.18 Americans with Disabilities Act:** The Americans with Disabilities Act of 1990, Pub. L. No. 101-336, § 2, 104 Stat. 328 (1991), as amended, supplemented and replaced from time to time.

**1.2.19 Anniversary Date:** Each anniversary of the Commencement Date occurring during the Term.

**1.2.20 Annual Rent:** Those amounts due and payable from the Bills to the ECSC each Lease Year, payable in accordance with Section 3.1 of this 2013 Stadium Lease, as such amount may be adjusted in accordance with Sections 3.2 and 3.3 of this 2013 Stadium Lease.

**1.2.21 Applicable Law:** Any applicable constitutional provision, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by a Governmental Authority now or hereafter in effect (including, without limitation, the Americans With Disabilities Act and Environmental Law). For purposes of this 2013 Stadium Lease, any reference to "Applicable Law" in the context of (a) Stadium Complex construction or repair obligations, including use and application of any

Capital Improvement Allowance, and (b) expenditures that are eligible for Game Day Expense Reimbursement and Operating Expense Reimbursement, shall also be deemed to include the Stadium Affirmative Action Plan and, solely as to the foregoing clause (a), the Apprenticeship Law (as defined in the 2013 Construction Coordinating Agreement).

**1.2.22 Assessments:** All special district charges and special assessments of whatever kind and nature, including water and sewer rents levied, imposed, assessed or fixed on or against the Buildings and/or the Land or arising from the use, occupancy or possession thereof during the Term.

**1.2.23 Base Annual Rent:** Shall have the meaning ascribed to such term in Section 3.1 of this 2013 Stadium Lease.

**1.2.24 Base Budget:** Shall have the meaning ascribed to such term in the 2013 Construction Coordinating Agreement.

**1.2.25 Bills:** Shall have the meaning ascribed to such term in the introductory paragraph of this 2013 Stadium Lease.

**1.2.26 Bills' Address:** .

63 Kercheval Avenue, Suite 200  
Grosse Pointe Farms, Michigan 48236  
Attention: Jeffrey C. Littmann, Treasurer  
Telephone: (313) 885-5248  
Telecopier: (313) 885-5209

With a copy at the same time and in the same manner to:

Lipsitz Green Scime Cambria LLP  
42 Delaware Avenue, Suite 120  
Buffalo, New York 14202-3924  
Attention: Michael Schiavone  
Telephone: (716) 849-1333, ext. 309  
Telecopier: (716) 854-3013

**1.2.27 Bills Authorized Ticket Vendor:** The vendor, as selected by the Bills from time to time, authorized to sell and distribute tickets for Games and Bills' Events.

**1.2.28 Bills' Event:** Any public gathering at the Stadium Complex that is neither a Game nor a Civic Event.

**1.2.29 Bills' Improvements:** The additions, alterations and improvements located at or affixed to the Stadium Complex undertaken by the Bills at the Bills' sole cost and expense and otherwise in accordance with the terms and conditions of this 2013 Stadium Lease, and subject to the review and approval of the County and the ECSC, which approval may not be unreasonably withheld, conditioned or delayed. The Parties shall cooperate in good faith to develop and maintain a written list of Bills' Improvements in existence from

time to time during the 2013 Stadium Lease Term. The Parties agree that as of the Commencement Date, no Bills' Improvements exist. For the avoidance of doubt, the term Bills' Improvements shall not include the Project or any portion thereof.

**1.2.30 Bills' Insurance Policy:** Any policy of insurance maintained by the Bills pursuant to Article 18 of this 2013 Stadium Lease.

**1.2.31 Books and Records:** Those portions of the Bills' business books and records pertaining to Game Day Expenses, Operating Expenses and Net Ticket Revenues (which shall include, but not be limited to, all information supplied to the Bills by the NFL with respect to NFL Average Net Ticket Revenue).

**1.2.32 Broadcast Rights:** All right to disseminate and distribute via any distribution platform or medium, now existing or hereafter developed, any pictures, images, sounds, descriptions, or other accounts (including, without limitation, video, audio, or any animated, representative, or other mock-video descriptions) of all or any portion of any Game or Bills' Event occurring during the Term.

**1.2.33 Buildings:** The Stadium, the Administration Building, the Field House, the Training Center and any other building or enclosed structure now or hereafter situated on the Land.

**1.2.34 Business Days:** All days excluding Saturdays, Sundays and all days observed by the State, the County or the federal government as legal holidays.

**1.2.35 Capital Improvement:** (i) Any Structural Repair; (ii) any single addition, alteration, demolition, improvement or refurbishing of or to the Stadium Complex or any portion thereof the cost or expense of which is classified as a capital expense by GAAP; (iii) any single addition, alteration, demolition, improvement or refurbishing of or to the Stadium Complex or any portion thereof the cost or expense of which is \$35,000 or more; or (iv) any series of additions, alterations, demolitions, improvements or refurbishings of or to the Stadium Complex or any portion thereof that (1) under ordinary and customary business practices would be clearly viewed as being a single project, (2) under ordinary and customary business practices would be effectuated by entering into a single contract with a contractor or other applicable Person, and (3) has a cost of \$35,000 or more.

**1.2.36 Capital Improvement Allowance:** The funds described in Article 10 as the "Capital Improvement Allowance," which are to be provided by the County, the ECSC and the Bills, and are to be used, in accordance with Article 10.

**1.2.37 Capital Improvement Expense:** Any expense paid or incurred in making a Capital Improvement to be paid from the Capital Improvement Allowance.

**1.2.38 Casualty:** Any Major Casualty or Minor Casualty.

**1.2.39 Casualty Insurance Premium Cap:** Shall have the meaning ascribed to such term in Section 18.6(b) of this 2013 Stadium Lease.

**1.2.40 Civic Event:** Any event or public gathering at the Stadium Complex sponsored by either the County or the ECSC pursuant to Section 2.3 of this 2013 Stadium Lease, the primary purpose of which is the promotion of civic, community, governmental or charitable purposes (as opposed to pecuniary gain), and that does not compete with the Bills' use of the Stadium Complex as a venue for professional football contests, musical concerts and festivals. For purposes of this 2013 Stadium Lease, any event held at the I ♥ New York Hospitality Center shall not be deemed a Civic Event solely by reason of the State's use of the I ♥ New York Hospitality Center.

**1.2.41 Civic Event Expenses:** The actual, incremental out-of-pocket expenses incurred by the Bills in its capacity as operator of the Stadium Complex with respect to any Civic Event, including, without limitation, the cost of repairing any damage to any component of the Stadium Complex arising out of a Civic Event and not covered by any applicable insurance policy.

**1.2.42 Club Level Seat:** Any spectator's seat within any "club level" of the Stadium (other than a seat within a Luxury Suite) for which a License Fee is charged by the Bills.

**1.2.43 Commencement Date:** July 31, 2013.

**1.2.44 County:** Shall have the meaning ascribed to such term in the recitals hereof.

**1.2.45 County's Address:**

County Executive  
Rath County Office Building  
95 Franklin Street  
Buffalo, New York 14202  
Telephone: (716) 858-8500  
Telecopier: (716) 858-6679

With a copy at the same time and in the same manner to:

Department of Public Works  
Rath County Office Building  
95 Franklin Street  
Buffalo, New York 14202  
Attention: Commissioner of Public Works  
Telephone: (716) 858-8300  
Telecopier: (716) 858-8303

With a copy at the same time and in the same manner to:

Erie County Attorney's Office  
Rath County Office Building  
95 Franklin Street

Buffalo, New York 14202  
Attention: County Attorney  
Telephone: (716) 858-2208  
Telecopier: (716) 858-2281

1.2.46 **County CIA Account:** Shall have the meaning ascribed to such term in Section 10.3(c) of this 2013 Stadium Lease.

1.2.47 **County CIA Portion:** Shall have the meaning ascribed to such term in Section 10.3 of this 2013 Stadium Lease.

1.2.48 **County Facilities:** County Facilities include, but are not limited to, those spaces reasonably required by the County for use by the Departments of Public Works, Health, and Emergency Services, the County Sheriff and other County departments to perform their duties at Stadium Events, including spaces used by agencies that assist County departments in the above duties. As of the Effective Date, the County Facilities include, but are not limited to, the approximately three hundred fourteen (314) square foot office located in the "tunnel" level of the Administration Building presently used to house the County's maintenance office, and shall thereafter include such additional spaces as the County and the Bills may designate from time to time in good faith, so as to provide the County departments with spaces at locations and with the amenities and services required to perform their duties, while minimizing to a commercially reasonable extent material interference with the Bills' operations.

1.2.49 **Default Interest Rate:** A rate per annum that is the lesser of (a) four percent above the interest rate charged from time to time by Manufacturers and Traders Trust Company or its successor as its prime commercial or similar reference rate, or (b) the maximum nonusurious rate permitted by Applicable Law.

1.2.50 **ECSC:** Shall have the meaning ascribed to such term in the introductory paragraph of this 2013 Stadium Lease.

1.2.51 **ECSC's Address:**

c/o Empire State Development  
633 Third Avenue  
New York, New York 10017-6754  
Attention: General Counsel  
Telephone: (212) 803-3750  
Telecopier: (212) 803-3775

1.2.52 **ECSC CIA Account:** Shall have the meaning ascribed to such term in Section 10.3(b) of this 2013 Stadium Lease.

1.2.53 **ECSC CIA Portion:** Shall have the meaning ascribed to such term in Section 10.3 of this 2013 Stadium Lease.

1.2.54 **ECSC Project Costs:** Shall have the meaning ascribed to such term in the 2013 Construction Coordinating Agreement.

1.2.55 **Effective Date:** [[\_\_\_\_\_]], 2013.

1.2.56 **Emergency:** Any sudden or unforeseen situation that presents imminent risk of injury to persons or substantial damage to property.

1.2.57 **Environment:** Water or water vapor, land surface or subsurface, air, fish, wildlife, biota and all other natural resources.

1.2.58 **Environmental Claim:** Any notice of violation, notice of potential or actual responsibility or liability, or written claim, suit, action, demand, directive or order (including those for contribution and/or indemnity) by any Governmental Authority or other Person for any damage (including, but not limited to, personal injury, tangible or intangible property damage, natural resource damage, indirect or consequential damages, investigative costs, removal, response or remediation costs, nuisance, pollution, contamination or other adverse effects on the environment or for fines, penalties or restrictions or conditions on existing environmental permits or licenses) resulting from or relating to (i) the presence of, a Release or threatened Release into the environment of, or exposure to, any Hazardous Substance, (ii) the generation, manufacture, processing, distribution, use, handling, transportation, storage, treatment or disposal of any Hazardous Substances, (iii) the violation, or alleged violation, of any Environmental Laws or (iv) the non-compliance or alleged non-compliance with any Environmental Laws.

1.2.59 **Environmental Law:** Any applicable, or relevant and appropriate, statutes, ordinances, by-laws, directives or other written, published laws, any written, published rules or regulations, orders, and any licenses, permits, orders, judgments, notices or other requirements issued pursuant thereto, enacted, promulgated or issued by any Governmental Authority, now or hereafter in effect, relating to pollution or protection of public health or the environment from Hazardous Substances (including, but not limited to, any air, surface water, groundwater, land surface or sub-surface strata, whether outside, inside or under any structure), or to the identification, reporting, generation, manufacture, processing, distribution, use, handling, treatment, storage, disposal, transporting, presence, Release or threatened Release, of any Hazardous Substances. Without limiting the generality of the foregoing, Environmental Laws shall include the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended; the Toxic Substances Control Act, as amended; the Hazardous Materials Transportation Act, as amended; the Resource Conservation and Recovery Act, as amended; the Clean Water Act, as amended; the Safe Drinking Water Act, as amended; the Clean Air Act, as amended; and all analogous laws enacted, promulgated or lawfully issued by any Governmental Authority.

1.2.60 **ESD:** Shall have the meaning ascribed to such term in the recitals hereof.

1.2.61 **Field House:** The approximately 98,000 square-foot field house situated on the Land presently known as the "Healthy Zone Fieldhouse" and presently housing the Team's indoor practice facility.

**1.2.62 Force Majeure:** Any of the following events: strikes, lockouts, labor disputes, embargoes, fire, earthquake, flood, natural disaster, adverse weather conditions that cannot reasonably be anticipated, acts of God, war, national emergency, civil disturbance or disobedience, riot, sabotage, terrorism, threats of sabotage or terrorism, restraint by court order or order of any Governmental Authority and similar occurrence beyond the reasonable control of any Party which, in any event, are not foreseeable or a result of the acts or omissions of, or in the control of, any Party. "Force Majeure" shall not include any Party's financial inability to perform.

**1.2.63 Franchise:** The franchise granted by the NFL to the Bills pursuant to which the Bills own and operate the Team.

**1.2.64 Franchise Maintenance Covenants:** The covenants of the Bills set forth in Sections 6.1-6.3 herein.

**1.2.65 GAAP:** With respect to all accounting matters and issues, generally accepted accounting principles in effect from time to time.

**1.2.66 Game:** Any Home Game or Home Playoff Game.

**1.2.67 Game Day Expenses:** Any expense paid or incurred by the Bills on the day of any Game for security, ushers, ticket takers, cleaning, garbage removal and emergency medical services at the Stadium Complex; provided, however, that in no event shall Game Day Expenses include (a) Supplemental Security Services or (b) expenses paid or incurred with respect to any Game which is not played at the Stadium, including, without limitation, any Game played at Rogers Centre in Toronto, Ontario or other location in Southern Ontario or Western New York, any Game played at an international venue and any game which is not a Home Game.

**1.2.68 Game Day Expense Reimbursement:** The amounts payable to the Bills pursuant to Section 9.4 and Section 9.5 of this 2013 Stadium Lease for Game Day Expenses.

**1.2.69 Game Day Expense Reimbursement Cap:** As used in this 2013 Stadium Lease, \$1,818,000, or such higher or lower amount as may be calculated in accordance with Section 9.5 hereof, with respect to Game Day Expenses.

**1.2.70 Governmental Authority:** Any federal, state or local government, or any political subdivision of any of the foregoing, or any court, agency or other entity, body, organization or group, exercising any executive, legislative, judicial, quasi-judicial, regulatory or administrative function of government, in each case, whether now or hereafter in existence.

**1.2.71 Hazardous Substances:** Any pollutants, contaminants, substances, hazardous and/or toxic chemicals, carcinogens, wastes, and any ignitable, corrosive, reactive, toxic or other hazardous substances or materials, whether solids, liquids or gases (including, but not limited to, petroleum and its derivatives, PCBs, asbestos, radioactive



materials, waste waters, sludge, slag and any other substance, material or waste), as defined in or regulated by any Environmental Laws or as determined by any Governmental Authority.

**1.2.72 Home Game:** Any Pre-Season Game or Regular Season Game between the Team and any other NFL Team, which is designated by the NFL in its official schedule as a "home game" for the Team.

**1.2.73 Home Playoff Game:** Each Post-Season Game between the Team and any other NFL Team, which is designated by the NFL in its official post-season schedule as a "home game" for the Team.

**1.2.74 I ♥ New York Hospitality Center:** That portion of the Stadium, as depicted and more particularly described on Exhibit B attached hereto, which shall be used by the State exclusively during the Term, and in accordance with Section 2.2(b), herein, for the purposes of (i) encouraging and fostering economic development, tourism and public awareness for the City of Buffalo, Erie County, and the State of New York, and (ii) other charitable or public functions, as may be determined by the State in its sole discretion. Any change to the size, location or other physical characteristics of the I ♥ New York Hospitality Center shall require the prior written consent of the ECSC, which consent shall not be unreasonably withheld.

**1.2.75 Initial Base Annual Rent:** Shall have the meaning ascribed to such term in Section 3.1 of this 2013 Stadium Lease.

**1.2.76 Initial Capital Improvement Allowance:** Four Million Six Hundred Thousand and No/100 Dollars (\$4,600,000.00).

**1.2.77 Initial Casualty Insurance Premium Cap:** One Hundred Fourteen Thousand Dollars (\$14,000).

**1.2.78 Initial Game Day Expense Reimbursement:** One Million Eight Hundred Eighteen Thousand and No/100 Dollars (\$1,818,000.00).

**1.2.79 Initial Operating Expense Reimbursement:** Two Million Nine Hundred Thirteen Thousand and No/100 Dollars (\$2,913,000.00).

**1.2.80 Initial Working Capital Assistance:** Three Million and No/100 Dollars (\$3,000,000.00).

**1.2.81 Land:** Shall have the meaning ascribed to such term in the recitals hereto.

**1.2.82 Lease Year:** The twelve (12) month period beginning on the Commencement Date and ending on the last day of the twelfth (12th) successive calendar month, and each succeeding twelve (12) month period thereafter during the Term.

**1.2.83 Lessee Default:** Shall have the meaning ascribed to such term in the 2013 Master Lease.

**1.2.84 License Fee:** (i) Any premium or license fee charged by the Bills for the use of a Club Level Seat, Luxury Suite or general seat in excess of the stated admission ticket price; and (ii) the value of the stated premium or license fee in excess of the stated admission ticket price attributable to any Club Level Seat, Luxury Suite or general seat.

**1.2.85 Licensee:** Any Person who contracts with the Bills for the use of a Club Level Seat, Luxury Suite or general seat. The duration of any such contract granted a Licensee shall expire no later than the end of the Term (whether due to the attainment of the 2013 Stadium Lease Expiration Date or any termination or cancellation of this 2013 Stadium Lease in accordance with its terms).

**1.2.86 Lien:** Any mortgage, deed of trust, pledge, hypothecation, assignment, security interest, lien, charge, encroachment, right of refusal, claim or encumbrance, or preference, priority or other security agreement or preferential arrangement of any kind or nature, including, without limitation, any conditional sale or other title retention agreement and the filing of, or agreement to file, any financing statement under the Uniform Commercial Code as adopted in any jurisdiction.

**1.2.87 Losses:** All losses, liabilities, deficiencies, damages (including without limitation consequential damages), fines, late charges, penalties, claims, costs and expenses (including, without limitation all fines, penalties and other amounts paid pursuant to a judgment, compromise or settlement), court costs and reasonable legal and accounting fees and disbursements, whether incurred in a third party action or in an action to enforce this 2013 Stadium Lease or the provisions of Article 17 or Article 21 or any other indemnification provision set forth in this 2013 Stadium Lease.

**1.2.88 Luxury Suites:** The enclosed suites at the Stadium.

**1.2.89 Major Casualty:** Any damage to the Stadium Complex caused by fire, storm, earthquake, tornado, flood, natural disaster or other sudden, unexpected or unusual occurrence that (a) renders twenty percent (20%) or more of the Seating Capacity of the Stadium unusable for a period in excess of thirty (30) days; or (b) renders more than ten percent (10%) but less than twenty percent (20%) of the Seating Capacity of the Stadium unusable for a period in excess of thirty (30) days and for which the County does not have a good faith repair and/or restoration plan in place by the start of the NFL Season immediately succeeding the event or occurrence giving rise to such Seating Capacity loss, or which the County does not thereafter diligently pursue.

**1.2.90 Material Sublessee Default:** (i) Any Sublessee Default arising out of the breach of any Franchise Maintenance Covenant; (ii) any single Sublessee Default arising out of the failure by the Bills to pay to the ECSC or the County pursuant to an obligation the Bills have under this 2013 Stadium Lease any sum in excess of one hundred fifty thousand dollars (\$150,000); (iii) any series of Sublessee Defaults that arise out of the failure by the Bills to pay to the ECSC or the County pursuant to an obligation the Bills have under this 2013 Stadium Lease any sum in excess of one hundred fifty thousand dollars (\$150,000); (iv) any default by the Bills of any of its obligations under the 2013 Construction Coordinating Agreement as determined by arbitration conducted in accordance with the terms of the 2013

Construction Coordinating Agreement; or (v) any other Sublessee Default that remains outstanding for a period in excess of one hundred and fifty (150) days (unless said Sublessee Default cannot be cured within said one-hundred and fifty (150) day period, in which case said period shall be extended as long as the Bills diligently pursue a cure).

**1.2.91 Material Sublessor Default:** (i) Any Sublessor Default arising out of the failure by the County to restore the Stadium Complex in accordance with Article 12 or 13 of this 2013 Stadium Lease; (ii) any single Sublessor Default arising out of the failure by the County and/or the ECSC, as the case may be, to pay any sum due hereunder in excess of one million dollars (\$1,000,000); (iii) any series of Sublessor Defaults arising out of the failure by the County and/or the ECSC, as the case may be, to pay in the aggregate any sum in excess of one million dollars (\$1,000,000); (iv) any Sublessor Default that results in loss or damage to the Bills in excess of three (3) million dollars (\$3,000,000); or (v) any default by the County or ECSC of any of their respective obligations under the 2013 Construction Coordinating Agreement as determined by arbitration conducted in accordance with the terms of the 2013 Construction Coordinating Agreement.

**1.2.92 Minor Casualty:** Any damage to the Stadium Complex caused by fire, storm, earthquake, tornado, flood, natural disaster or other sudden, unexpected or unusual occurrence that is not a Major Casualty.

**1.2.93 Net Ticket Revenue:** For any Lease Year, the gross consideration received by the Bills (including the value of any complimentary tickets, promotional consideration and in-kind services to the extent such items are included under the NFL Rules and Regulations in calculating the visiting team's share of ticket revenue) for admission tickets to Home Games, exclusive of any applicable taxes, License Fees and NFL Approved Surcharges.

**1.2.94 New Stadium Fund:** A fund established and maintained by the ECSC to explore (i) the construction of a new stadium on the Land or in another location in Erie County, New York, or (ii) a substantial renovation of the Stadium and such other purposes as described in this 2013 Stadium Lease. The ECSC shall be the trustee of the New Stadium Fund, and shall receive no compensation for its services as trustee. The New Stadium Fund shall be established by the ECSC at a financial institution mutually agreed upon by the County, the ECSC and the Bills within one (1) year following the execution of this 2013 Stadium Lease. The ECSC shall be authorized to invest the proceeds of the New Stadium Fund, as it deems appropriate, in accordance with the investment guidelines of the ESD. Any interest or dividend income earned on such proceeds shall be deposited in the New Stadium Fund. The proceeds of the New Stadium Fund shall be disbursed as set forth in Section 10.7 herein.

**1.2.95 New Stadium Working Group:** An advisory group consisting of representatives from the ECSC, the County and the Bills. Should the NFL elect to appoint any representatives to the New Stadium Working Group, such NFL appointees shall be deemed representatives of the Bills. The ECSC, the County and the Bills shall each have the right to appoint up to seven (7) representatives (inclusive of NFL appointees) to participate in such group and each may remove and replace any of its representatives in its discretion from time to time.

**1.2.96 NFL:** The National Football League, an unincorporated, nonprofit association, having an office and principal place of business at 345 Park Avenue, New York, New York 10017, and any successor or substitute association or entity of which the Team is a member or joint owner and which engages in professional football competition in a manner comparable to the National Football League.

**1.2.97 NFL Approved Surcharges:** Any special ticket handling or ticket service charges that are allowed as a deduction under the NFL Rules and Regulations as of the Effective Date in calculating the visiting team's share of ticket revenue, and any special ticket handling or ticket service charges imposed after the Effective Date that are allowed as a deduction under the NFL Rules and Regulations in calculating the visiting team's share of ticket revenue and which are not preferential to any one NFL Team.

**1.2.98 NFL Average Net Ticket Revenue:** For any NFL Season, the average per team gross consideration received by all NFL teams (including the value of any complimentary tickets, promotional consideration and in-kind services to the extent such items are included under the NFL Rules and Regulations in calculating the visiting team's share of ticket revenue) for admission tickets to "home" Pre-Season Games and "home" Regular Season Games, exclusive of any applicable taxes, Club Level Seat and Luxury Suite premiums and License Fees and NFL Approved Surcharges.

**1.2.99 NFL Rules and Regulations:** The constitution, bylaws, rules, regulations and policies of the NFL in effect from time to time.

**1.2.100 NFL Season:** The period of time beginning on the day on which the first Pre-Season Game is played through the date on which the last Post-Season Game is played in a given Lease Year, encompassing, therefore, all Pre-Season Games, Regular Season Games and Post-Season Games in a given Lease Year.

**1.2.101 NFL Team:** A professional football team operated pursuant to a franchise granted by the NFL.

**1.2.102 Non-Relocation Agreement:** That certain Non-Relocation Agreement by and among the Bills, ECSC, the State and the County, dated as of the Effective Date, together with all renewals, replacements, modifications and amendments thereof.

**1.2.103 NTR Annual Rent:** Shall have the meaning ascribed to such term in Section 3.1 of this 2013 Stadium Lease.

**1.2.104 Operating Expenses:** (i) All wages, salary and employer-paid taxes, insurance and employee benefits for Stadium Complex management and maintenance personnel; (ii) all out-of-pocket costs that are not included in clause (i) above for Stadium Complex maintenance and management (including, but not limited to, all expenses incurred for Scoreboard maintenance and repair, general maintenance and repair, cleaning and toiletry supplies and grounds and park maintenance); (iii) the cost of all liability insurance allocable to coverage of the Stadium Complex; (iv) all charges for water, natural gas and electricity consumed at the Stadium Complex; but shall not under any circumstances, be construed to include any Civic Event Expenses, any Game Day Expenses, any Capital Improvement Expenses

and any wages, salary or employer-paid taxes, insurance and employee benefits for employees who are not directly and principally responsible for the operation, repair, maintenance or control of the Stadium Complex (in particular, but not necessarily limited to, players, coaches, trainers and other football operations personnel); and (v) any new or additional tax, charge or fee eligible for reimbursement pursuant to Section 20.5 of this 2013 Stadium Lease; provided, however, that in no event shall Operating Expenses include Supplemental Security Services or the cost of the Cost Segregation Study provided for in the 2013 Construction Coordinating Agreement.

**1.2.105 Operating Expense Reimbursement:** The amounts payable to the Bills pursuant to Section 9.4 and Section 9.5 of this 2013 Stadium Lease for Operating Expenses.

**1.2.106 Operating Expense Reimbursement Cap:** As used in this 2013 Stadium Lease, \$2,913,000, or such higher or lower amount as may be calculated in accordance with Section 9.5 hereof, with respect to Operating Expenses.

**1.2.107 Operating/Game Day Expense Reimbursement Date:** August 1, November 1, February 1 and May 1 of any Lease Year.

**1.2.108 Parking Areas:** All parking lots now or hereafter situated on the Land.

**1.2.109 Party:** Any one of the County, the ECSC or the Bills.

**1.2.110 Permitted Assignee:** Any Person that (i) succeeds to the ownership of all or substantially all of the assets of the Bills, including in any event the Franchise, (ii) assumes in writing, by documentation reasonably acceptable to the County and the ECSC, all of the obligations of the Bills under the Stadium Agreements, and (iii) is approved by the NFL in accordance with the NFL Rules and Regulations as the owner of the Franchise.

**1.2.111 Person:** Any Governmental Authority, individual, association, joint venture, partnership, corporation, limited liability company, trust or other entity.

**1.2.112 Playing Field:** The area within the Stadium designed for the playing of NFL football games, including the delineated field of play, all sideline areas and all other surfaces immediately surrounding the delineated field of play.

**1.2.113 Players' Strike:** Any players' "lockout" sanctioned or otherwise approved by the NFL or a majority of the holders of NFL franchises, or strike or other work stoppage sanctioned or otherwise approved by the NFL Players' Association or other properly certified collective bargaining unit representing NFL player personnel.

**1.2.114 Post-Season Games:** The total schedule of all playoff, championship and "Super Bowl" football games played by NFL Teams.

**1.2.115 Practice Facilities:** The Field House, Training Center, outdoor practice fields and related amenities situated on the Land.

**1.2.116 Pre-Construction Agreements:** Shall have the meaning ascribed to such term in the recitals hereof.

**1.2.117 Pre-Season Games:** The total schedule of all football games played by NFL Teams in a given NFL Season prior to the commencement of the Regular Season Games.

**1.2.118 Price Index:** The Consumer Price Index for all Urban Consumers: All Items (CPI-U), U.S. City Average (1982-1984=100), or if a substantial change is made in the manner of calculating such index or if such index or a successor or substitute index is not available, a reliable governmental or other non-partisan publication evaluating as nearly as possible the same underlying economic indicators as such index.

**1.2.119 Proceeding:** Any claim, demand, action, suit, litigation, dispute, order, writ, injunction, judgment, assessment, decree, grievance, arbitral action, investigation or other proceeding.

**1.2.120 Project:** The refurbishing, renovation and improvement of the Stadium Complex, as described in the 2013 Construction Coordinating Agreement.

**1.2.121 Project Agreement:** Shall have the meaning ascribed to such term in the 2013 Construction Coordinating Agreement.

**1.2.122 Project Costs:** Shall have the meaning ascribed to such term in the 2013 Construction Coordinating Agreement.

**1.2.123 Project Insurance Policy:** Shall have the meaning ascribed to such term in the 2013 Construction Coordinating Agreement.

**1.2.124 Project Team:** The term "Project Team" shall mean those third party companies retained by the Bills in connection with the refurbishing, renovation and improvements of the Stadium Complex in connection with the Project, including, without limitation: (i) the architectural firm Populous and its subcontractors; and (ii) the construction firm LPCiminelli Inc. and its subcontractors; provided, however, that the subcontracts governing the aforementioned subcontractors shall comply in all respects with the terms of the 2013 Construction Coordinating Agreement, including as to the ability of such subcontracts to be assigned to the County and the ECSC.

**1.2.125 Public Entity:** The term "Public Entity" shall mean either the ECSC or the County.

**1.2.126 Public Entities' Portion of Capital Improvement Allowance:** The aggregate portion of the Capital Improvement Allowance to be provided by the County and the ECSC, severally and not jointly, in any given Lease Year.

**1.2.127 Regular Season Games:** The total schedule of all football games played by NFL Teams used by the NFL to determine which NFL Teams participate in Post-Season Games.

**1.2.128 Release:** Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migration, dumping or disposing into the environment that could give rise to an Environmental Claim or that is required to be reported pursuant to 40 C.F.R. 302 or 355, or any analogous Environmental Law.

**1.2.129 Rent:** Annual Rent and Additional Rent.

**1.2.130 Reserved Areas:** (i) The concession and merchandise vending areas of the Stadium Complex; (ii) the Luxury Suites; (iii) the Stadium press box; and (iv) the Team's administrative offices, locker rooms and training rooms.

**1.2.131 Seating Capacity:** (i) As of the Commencement Date, seventy two thousand four hundred ninety five (72,495) seats; and (ii) upon and after Substantial Completion of the Project (as defined in the 2013 Stadium Lease), the number of seats in the Stadium available for use for Home Games as certified by the Bills upon Substantial Completion of the Project, subject to the consent and approval of each of the County and the ECSC, which approval and consent may not be unreasonably withheld.

**1.2.132 Scoreboard:** Any scoreboard, video display, ribbon board, sound system, public address system, message board, and game clock in the Stadium Complex.

**1.2.133 Sheriff's Traffic Detail:** Shall have the meaning ascribed to such term in the Stadium Security Agreement.

**1.2.134 Signage:** All signage (permanent or temporary) in or on the Stadium Complex, including, without limitation, the Scoreboard, or other replay screens, banners, displays, time clocks, message centers, advertisements and signs.

**1.2.135 Stadium:** The football stadium situated on the Land, which includes, without limitation, the Club Level Seats, the Scoreboard, the Luxury Suites and the Playing Field.

**1.2.136 Stadium Affirmative Action Plan:** The affirmative action plan for the Stadium Complex attached hereto as Exhibit G.

**1.2.137 Stadium Agreements:** The 2013 Construction Coordinating Agreement, the 2013 Master Lease and this 2013 Stadium Lease.

**1.2.138 Stadium Complex:** Shall have the meaning ascribed to such term in the recitals hereof.

**1.2.139 Stadium Events:** All Games, Civic Events and Bills' Events.

**1.2.140 Stadium Patron:** Any Person on or at the Stadium Complex during a Stadium Event.

**1.2.141 Stadium Review Committee:** An advisory group consisting of representatives from the ECSC, the County and the Bills, the composition and function of which are more particularly described in Section 9.9 hereof.

**1.2.142 Stadium Security Agreement:** That certain Stadium Security Agreement between the County and the Bills, together with all renewals, replacements, modifications and amendments thereof.

**1.2.143 State:** Shall have the meaning ascribed to such term in the recitals hereof.

**1.2.144 Structural Components:** (a) The foundations, columns, girders, beams, supports, concrete slabs and other such structural members of the Buildings, (b) those portions of the exterior walls of the Buildings lying beyond the interior face of such walls, viewed from the perspective of a person standing within such Building; and (c) central building systems, including, without limitation, plumbing lines and systems, electrical lines and systems, water lines and systems, sewer lines and systems, boilers, elevator, escalator, and heating, ventilation and air conditioning systems, including meters and transformers.

**1.2.145 Structural Repair:** Any repair or replacement of a Structural Component.

**1.2.146 Sublessee Default:** Any of the events listed in Section 24.1 of this 2013 Stadium Lease.

**1.2.147 Sublessor Default:** Any of the events listed in Section 25.1 of this 2013 Stadium Lease.

**1.2.148 Supplemental Security Services:** Services provided pursuant to, and as described in, the Stadium Security Agreement.

**1.2.149 Survey:** The survey of the Stadium Complex a reduced copy of which is attached hereto as Exhibit D.

**1.2.150 Taking:** Any appropriation for public purposes (but, for the avoidance of doubt, excluding any Civic Event, use by the County of the County Facilities, or use by the State and/or its invitees of the I ♥ New York Hospitality Center), taking by right of eminent domain or other condemnation proceeding initiated by any Governmental Authority with respect to all or any portion of the Stadium Complex.

**1.2.151 Team:** The NFL Team owned by the Bills pursuant to the Franchise currently named "Buffalo Bills".

**1.2.152 Term:** The 2013 Stadium Lease Term.

**1.2.153 Termination Date:** July 30, 2020, which shall be the date that this 2013 Stadium Lease will terminate if the Bills properly exercises its option to terminate this



2013 Stadium Lease prior to the end of its ten (10) year term in accordance with Section 7.1 herein.

**1.2.154 Termination Fee:** The amount of Twenty Eight Million Three Hundred Sixty Three Thousand Five Hundred and No/100 Dollars (\$28,363,500.00) due and payable by the Bills to the ECSC and the County prior to the Termination Date as a condition precedent to the effective termination of this 2013 Stadium Lease by the Bills in accordance with Section 7.1 herein. The Termination Fee shall be paid by the Bills to the ECSC, and the ECSC shall subsequently pay to the County the County's pro rata share of the same based upon the aggregate amounts actually contributed by the Public Entities under the Stadium Agreements to Project Costs, Capital Improvement Allowance, Game Day Expense Reimbursements, Operating Expense Reimbursements and Working Capital Assistance but, for the avoidance of doubt, excluding, for purposes of such pro ration, any payments made or due under the 1998 Stadium Lease, the 1998 Master Lease or the 1998 Construction Coordinating Agreement.

**1.2.155 Termination Notice Date:** February 28, 2020, the date by which the Bills must give written notice to the ECSC and the County as a condition precedent to the effective termination of this 2013 Stadium Lease by the Bills in accordance with Section 7.1 herein.

**1.2.156 Training Camp:** Off site, organized Team practice activities generally commencing in early July of each calendar year and running through the last weekend of Pre-Season Games in each NFL Season; provided, however, that in no event shall the term Training Camp include any Games occurring during the aforementioned period.

**1.2.157 Training Center:** The approximately 83,000 square foot training center and Team operations facility at the Stadium Complex attached to the Field House.

**1.2.158 Unaffiliated Vendor:** Any Person not employed by the Bills or by the concessionaire selected by the Bills that is approved by the County in accordance with Section 4.5 of this 2013 Stadium Lease who sells, offers for sale or otherwise attempts to sell any food, beverage or merchandise of any kind or nature whatsoever on the grounds of the Stadium Complex outside of the Stadium.

**1.2.159 Unspent Capital Improvement Allowance:** For any Lease Year, the amount by which the Capital Improvement Allowance for such Lease Year exceeds the amount expended on Capital Improvements during such Lease Year.

**1.2.160 Untenantable Condition** shall mean the existence of any one of the following conditions, including due to any Casualty or Force Majeure, but only to the extent that the same (if not due to any Force Majeure) is not the direct proximate result of the failure of the Team to perform its obligations as required under this 2013 Stadium Lease:

(a) The condition of the Stadium is such that the NFL Rules and Regulations prohibit the playing of Games at the Stadium or will not reasonably permit the Team to continue to use, occupy and operate the Stadium in the manner customarily used, and occupied by NFL Teams or their Affiliates having rights comparable to those set forth in this 2013 Stadium Lease; or

(b) The use or occupancy of any material portion of the Stadium is not permitted or is materially restricted beyond customary levels by Applicable Law or otherwise is unsuitable for customary usage, including any denial of access; or

(c) The playing field within the Stadium is unavailable, unsuitable or unsafe for its intended purpose; or

(d) More than twenty percent (20%) of the Seating Capacity of the Stadium is not available for use or is otherwise unsuitable or unsafe for use for Games.

**1.2.161 Vending Plan:** The plan, a copy of which is attached to this 2013 Stadium Lease as Exhibit E, outlining (i) the process for the selection, operation, regulation and governance of vending by Unaffiliated Vendors on those portions of the Stadium Complex outside of the Stadium and (ii) the opportunities for non-profit and charitable organizations to operate concession stands within the Stadium.

**1.2.162 Video Replay System:** The equipment and software used to display replays, entertainment and advertising at the Stadium, together with any and all modifications and repairs thereto and replacements thereof.

**1.2.163 Working Capital Assistance:** The amount to be paid to the Bills pursuant to Section 11.1 of this 2013 Stadium Lease for Working Capital Purposes, as such amount may be adjusted in accordance with Section 11.2 of this 2013 Stadium Lease.

**1.2.164 Working Capital Purposes:** Expenditures incurred in connection with the Bills' football operations.

If any other provision of this 2013 Stadium Lease contradicts any definition of this Article, such other provision will prevail.

**1.3 Exhibits and Schedules.** The following exhibits and schedules are attached to and made a part of this 2013 Stadium Lease:

**EXHIBIT A** — Description of the Land

**EXHIBIT B** — I ♥ New York Hospitality Center

**EXHIBIT C** — Concessionaire Insurance Requirements

**EXHIBIT D** — Survey

**EXHIBIT E** — Vending Plan

**EXHIBIT F** — County Local Law No. 2-1994

**EXHIBIT G** — Stadium Affirmative Action Plan

**EXHIBIT H** — I ♥ New York Hospitality Center Terms and Conditions of Use

**EXHIBIT I** — Calculation of Number of Games Expected in any Lease Year

**SCHEDULE 9.4(a)** — Schedule of Game Day Expense and Operating Expense Quarterly Reimbursement Payment Percentages

**SCHEDULE 9.4(b)** — Schedule of County and ECSC Obligations for Public Entities' Portion of Capital Improvement Allowance

**ARTICLE 2  
DEMISE**

2.1 **Grant.** The ECSC hereby subleases the Stadium Complex to the Bills, and the Bills hereby sublease the Stadium Complex from the ECSC, for the Term, on the terms and conditions set forth in this 2013 Stadium Lease.

2.2 **Reservation of County Facilities and I ♥ New York Hospitality Center.**

(a) As provided in Section 2.2 of the 2013 Master Lease, at all times during the Term, the County Facilities shall be available for the non-exclusive use and occupancy of the County. The Bills and the ECSC covenant and agree that at all times during the Term, the County shall have the right to access and use, on a non-exclusive basis, consistent with existing practice, all first aid and security areas within the Stadium Complex.

(b) At all times during the Term, the I ♥ New York Hospitality Center shall be reserved for the exclusive use of the State and its invitees. The Bills covenant and agree that at all times during the Term, the State and its invitees shall have the right to access the I ♥ New York Hospitality Center (i) one and one-half (1.5) hours prior to the commencement and one (1) hour after the end of each Game and Bills' Event, (ii) at any time on the day of a Civic Event, and (iii) upon three (3) Business Days' advance written notice to the Bills, for a duration to be stated in such written notice; provided, however, that for those periods each Lease Year that do not coincide with an NFL Season, during which time the I ♥ New York Hospitality Center and similar areas of the Stadium are winterized such that such areas do not receive regular water and/or utility service, the Bills may elect to satisfy its obligations under Section 2.2(b)(iii) by making indoor space in any Club Level Seat area available, so long as the indoor Club Level Seat area space selected by the Bills is at least comparable in size and capacity to the I ♥ New York Hospitality Center and otherwise provides at least comparable amenities to the I ♥ New York Hospitality Center. The State covenants to use the I ♥ New York Hospitality Center at all times in accordance with the terms and conditions annexed hereto as Exhibit H (the "I ♥ New York Hospitality Center Terms and Conditions of Use"). All maintenance and repair obligations, and all costs associated therewith, with respect to the I ♥ New York Hospitality Center shall be the sole responsibility of the Bills. The food and beverage costs attributable to the State's use of the I ♥ New York Hospitality Center shall be borne by the State or one of its affiliate entities and shall be provided by the Bills' food and beverage concessionaires at non-discriminatory rates.

2.3 **Civic Events.** The Bills shall make the Stadium Complex (or such portion thereof as the County or ECSC shall direct in its request therefor) available for up to four (4) Civic Events per Lease Year on the following terms and conditions:

**(a)** Three (3) of such Civic Events shall be available for use by the County or any Person designated by the County, and one (1) of such Civic Events shall be available for use by the ECSC or any Person designated by the ECSC.

**(b)** At least forty-five (45) days prior to the date of the proposed Civic Event, the County or the ECSC, as the case may be, shall notify the Bills in writing of the requested date for such event and shall identify in all material respects to the extent then known the nature of the event, the sponsor, the areas of the Stadium Complex to be utilized, the terms (including ticket prices, if any) of admission, the expected attendance, any special security or other arrangements and any other relevant information reasonably necessary for the Bills to perform its duties as the operator of the Stadium Complex. The notifying party shall update the content of such notice from time to time promptly upon becoming aware of any changes in the information given above and any additional relevant information of the type described above. Upon its receipt of a notice requesting the scheduling of a Civic Event, the Bills shall reserve such date for such Civic Event (unless such date has been previously reserved for another Stadium Event) and shall not schedule any other subsequently proposed Stadium Event on such date without written approval from the County or the ECSC, as the case may be. Notwithstanding the foregoing, in the event of a tragedy, community celebration or other sudden or unforeseen occurrence that does not provide for advance notice as contemplated above, the County and/or the ECSC may request use of the Stadium Complex for a related Civic Event scheduled fewer than forty-five (45) days after such request is made, which such request must be in writing and contain the information required of a timely notice as set forth in this Section 2.3(b). Such use of the Stadium Complex by the County or the ECSC on fewer than forty-five (45) days notice shall be subject to the consent of the Bills, which consent may not be unreasonably withheld, delayed or conditioned.

**(c)** In no event shall any Civic Event be scheduled on any date that has been previously reserved for a Game. Additionally, in no event shall any Civic Event be scheduled on any date that has been previously reserved for a Bills' Event or another Civic Event where such Civic Event would have a material negative effect on the previously reserved Bills' Event or Civic Event. The County, the ECSC and the Bills shall exercise good faith and cooperate with one another in the event of potential conflicts that may arise between proposed events.

**(d)** In no event shall any Civic Event be a professional football game or other professional sporting contest, nor shall any Civic Event include an event or activity that reasonably may be expected to cause damage to the Playing Field or the Practice Facilities that will not be repaired in a timely fashion.

**(e)** Following any Civic Event sponsored by the County or the ECSC, the Bills shall promptly invoice the sponsoring Public Entity for all Civic Event Expenses, and shall include with such invoice copies of appropriate back-up documentation evidencing such Civic Event Expenses. Within forty-five (45) Business Days of the receipt by the sponsoring Public Entity of any such invoice, the recipient shall, at its sole cost and expense, reimburse the Bills for all invoiced Civic Event Expenses.

**(f)** The County or the ECSC, as applicable, shall each retain the admission ticket revenue (if any) from any Civic Event sponsored by it.

(g) All Licensees who seek to use their Luxury Suite, Club Level Seat or general seat in conjunction with a Civic Event shall be required to purchase admission tickets for such Civic Event if tickets to such Civic Event are sold. If tickets to such Civic Event are sold, the County or ECSC, as the case may be, shall utilize the services of the Bills' Authorized Ticket Vendor and shall be responsible for all non-discriminatory charges incurred in connection therewith.

(h) The County or the ECSC, as the case may be, shall promptly repair or cause to be repaired any damage to any component of the Stadium Complex arising out of any Civic Event that it sponsors.

(i) Neither the County, nor the ECSC nor any Person designated by the County or the ECSC shall have the right to use any of the Reserved Areas during Civic Events.

(j) At the request of the County or the ECSC, as the case may be, the Bills shall operate the Stadium Complex concessions and the Parking Areas during or in connection with a Civic Event at a level deemed appropriate by the Bills, in its reasonable discretion, in light of the nature of the Civic Event and the number of Stadium Patrons expected to attend the Civic Event. The prices charged by the Bills for concessions and parking during or in connection with Civic Events shall be the same as, or lower than, the prices charged by the Bills during Home Games. All revenue derived from such operations shall belong to the Bills.

2.4 Suitability of the Stadium Complex. The Bills acknowledge that neither the County nor the ECSC, nor their respective agents or employees, have made any representations or warranties as to the suitability or fitness of the Stadium Complex for the operations of the Team or for any other purpose, nor has the County nor the ECSC, nor their respective agents or employees, agreed to undertake any alterations or construct any improvements to the Stadium Complex except as expressly provided in the 2013 Master Lease, this 2013 Stadium Lease and in the 2013 Construction Coordinating Agreement.

2.5 Use of Team Logos, Trademarks and Images. Each Lease Year throughout the Term, the Bills shall authorize the ECSC to make use of Team logos and trademarks valued at Eight Hundred Thousand Dollars (\$800,000) per Lease Year in connection with materials and goods sold, distributed and otherwise used in connection with the promotion of the Buffalo, New York, area by the ECSC. Such use shall be subject to the prior written approval of the Bills, in each instance, which approval may not be unreasonably withheld, conditioned or delayed, and shall otherwise be subject to NFL Rules and Regulations.

### ARTICLE 3 ANNUAL RENT

#### 3.1 Annual Rent.

(a) During the Term, the Bills shall pay in each Lease Year, as annual rent (the "Annual Rent") to the ECSC the greater of (i) \$800,000.00 (the "Initial Base Annual Rent"), as adjusted pursuant to Section 3.1(b) hereof (referred to herein as "Base Annual Rent"), and (ii) fifty-percent (50%) of the amount by which Net Ticket Revenue exceeds NFL Average Net Ticket Revenue for the NFL Season concluded on or about February 1st of the

immediately preceding Lease Year, as such amount may be adjusted from time to time in accordance with Section 3.2 hereof (referred to herein as "NTR Annual Rent"). The Bills shall pay to the ECSC the Annual Rent for the first Lease Year (which shall be the Base Annual Rent, regardless of whether the NTR Annual Rent amount is greater than the Base Annual Rent amount for such Lease Year) no later than five (5) Business Days following the Commencement Date. The Bills shall pay to the ECSC the Annual Rent for each Lease Year thereafter no later than five (5) Business Days following each Anniversary Date (commencing with the first Anniversary Date). All Annual Rent paid by the Bills to the ECSC shall be contributed by the ECSC to the Capital Improvement Allowance, as more particularly set forth in Section 10.3 of this 2013 Stadium Lease. Annual Rent shall be paid to the ECSC without notice or demand and without abatement, deduction or set-off in lawful money of the United States of America at the ECSC's Address and, if the Annual Rent to be paid is NTR Annual Rent, shall be accompanied by a certification, in form and content satisfactory to the ECSC, from an independent, nationally recognized, certified public accounting firm reasonably acceptable to the ECSC, setting forth the calculations used by the Bills in determining such NTR Annual Rent amount.

(b) The Base Annual Rent for the first Lease Year shall be the Initial Base Annual Rent. On each Anniversary Date, the Base Annual Rent for the upcoming Lease Year shall be adjusted as follows: If, on such Anniversary Date, the Price Index for the most recently available month is greater or less than the Price Index as of the Commencement Date, then the Initial Base Annual Rent shall be multiplied by the percentage difference between the Price Index for such most recently available month and the Price Index as of the Commencement Date, and the product will be added to or subtracted from, as the case may be, the amount of the Initial Base Annual Rent, which result shall be the Base Annual Rent for the ensuing Lease Year. Within three (3) Business Days of each adjustment to the Base Annual Rent pursuant to this Section 3.1(b), the ECSC shall cause a written statement to be delivered to the Bills setting forth such adjustment.

### 3.2 NFL Net Ticket Revenue Calculation.

(a) On or before March 31<sup>st</sup> of each Lease Year, the NFL shall certify to the ECSC and the County whether the Net Ticket Revenue for the preceding NFL Season exceeds the NFL Average Net Ticket Revenue for such NFL Season. In the event that the Net Ticket Revenue for the preceding NFL Season exceeds the NFL Average Net Ticket Revenue for such NFL Season, then the NFL shall further certify to the ECSC and the County the amount by which such Net Ticket Revenue exceeds such NFL Average Net Ticket Revenue. Additionally, should either the ECSC or the County determine it necessary, in such Party's reasonable discretion, to confirm the accuracy of the certifications provided by the NFL pursuant to this Section 3.2(a), upon the request of either Public Entity, the Bills shall cause to be provided to each of the ECSC and the County a certification from the independent certified public accountant of the Bills for such Lease Year stating whether (i) the Net Ticket Revenue for the preceding NFL Season exceeds the NFL Average Net Ticket Revenue reported for such NFL Season, and (ii) the amount by which the Net Ticket Revenue for such NFL Season exceeds such NFL Net Ticket Revenue (if at all).

(b) Promptly following the ECSC's receipt of the necessary information regarding NFL Average Net Ticket Revenue and Net Ticket Revenue for such NFL Season in

accordance with Section 3.2(a), Annual Rent for the affected Lease Year shall be recomputed and appropriate adjustments between the Bills and the ECSC shall be made, if applicable.

**3.3 Late Payment.** In the event that any payment of Annual Rent or Additional Rent due hereunder is not paid by the fifth (5th) day after which it is due, a late charge of five percent (5%) of the overdue amount may be charged by the ECSC for each month or part thereof that the same remains overdue. Any such "late charges" shall be deemed Additional Rent hereunder.

**ARTICLE 4  
ADDITIONAL RIGHTS OF THE BILLS WITH RESPECT  
TO THE STADIUM COMPLEX**

**4.1 General Right to Receive Revenue Generated at the Stadium Complex.** Subject to the terms and conditions of this 2013 Stadium Lease, and, in particular Article 2 and Article 5, during the Term the Bills shall have the exclusive right to contract for, collect, receive and retain all income and revenues of whatever kind or nature realized by, from or in connection with the Stadium Complex, including, without limitation, all revenues, royalties, License Fees, concession fees and income and receipts arising from (a) the sale or distribution of admission tickets to Games and Bills' Events (including admission tickets to Club Level Seats, Luxury Suites and general admission seats); (b) the naming of, or the sale, lease or license of the right to name the Stadium Complex or any portion thereof; (c) the sale, lease or license of the Advertising Rights, including Signage; (d) the sale, lease or license of the Broadcast Rights, (e) the sale of food and beverages at the Stadium Complex; (f) the operation of the Parking Areas; (g) the sale of merchandise, programs and other goods and wares of any nature whatsoever at the Stadium Complex; and (h) the use of Luxury Suites and Club Level Seats. Nothing contained herein or elsewhere in the Stadium Agreements shall be construed as a limitation or curtailment of the general regulatory or police powers of the County, the State or any other Governmental Authority. It is further acknowledged and agreed that the rights of the Bills pursuant to this Article 4, and each of the contracts entered into by the Bills pursuant to this Article 4 by such contracts' terms: (a) shall expire at the end of the Term (regardless of whether the Term ends by reason of the attainment of the 2013 Stadium Lease Expiration Date or the earlier termination or cancellation of this 2013 Stadium Lease in accordance with its terms); and (b) shall be subject to Applicable Law (including any obligation imposed on the Bills under Applicable Law to collect and remit all required sales and use taxes).

**4.2 Naming of Stadium Complex.**

(a) The Bills shall have the exclusive right to name, or contract from time to time with any Person or Persons on such terms as the Bills may determine with respect to the naming of the Stadium Complex or any portion thereof; provided that (i) the term during which any such name shall apply shall expire no later than the end of the Term (whether due to the attainment of the 2013 Stadium Lease Expiration Date or any earlier termination or cancellation of this 2013 Stadium Lease in accordance with its terms) and (ii) given the substantial interest of the County and the ECSC in the Stadium Complex and the public character thereof, the Bills shall not permit any name to be given to the Stadium Complex or any portion thereof except in accordance with this Section 4.2.

(b) In the event the Bills name the Stadium Complex or any portion thereof themselves, any name chosen by the Bills (i) shall be consistent with the NFL's policy with respect to the promotion and image of professional football (taking into account the fact that the game has substantial appeal to youth) and (ii) shall not unreasonably cause embarrassment to the County or the ECSC (such as names containing slang, barbarisms or profanity; names that could be construed to encourage the use of beer or other alcoholic beverages by minors or the use of tobacco by persons of any age; or names that relate to illicit drugs or any sexually oriented business or enterprise). The County and the ECSC hereby confirm that (i) with respect to the Stadium, they have consented to the use of the name "Ralph Wilson Stadium" and (ii) with respect to the Field House, they have consented to the name "Healthy Zone Field House" or such other names for the Field House as the Bills may designate.

(c) In the event the Bills contract with any Person or Persons with respect to the naming of the Stadium Complex as a whole, or any portion thereof, such name shall be subject to the prior approval of the County and the ECSC, which approval shall not be unreasonably withheld, and excepting the names to which the County and the ECSC have previously consented as set forth in Section 4.2(b). Each of the County and the ECSC shall be deemed to have given its approval to any name requested by the Bills unless, within fifteen (15) Business Days following such Party's receipt of the Bills' written request for such approval, such Party notifies the Bills of its disapproval in writing, and articulates its rationale for such disapproval, in writing.

(d) The Bills agree to indemnify, defend and hold harmless the County and the ECSC from any Losses arising out of the exercise by the Bills of its rights pursuant to this Section 4.2; provided, however, that the foregoing indemnification shall not be construed so as to include any revenue or income that the County or the ECSC might have realized upon the sale or other conveyance of the naming rights to the Stadium Complex or any portion thereof.

(e) Following the selection, and, if necessary, approval by the County and the ECSC of a name, if any, other than "Ralph Wilson Stadium" for the Stadium Complex, the County shall use commercially reasonable efforts: (i) to cause all existing County road signs that reference the Stadium Complex to identify the Stadium Complex by such name within thirty (30) days of the later of its receipt of written notification of the selection of such name and issuance of any approvals required by this Section 4.2 and any approvals required pursuant to NFL Rules and Regulations, and (ii) to cause, in the ordinary course of business, all County brochures and literature thereafter printed that reference the Stadium Complex to identify the Stadium Complex by such name (*i.e.*, all then existing stock of brochures and literature may be used by the County in their entirety before the County shall be required to reference the new Stadium Complex name in new brochures and literature). Notwithstanding the foregoing, (i) the County shall not have any obligation pursuant to the preceding sentence other than with respect to the initial name other than "Ralph Wilson Stadium," if any, given to the Stadium Complex after the Effective Date pursuant to this Section 4.2, and (ii) the preceding sentence shall not be construed so as to impose any obligation on the County or the ECSC with respect to any signage, brochures, literature or other media promulgated by any other Governmental Authority. The Stadium Review Committee shall work in good faith to cause the modification of any State-controlled signage as may be appropriate under this Section 4.2(e).



**4.3 Advertising Rights.** Subject to Applicable Law, including, but not limited to, County Local Law No. 2-1994, prohibiting tobacco product advertising in County facilities, a copy of which is attached hereto as Exhibit E, the Bills shall have the exclusive right to control and contract with respect to the Advertising Rights; provided that (a) the duration of any contract with respect to the Advertising Rights shall expire no later than the end of the Term (whether due to the attainment of the 2013 Stadium Lease Expiration Date or any earlier termination or cancellation of this 2013 Stadium Lease in accordance with its terms), (b) advertising shall not unreasonably cause embarrassment to the County or the ECSC, (c) advertising shall not contain slang, barbarisms, profanity, or reference to names that relate to illicit drugs or any sexual oriented business or enterprise; and (d) advertising shall not encourage the use of alcohol by minors or the use of tobacco by anyone. The Bills agree to indemnify, defend and hold harmless the County and the ECSC from any Losses arising out of the exercise by the Bills of its rights pursuant to this Section 4.3; provided, however, that the foregoing indemnification shall not be construed so as to include any revenue or income that the County or the ECSC might have realized upon the sale or other conveyance of the Advertising Rights.

**4.4 Broadcast Rights.** As among the Bills, the County and ECSC, the Bills shall have the exclusive right to control, conduct, lease, license, grant concessions with respect to, sell, benefit, control and enter into agreements with respect to the Broadcast Rights; provided that the duration of any such lease, license, concessions grant or other similar agreement with respect to the Broadcast Rights shall expire no later than the end of the Term (whether due to the attainment of the 2013 Stadium Lease Expiration Date or any earlier termination or cancellation of the 2013 Stadium Lease in accordance with its terms). Unless requested by the Bills in its sole discretion, prior to the 2013 Stadium Lease Expiration Date, the County and the State shall not grant any Broadcast Rights to any third party or otherwise assist any third party's efforts to disseminate or distribute any pictures, images, sounds, descriptions, or other accounts at all or any portion of any Stadium Events. The County hereby grants to the Bills a non-exclusive, royalty free license to include in any Broadcast Rights the ability to display in perpetuity any likeness, image or sound or any other protectable feature of the Stadium Complex captured prior to the 2013 Stadium Lease Expiration Date in connection with the exercise of any Broadcast Rights.

**4.5 Concessions.**

(a) With the exception of the vending opportunities for Unaffiliated Vendors as set forth in the Vending Plan, the Bills shall have the exclusive right to sell all food and beverages within the Stadium Complex in accordance with the Vending Plan, which shall include the right to contract with any third party or parties to operate the food and beverage facilities at the Stadium Complex; provided that the duration of any contract with respect to the food and beverage facilities shall expire no later than the end of the Term (whether due to the attainment of the 2013 Stadium Lease Expiration Date or any earlier termination or cancellation of this 2013 Stadium Lease in accordance with its terms).

(b) Any concessionaire with whom the Bills shall contract shall be entitled to bring a reasonably sufficient number of legally-qualified workers into the Stadium Complex, free of charge, in order to operate its concession. Each concessionaire's workers shall at all times be neatly, modestly and cleanly dressed. Each concessionaire's workers shall not

unreasonably disturb or offend Stadium Patrons or disturb or interfere with any Stadium Events. The Bills shall comply with all Applicable Laws with regard to the grant of the concession rights described herein to any third party and with regard to the operation of the food and beverage concessions at the Stadium Complex and shall require its concessionaires to agree to comply with Applicable Laws in connection with their operations at the Stadium Complex. The Bills shall determine the items of food or beverage to be offered, the prices to be charged for such items and the concessionaires to provide such service. Subject to terms and conditions of Article 15, the Bills shall have the right to determine the location of concession stands for the sale of food and beverage concessions and staging areas for the storage and preparation of food and beverages prior to sale, within the Stadium Complex, in its reasonable discretion, subject to considerations for public health, safety and access. Subject to Section 2.3(j) hereof, the rights granted to the Bills with regard to concessions pursuant to this 2013 Stadium Lease shall include the right to determine, in the Bills' reasonable discretion, how many concession areas, structures or facilities will be open during any Stadium Events or at any other time and what items of food and beverage shall be served. For the purposes of this 2013 Stadium Lease, the right to sell or offer for sale beverages and all other rights granted to the Bills with regard thereto shall specifically include the right to sell, offer for sale and control the sale of beer and other alcoholic beverages, subject to Applicable Law; provided, however, that neither the County nor the ECSC shall have any responsibility for ensuring that the Bills are able to obtain any required licenses from any Governmental Authority for such sale or offer for sale.

(c) Each food and beverage concession contract shall: (i) include a covenant in the form of paragraph 1 of the Stadium Affirmative Action Plan evidencing the agreement of the concessionaire to refrain from discrimination with respect to its employees at the Stadium Complex; (ii) provide that the concessionaire shall maintain the insurance coverages set forth in Exhibit C attached hereto; (iii) provide that the concessionaire shall indemnify, defend and hold harmless the County, the ECSC and their respective Affiliates from and against any and all liability arising out of such concessionaire's operations; (iv) provide that the concessionaire shall comply with Applicable Law; and (v) be subject to the County's review and approval of the non-financial covenants thereof, which approval shall not be unreasonably withheld, conditioned or delayed. One or more representatives of the Bills (who may be employees of any concessionaire) shall be made available to the County and the ECSC as part of the operation of concessions at Stadium Events in order to handle any problems that may arise with regard thereto.

(d) Throughout the Term, the Bills shall use commercially reasonable efforts to cause all food and beverage concessionaires at the Stadium Complex to fully perform and comply with the terms and conditions of the contract between the Bills and such concessionaire, and, upon such concessionaire's breach thereof, enforce through appropriate and lawful means, each such contract in accordance with the terms and conditions thereof.

**4.6 Parking.** The Bills shall have the exclusive right to operate, manage and control the Parking Areas, and shall determine the fees to be charged for parking at the Stadium Complex; provided, however, that the duration of any contract with respect to the management or operation of the Parking Areas shall expire no later than the end of the Term (whether due to the attainment of the 2013 Stadium Lease Expiration Date or any earlier termination or cancellation of this 2013 Stadium Lease in accordance with its terms).

**4.7 Merchandising.** The Bills shall have the exclusive right to sell, lease or contract for the sale or lease of programs, yearbooks, novelties, pendants, hats, clothing, sports equipment, cameras, film, binoculars, headsets or any other items, goods or equipment that the Bills (in its sole discretion) may desire to offer for sale or lease at the Stadium and elsewhere within the Stadium Complex; provided that the duration of any contract with respect to the sale of merchandise at the Stadium Complex shall expire no later than the end of the Term (whether due to the attainment of the 2013 Stadium Lease Expiration Date or any earlier termination or cancellation of this 2013 Stadium Lease in accordance with its terms). The Bills shall also have the exclusive right to set up carts, kiosks and other similar temporary structures for the sale of such items anywhere on the Stadium Complex at locations selected by the Bills in its reasonable discretion, taking into consideration public safety and access. Neither the County nor the ECSC shall have any rights of approval with regard to the items of merchandise offered for sale or lease at the Stadium or elsewhere within the Stadium Complex, the prices to be charged for such items of merchandise or the concessionaire or concessionaires to provide such merchandise; provided however, that the Bills shall not sell or offer to sell at the Stadium Complex products containing tobacco or any other products that are now or hereafter may be prohibited for sale at the Stadium Complex by Applicable Law.

**4.8 Luxury Suites.** The Bills shall have the exclusive right to license any or all of the Luxury Suites during the Term, and the Bills shall retain all License Fees and other revenues derived therefrom; provided, however, that the duration of any license with respect to any Luxury Suite shall expire no later than the end of the Term (whether due to the attainment of the 2013 Stadium Lease Expiration Date or any termination or cancellation of this 2013 Stadium Lease in accordance with its terms). Licensees of Luxury Suites shall have the right to purchase tickets for admission to their Luxury Suite for Civic Events in accordance with Section 2.3(g) if tickets to such Civic Event are sold.

**4.9 Club Level Seats.** The Bills shall have the exclusive right to license any or all of the Club Level Seats during the Term, and the Bills shall retain all License Fees and other revenues derived therefrom; provided, however, that the duration of any license with respect to any Club Level Seat shall expire no later than the end of the Term (whether due to the attainment of the 2013 Stadium Lease Expiration Date or any earlier termination or cancellation of this 2013 Stadium Lease in accordance with its terms). Licensees of Club Level Seats shall have the right to purchase tickets to utilize their Club Level Seats for Civic Events in accordance with Section 2.3(g) if tickets to such Civic Event are sold.

**4.10 Scoreboards.** The Bills shall have the exclusive right to use and control the Scoreboards at all Stadium Events during the Term, provided that the County and the ECSC shall have access to the Scoreboards for all Civic Events and in the event of an Emergency. Upon request of the County or the ECSC, as the case may be, the Bills shall make the Scoreboards (and any personnel necessary to operate the Scoreboards) available for all Civic Events and Emergencies.

**4.11 Video Replay System.** The Bills shall have the exclusive right to use and control the Video Replay System, as well as the control room or rooms used for the operation of the Video Replay System, at all Stadium Events during the Term, provided that the County and the ECSC shall have access to the Video Replay System for all Civic Events and in the event of

an Emergency. Upon request of the County or the ECSC, as the case may be, the Bills shall make the Video Replay System (and any personnel necessary to operate the Video Replay System) available for all Civic Events and Emergencies.

## **ARTICLE 5 USE; COMPLIANCE WITH LAW**

**5.1 The Bills' Use of the Stadium Complex.** Subject to the terms and conditions of this 2013 Stadium Lease, during the Term, the Bills shall have the right to use the Stadium Complex for any lawful purpose that (a) is not generally recognized as being contrary to public morals, and (b) does not change the primary purpose of the Stadium Complex from a venue for professional football contests and musical concerts and festivals, consistent with the uses to which the Stadium has been put during the terms of the 1971 Original Lease and the 1998 Stadium Lease. The County and the ECSC acknowledge that the uses to which the Stadium has been put during the terms of the 1971 Original Lease and the 1998 Stadium Lease (*i.e.*, professional football contests and musical concerts and festivals) have not been, and shall not hereafter be deemed to be generally recognized as being contrary to public morals.

**5.2 Compliance with Law.** At all times during the Term, the Bills, the ECSC and the County shall, at their respective sole costs and expenses, perform their respective obligations under this 2013 Stadium Lease (including, without limitation, all obligations set forth in Article 10 of this 2013 Stadium Lease) in full compliance with: (i) all Applicable Laws; (ii) all requirements of any board of fire underwriters or other similar body; and (iii) any direction or occupancy certificate issued by any Governmental Authority. In addition to, and not as a limitation upon, the foregoing, all contracts entered into in connection with the terms of this 2013 Stadium Lease that are subject to the terms of the Stadium Affirmative Action Plan, including those of the Bills and its Affiliates, agents and independent contractors, shall comply in all respects with such Stadium Affirmative Action Plan. At least thirty (30) days prior to the start of each Lease Year, the Bills shall submit to the ECSC any work plans, project lists or other initiatives to be funded in whole or in part with the Capital Improvement Allowance which shall be subject to Stadium Affirmative Action Plan compliance in the coming Lease Year. Based on a review of the same, the ECSC shall establish, in accordance with NYS Executive Law 15-A, by the start of such Lease Year, Stadium Affirmative Action Plan standards and goals with which each such Party shall comply in such Lease Year. In furtherance of the same, the ECSC shall work with the Party subject to the Stadium Affirmative Action Plan standards and goals in good faith to ensure compliance with the same.

**5.3 Covenant Prohibiting Professional Baseball.** Notwithstanding the permitted uses set forth in Section 5.1, the Bills shall not keep or maintain a professional baseball franchise at the Stadium Complex without the prior written consent of the County and the ECSC.

**5.4 Smoking Ban.** Throughout the Term, smoking shall be prohibited in all Buildings. At all times during the Term, the Bills shall use its best efforts to prohibit smoking in all Buildings. The Bills shall be deemed to have utilized its best efforts to prohibit smoking in the Buildings if the Bills: (a) post placards throughout the Buildings regarding the prohibition against smoking; (b) refuse entry to the Stadium to any Stadium Patron who is smoking; (c) make at least two (2) announcements over the Stadium's public address system during each

Game and Bills' Event regarding said prohibition; and (d) notify Stadium Patrons who are seen violating the policy that they are doing so.

## **ARTICLE 6 FRANCHISE MAINTENANCE**

### **6.1 Games to be Played at the Stadium.**

(a) **Playing of Games.** Bills covenant and agree that at all times during the Term, at least fifty percent (50%) of the Team's Regular Season Games will be designated as Home Games. Subject to the exceptions specified in Section 6.1(b) herein, unless each of the County and ECSC shall have given prior written consent to the playing of any Game at a different location or locations (other than the Stadium), which consent shall be within the sole and absolute discretion of each of the County and ECSC, all Games shall be played at the Stadium.

(b) **Exceptions to Home Games Played at Stadium.** Notwithstanding the provisions of Section 6.1(a), Bills shall have the right, without first obtaining the ECSC or County's prior consent, to: (i) cause the Team to play any Game at an Alternate Site if there exists an Untenantable Condition at the Stadium, provided that the Bills shall promptly furnish notice to each of the County and ECSC in the event of the existence of an Untenantable Condition, which notice shall identify the Untenantable Condition and the number of days and Games expected to be played at such Alternate Site, and provided further that the length of time such relocation may continue may be no longer than is commercially reasonable to eliminate the existence of the Untenantable Condition; (ii) for each Lease Year, cause the Team to play one (1) Regular Season Home Game at Rogers Centre in Toronto, Ontario, or such other location in Southern Ontario or Western New York (other than the Stadium) as determined by the Bills; (iii) in every alternate Lease Year, cause the Team to play one (1) Pre-Season Home Game at Rogers Centre in Toronto, Ontario, or such other location in Southern Ontario or Western New York (other than the Stadium) as determined by Bills; and (iv) if the Team is selected by the NFL to play a Home Game at an international venue, other than as contemplated by Section 6.1(b)(ii) herein, cause the Team to play one (1) Regular Season Home Game at an international venue once during the Term.

### **6.2 Maintenance of the Team and the Franchise.**

(a) During the Term, the Bills shall: (i) keep and maintain the Team as a validly existing and participating NFL Team under NFL Rules and Regulations; (ii) keep and maintain the Franchise as a validly existing and participating NFL Team under NFL Rules and Regulations; (iii) keep and maintain the Stadium as the facility designated to and by the NFL as the home facility for the Team; (iv) except as otherwise provided in Section 6.1(b), continuously operate the Team at the Stadium in accordance with the NFL Rules and Regulations; and (v) maintain its principal place of business in the State of New York as a domestic or duly qualified foreign business in good standing under all Applicable Law. Notwithstanding the foregoing, nothing contained in the Stadium Agreements shall be construed so as to prohibit the Bills from holding Training Camp at locations in Western New York other than the Stadium Complex.

(b) Subject to the provisions of Section 6.1(b), during the Term, without the prior written consent of the County and the ECSC, which consent shall be within the sole and absolute discretion of each of the County and the ECSC, the Bills shall not: (i) apply to the NFL for, or otherwise seek, approval to allow the Team to play any Games during the Term anywhere other than the Stadium; (ii) relocate, transfer or otherwise move the Team (or attempt to relocate, transfer or otherwise move the Team except as permitted by clause (iv) of this paragraph) to a location other than the Stadium; (iii) sell, assign or otherwise transfer the Team to any Person who, to the Bills' knowledge, has an intention to relocate, transfer or otherwise move the Team during the Term to a location other than the Stadium; (iv) (A) entertain any offer or proposal to relocate the Team to a location other than the Stadium, (B) solicit an offer or proposal from any Person to enter into discussions regarding moving the Team to a location other than the Stadium, (C) enter into negotiations or agreements with third parties concerning the relocation of the Team to a location other than the Stadium, or (D) otherwise attempt to cause the playing of Games at a location other than the Stadium except in the case of clause (A), (B), (C) and/or (D) above, (x) during the pendency of an arbitration proceeding in which the Bills are seeking to terminate this 2013 Stadium Lease in accordance with its terms or (y) to the extent that the relocation or other action described in such clause would first take effect after the Term; (v) (A) complete a transfer, assignment or surrender of the Franchise that results in the Team playing any of its Games outside of the Stadium in violation of Section 6.1(a), or (B) complete a transfer, assignment or surrender of the Franchise that results in the Team not playing any Games; or (vi) enter into any contract or agreement to sell, assign or otherwise transfer the Team to any Person who, to the Bills' knowledge, intends to relocate, transfer or otherwise move the Team during the Term to a location other than the Stadium.

6.3 Transfer of Franchise. The Bills may, at its sole election and at any time or from time to time, assign, sell or otherwise transfer, or grant or place a Lien upon, the Franchise and/or any ownership rights therein; provided, however, that any such assignment, sale or transfer, or grant or placement of a Lien, shall be (a) conditioned on the Person who acquires the Franchise and/or any rights therein being approved by the NFL in accordance with the NFL Rules and Regulations as the owner of the Franchise or the holder of a Lien thereon and (b) made or granted subject to the requirements and obligations of the Bills under this 2013 Stadium Lease, including compliance in all respects with these Franchise Maintenance Covenants, so that any Person who acquires all or any portion of the Franchise either (i) pursuant to any such assignment, sale or transfer, or (ii) pursuant to any foreclosure or other action against any such Lien, shall acquire and take the Franchise and/or any ownership rights therein, subject to all of the Franchise Maintenance Covenants and the other terms of this 2013 Stadium Lease, and such Person shall thereafter be deemed to be the Bills for purposes of this 2013 Stadium Lease.

6.4 Specific Performance. The Parties acknowledge that: (i) the Bills' obligations under the Franchise Maintenance Covenants are unique, are the essence of the bargain and are essential consideration for this 2013 Stadium Lease and the other agreements being entered into by the Parties as relate to the renovation and operation of the Stadium Complex; (ii) the Team, as property, is extraordinary and unique and that under the organization of professional football by and through the NFL, neither the County nor the ECSC may be able to replace the Team; and (iii) the determination of damages caused by a breach of the Franchise Maintenance Covenants, the effects of which would be suffered by the County, the ECSC and the Western New York community would be difficult, if not impossible, to ascertain. Therefore,

the Parties acknowledge and agree that there exists no adequate and complete remedy at law to enforce the Franchise Maintenance Covenants against the Bills, and that equitable relief by way of a decree of specific performance or an injunction (such as a prohibitory injunction barring the Bills from relocating or playing the Games in a facility other than the Stadium or a mandatory injunction requiring the Bills to play the Games at the Stadium) is the only appropriate remedy for the enforcement of the Franchise Maintenance Covenants notwithstanding the provision of other remedies provided elsewhere in this 2013 Stadium Lease. In amplification and not in limitation of the foregoing, the County and the ECSC acknowledge and agree that, in the event of a breach of the Franchise Maintenance Covenants, or the threat of a breach of the Franchise Maintenance Covenants, the County and/or the ECSC, as the case may be, may seek equitable relief before attempting to avail itself or themselves of other remedies set forth herein, provided that equitable relief is a remedy available and enforceable at the time of the breach of the Franchise Maintenance Covenants. Additionally, based on the foregoing, the Bills hereby agree as follows:

(a) The County and/or the ECSC shall be entitled to obtain injunctive relief prohibiting action, directly or indirectly, by the Bills that causes or would reasonably be expected to cause a breach of the Franchise Maintenance Covenants, or mandating action that averts or will avert a breach of the Franchise Maintenance Covenants, or enforcing any covenant, duty or obligation of the Bills through specific performance. The County and/or the ECSC shall further be entitled to seek declaratory relief with respect to any matter related to the Franchise Maintenance Covenants.

(b) That obligations are being incurred to make the Stadium available for Games during the Term and that any breach of the Franchise Maintenance Covenants shall constitute irreparable harm to the County and the ECSC for which monetary damages or other remedies at law will not be an adequate remedy.

(c) That the rights of the County and/or the ECSC to injunctive relief as a result of a breach of the Franchise Maintenance Covenants, as set forth in this Article 6 and otherwise allowed under Applicable Law, shall not constitute a claim pursuant to Section 101(5) of the United States Bankruptcy Code, as it may be amended from time to time, or any substitute therefor, and shall not be subject to discharge or restraint of any nature in any bankruptcy, reorganization or insolvency proceeding involving the Bills.

(d) That in any proceeding seeking relief for a breach of the Franchise Maintenance Covenants, any requirement for the County and/or ECSC to post any bond or other security or collateral as a condition of any relief sought or granted is hereby waived.

**6.5 All Remedies.** If, upon a breach of the Franchise Maintenance Covenants, the equitable remedies provided for in Section 6.4 herein are unavailable for any reason, each of the County and the ECSC shall be entitled to pursue all other legal and equitable remedies against the Bills, whether or not such other remedies are specifically set forth in this 2013 Stadium Lease. All such other legal and equitable remedies are cumulative and may be exercised concurrently, successively, or in any order; provided, however, that should the ECSC and/or the County have received payment of liquidated damages in a separate action arising from the same act or omission of the Bills that gives rise to an action for monetary damages under this



**Section 6.5**, any monetary damages received pursuant to this **Section 6.5** shall be reduced (but not below Zero Dollars (\$0.00)) by the liquidated damages actually received.

**6.6 Termination of the Franchise Maintenance Covenants.** The Franchise Maintenance Covenants shall terminate upon the expiration or earlier rightful termination or cancellation of the Term; provided, however, that no such termination or cancellation shall relieve the Bills of any obligation or liability arising or accruing pursuant to this **Article 6** prior to the date of such termination or cancellation.

**6.7 NFL Rules and Regulations.** The NFL represents and warrants to each of the County and the ECSC that (a) the excerpts of the NFL Rules and Regulations made available to the Public Entities at the Bills' Address as of the Effective Date include all material portions thereof relevant to franchise transfer/relocation, home territory, team ownership, team/owner debt limitations and scheduling of games, and are true, correct and complete as of the Effective Date; and (b) the NFL has approved the financial terms of the 2013 Stadium Lease pursuant to 2013 Resolution No. [\_\_\_\_\_]. The Bills shall provide written notice to each of the County and the ECSC of the existence of any material amendment, modification or supplement to those excerpts of the NFL Rules and Regulations relevant to franchise transfer/relocation, home territory, team ownership, team/owner debt limitations and scheduling of games within ten (10) days of the adoption by the NFL of the same. Each of the County and the ECSC shall be entitled to view the excerpts of the NFL Rules and Regulations made available as of the Effective Date, and any material amendment, modification or supplement to the same, at the Bills' Address at any time during the 2013 Stadium Lease Term upon reasonable advance notice to the Bills. The County and ECSC hereby agree that they shall keep all content of and any notes resulting from a review of such excerpts confidential. Notwithstanding anything herein to the contrary, the parties hereby designate the NFL as a third party beneficiary of this section with the right to enforce the same.

## **ARTICLE 7 LEASE TERMINATION**

**7.1 Right to Terminate.** The Bills shall have the right to terminate this 2013 Stadium Lease effective at 11:59 p.m., Buffalo, New York time as of the Termination Date, provided that the Bills have first (a) delivered to the County and the ECSC, no later than 12:00 noon Buffalo, New York time on the Termination Notice Date, written notice of the Bills' intention to terminate this 2013 Stadium Lease pursuant to this **Section 7.1** as of the Termination Date, and (b) paid to the ECSC, before the Termination Date, the Termination Fee. If the Bills have satisfied the aforementioned conditions precedent to its right to terminate this 2013 Stadium Lease, then this 2013 Stadium Lease, other than the rights or obligations which, by their terms, survive the expiration, termination or cancellation of this 2013 Stadium Lease, shall terminate as of the Termination Date and the Bills' obligations arising under the Franchise Maintenance Covenants shall not apply to any actions taken by the Bills after the later of the Bills' completion of said conditions precedent and the completion of all Games for the NFL Season which ended immediately prior to, or which is then ongoing as of, the Termination Notice Date. The Bills obligation to pay the Termination Fee shall survive the expiration, termination or cancellation of this 2013 Stadium Lease; provided, however, that no Termination Fee shall be payable in the event of a termination as set forth in **Section 7.2** of this 2013 Stadium Lease.



**7.2 Automatic Termination without Payment of Termination Fee.** In the event (i) the 2013 Construction Coordinating Agreement is terminated in accordance with the terms and conditions thereof for reasons other than the attainment of the Final Completion of the Project (as defined in the 2013 Construction Coordinating Agreement), or (ii) prior to any written notice of the Bills' intention to terminate the 2013 Stadium Lease pursuant to Section 7.1 hereof, notice of termination is appropriately given pursuant to Section 13.5 hereof, this 2013 Stadium Lease and the Term shall automatically terminate as of the end of the Lease Year in which such termination or cancellation occurs, the Bills shall be under no obligation to pay the Termination Fee and no Party shall have any further rights or obligations hereunder other than rights or obligations which, by their terms, survive the expiration, termination or cancellation of this 2013 Stadium Lease.

## **ARTICLE 8 PLAYERS' STRIKE**

**8.1 Effect of Players' Strike.** If as a result of a Players' Strike occurring during the Term, any Home Game is not played at the Stadium, the Game Day Expenses and any Working Capital Assistance previously paid by the ECSC and/or the County, as the case may be, to the Bills for the Lease Year in which such unplayed Home Game falls shall be promptly repaid to ECSC and/or the County, as the case may be, pro-rata in accordance with their respective contributions thereto for such Lease Year as follows: (a) for the Game Day Expenses, the amount of such reimbursement for each unplayed Home Game shall be calculated based upon a fraction, the numerator of which shall be the total Game Day Expense Reimbursement amount applicable to such Lease Year, and the denominator of which shall be the number of scheduled Home Games for such Lease Year; and (b) for the Working Capital Assistance, the amount of such reimbursement for each unplayed Home Game shall be calculated based upon a fraction, the numerator of which shall be the Working Capital Assistance applicable to such Lease Year, and the denominator of which shall be the number of scheduled Home Games for such Lease Year.

## **ARTICLE 9 OPERATION OF THE STADIUM COMPLEX**

**9.1 General Operation of the Stadium Complex.** Subject to the Stadium Security Agreement and the terms and conditions of this 2013 Stadium Lease, including, but not limited to, Section 10.1 of this 2013 Stadium Lease, the Bills shall have the exclusive right, power, authority and obligation to direct all aspects of the operation, repair, maintenance, management and control of the Stadium Complex at all times during the Term acting on its own behalf and not as an agent of either the County or the ECSC, and the Bills shall have such discretion in the operation, repair, maintenance, management and control of the Stadium Complex as may be needed to perform efficiently its responsibilities under this 2013 Stadium Lease. Without limiting the generality of the foregoing and without limiting the County's, the ECSC's and the Bills' respective rights and obligations set forth elsewhere in this 2013 Stadium Lease, during the Term, the Bills shall perform the following:

(a) Operate, repair and maintain the Stadium Complex or cause the Stadium Complex to be operated, repaired and maintained in good condition and repair and otherwise in

accordance with Applicable Law and NFL Rules and Regulations, normal wear and tear and the Structural Repair obligations of the County pursuant to Section 10.1 of this 2013 Stadium Lease and Section 7.1 of the 2013 Master Lease excepted;

(b) Establish and implement an annual preventative maintenance program for the Stadium Complex reasonably satisfactory to the ECSC and the County, which shall have as its principal objective minimization of Structural Repairs and Operating Expenses;

(c) Regulate the use of the Stadium Complex consistent with the provisions of Article 5 and, in furtherance thereof, submit to the County and the ECSC prior to the beginning of each fiscal year of the County an annual operating plan for such fiscal year indicating the type and nature of events that are then contemplated for the Stadium Complex during such fiscal year (based on information then available);

(d) Employ, engage, promote, discharge and otherwise supervise and control the work of all employees, and contract with all independent contractors, deemed necessary or advisable by the Bills to discharge its responsibilities with respect to the operation, repair, maintenance, management and control of the Stadium Complex under this 2013 Stadium Lease;

(e) Procure and maintain throughout the Term all Bills' Insurance Policies;

(f) Pay or cause to be paid all Assessments (subject, however, to the terms and conditions of Article 20);

(g) Operate, repair, maintain, manage and control the Access Roads;

(h) Subject to the Stadium Security Agreement, contract for and manage all security personnel and systems for the Stadium Complex and otherwise control all aspects of access (including restricting access) to the Stadium Complex;

(i) Provide and enter into contracts for the furnishing to the Stadium Complex of (i) all utilities, including electricity, gas, sewage, water and telephone, (ii) cleaning and janitorial services and adequate dumpsters and trash removal, (iii) elevator and boiler maintenance service, air conditioning maintenance service and other equipment maintenance service, (iv) laundry service, and (v) any and all services deemed advisable by the Bills in conjunction with the operation, repair, maintenance, management and control of the Stadium Complex;

(j) Purchase all supplies and materials regularly used and consumed in the operation, repair, maintenance, management and control of the Stadium Complex;

(k) Obtain and maintain licenses and permits in the operation, repair, maintenance, management and control of the Stadium Complex in accordance with Applicable Law (provided, however, that the Bills shall not be required to obtain or maintain any licenses or permits that may be required in connection with the management or operation of any Civic Events that are not otherwise required in conjunction with the Bills' general management and operation of the Stadium Complex);

(l) Impose and enforce such rules and regulations governing use of the Stadium Complex as it may establish from time to time to assist in ensuring the use of the Stadium Complex by all Persons consistent with the terms of this 2013 Stadium Lease (with a copy of such rules and regulations and any amendments thereto to be furnished to the County and the ECSC promptly after the promulgation thereof); and

(m) Maintain the Books and Records in accordance with GAAP.

**9.2 Other Stadium Complex Operations.** Subject to the terms and conditions of this 2013 Stadium Lease, and in particular the limitations of Article 4 of this 2013 Stadium Lease, the Bills shall have the exclusive right, power, authority and obligation to direct all aspects of the operation, management and control of the income or revenue producing activity at the Stadium Complex at all times during the Term acting on its own behalf and not as an agent of either the County or the ECSC. Subject to the terms and conditions of this 2013 Stadium Lease, the Bills shall have such discretion in the operation, management and control of such activities as may be needed to perform efficiently its responsibilities under this 2013 Stadium Lease. Without limiting the generality of the foregoing and without limiting the County's, the ECSC's or the Bills' respective rights and obligations set forth elsewhere in this 2013 Stadium Lease, during the Term, the Bills shall, at its sole cost and expense, perform the following:

(a) Operate, repair and maintain the Bills' Improvements and the Bills' equipment, personal property and trade fixtures situated in or on the Stadium Complex, or cause such property to be operated, repaired and maintained in good condition and repair and otherwise in accordance with Applicable Law and NFL Rules and Regulations, normal wear and tear excepted;

(b) Select all concessionaires and vendors (other than Unaffiliated Vendors) selling food, beverages, novelties, souvenirs, programs, merchandise and wares of any nature whatsoever in any part of the Stadium Complex;

(c) Operate or cause to be operated all restaurants and other dining facilities located in the Stadium Complex during all Stadium Events;

(d) Establish procedures, rules and policies regarding employee relations, and all aspects of advertising, publicity and promotion at the Stadium Complex; and

(e) Directly or through its Affiliates, sell, market and establish the price of all admission tickets for all Games and Bills' Events.

**9.3 Responsibility for Operating and Game Day Expenses.** Subject to the reimbursement provisions provided for in Section 9.4 hereof, the Bills shall bear all Operating Expenses and Game Day Expenses.

**9.4 Reimbursement of Operating Expenses and Game Day Expenses.**

(a) Subject to the terms and conditions of Section 9.4 and Section 9.5, provided no Material Sublessee Default has occurred and is continuing, in each Lease Year during the Term, the ECSC shall reimburse the Bills, (i) up to the Operating Expense

Reimbursement Cap, for Operating Expenses paid by the Bills in such Lease Year and (ii) up to the Game Day Expense Reimbursement Cap, for Game Day Expenses paid by the Bills in such Lease Year.

(b) The Bills acknowledge that pursuant to the terms of the 2013 Master Lease, the County is obligated to pay a portion of the Operating Expenses and Game Day Expenses to the ECSC, which payments are in turn a portion of the Operating Expense Reimbursement and Game Day Expense Reimbursement due from the ECSC to the Bills hereunder, as more specifically designated in the 2013 Master Lease. The obligations of the ECSC and the County with regard to payment of Operating Expense Reimbursement and Game Day Expense Reimbursement shall be separate and distinct obligations of each of the ECSC and the County, and in no event shall such obligations be, or be deemed to be, joint and several obligations of the ECSC and the County. Notwithstanding the ECSC obligation to reimburse the Bills for Game Day Expenses and Operating Expenses, up to the Game Day Expense Reimbursement Cap and the Operating Expense Reimbursement Cap, respectively, as set forth in this Article 9, if the County fails to make any Game Day Expense Reimbursement or Operating Expense Reimbursement payments to the ECSC as required by the 2013 Master Lease, then the ECSC may timely remit either (1) the full Game Day Expense Reimbursement and/or Operating Expense Reimbursement, as the case may be, due from the ECSC to the Bills, or (2) the Game Day Expense Reimbursement and/or Operating Expense Reimbursement due from the ECSC to the Bills, less the portion of such Game Day Expense Reimbursement and/or Operating Expense Reimbursement due from the County to the ECSC pursuant to the 2013 Master Lease. If the County fails to pay the ECSC any Game Day Expense Reimbursement and/or Operating Expense Reimbursement due under the 2013 Master Lease, the ECSC shall have such rights and remedies as are set forth in the 2013 Master Lease. If the ECSC fails to pay to the Bills (x) any Operating Expense Reimbursement or Game Day Expense Reimbursement paid to the ECSC by the County in accordance with Section 6.2(a) of the 2013 Master Lease, or (y) any of the ECSC's portion of any Operating Expense Reimbursement or Game Day Expense Reimbursement due from the ECSC to the Bills pursuant to this Section 9.4, the County shall have such rights and remedies as are set forth in the 2013 Master Lease. Notwithstanding the foregoing, any portion of any Operating Expense Reimbursement and/or Game Day Expense Reimbursement due the Bills hereunder which is not paid by the ECSC when due shall bear interest at the Default Interest Rate from the date that said sum was due until actually paid by the ECSC; provided, however, that no interest shall be due and payable unless the Bills provide the ECSC with written notice of the non-payment and the ECSC has not remitted payment to the Bills within fourteen (14) Business Days of such notice. Contemporaneously with the delivery of such notice to the ECSC, the Bills shall provide the County with a copy thereof.

(c) The ECSC shall pay to the Bills both the Operating Expense Reimbursement and the Game Day Expense Reimbursement in four (4) unequal quarterly payments in the percentages set forth on Schedule 9.4(a) hereto. Not later than forty-five (45) days prior to each quarterly Operating/Game Day Expense Reimbursement Date, the Bills shall submit to the ECSC, with a contemporaneous copy to the County, a voucher for disbursement of Operating Expense Reimbursements and Game Day Expense Reimbursements next becoming due in an amount of Operating Expenses and Game Day Expenses reasonably determined by the Bills to be due from the ECSC in accordance with GAAP in the amount of the percentage applicable to said quarterly Operating/Game Day Expense Reimbursement Date as set forth on

**Schedule 9.4(a)**; provided, however, that in no event shall the ECSC be required to pay any amount in any given Lease Year for Operating Expenses in excess of the Operating Expense Reimbursement Cap, or for Game Day Expenses in excess of the Game Day Expense Reimbursement Cap. Provided no Material Sublessee Default has occurred and is continuing, and the Bills have submitted vouchers to the ECSC, with copies to the County, in accordance with the first two sentences of this subparagraph (c), on each such Operating/Game Day Expense Reimbursement Date, subject to **Section 9.4(b)** hereof, the ECSC shall remit to the Bills the funds equal to the Operating Expense Reimbursement and the Game Day Expense Reimbursement due on such date according to such **Schedule 9.4(a)**.

(d) As soon as practicable following the conclusion of each Lease Year, but in no event later than the one-hundred and twentieth (120th) day thereafter, the Bills' chief financial officer shall deliver to the ECSC a summary (together with appropriate back-up documentation) establishing the actual amount of Operating Expenses and Game Day Expenses paid by the Bills during such Lease Year, which summary shall be prepared in accordance with GAAP. Contemporaneously with the delivery of such summary and back-up documentation to the ECSC, the Bills shall provide the County with copies of the same. At such time, the obligation of the ECSC for such Operating Expenses and Game Day Expenses shall be reconciled. If such summary reveals that the ECSC overpaid its share of the actual amount of Operating Expenses paid by the Bills during the preceding Lease Year, then the amount of such excess payments shall be offset against immediately succeeding quarterly Operating Expense Reimbursement payments to be paid by the ECSC to the Bills hereunder until such amount has been fully set off, unless such excess reimbursement shall have occurred during the last Lease Year of the Term, in which case the Bills shall immediately repay such excess reimbursement to the ECSC (which repayment obligation shall survive the expiration or earlier termination of this 2013 Stadium Lease). If such summary reveals that the ECSC overpaid its share of the actual amount of the Game Day Expenses paid by the Bills during the preceding Lease Year, then the amount of such excess payments shall be offset against immediately succeeding quarterly Game Day Expense Reimbursement payments to be paid by the ECSC to the Bills hereunder until such amount has been fully set off, unless such excess reimbursement shall have occurred during the last Lease Year of the Term, in which case the Bills shall immediately repay such excess reimbursement to the ECSC (which repayment obligation shall survive the expiration or earlier termination of this 2013 Stadium Lease). If such summary reveals that the ECSC underpaid its share of the actual amount of the Game Day Expenses and/or the Operating Expenses actually paid by the Bills, the ECSC shall deliver to the Bills, immediately upon receipt of the County's pro rata portion of the same, without abatement, deduction or set-off, by check or wire transfer good and immediately available funds in an amount equal to the ECSC's underpayment of the foregoing.

(e) In the event that the ECSC objects to any Operating Expense or Game Day Expense item as shown in the chief financial officer's summary as described in **Section 9.4(d)**, the ECSC shall notify the Bills of such objection not less than sixty (60) days after the receipt of said summary. If, within thirty (30) days after the receipt of any such objection notice, the Bills and the ECSC are unable to agree upon the propriety of such Operating Expense or Game Day Expense item reimbursed to the Bills hereunder, the ECSC may instruct the Bills to engage an independent, nationally recognized, certified public accounting firm reasonably acceptable to the ECSC to determine the propriety of such Operating Expense or Game Day

Expense item for reimbursement hereunder. The Bills shall direct such accountants (i) to deliver their report (which shall be addressed to the ECSC, the County and the Bills) to such parties within a reasonable period (and in no event later than forty-five (45) days) after being notified to proceed with their review; and (ii) to advise the ECSC, the County and the Bills in such report whether the disputed item was a proper reimbursement hereunder. The report of such accountants will be binding upon the ECSC, the County and the Bills. To the extent that such accountants determine that any Operating Expense or Game Day Expense item to be reimbursed to the Bills was ineligible for such reimbursement, the amount of such ineligible reimbursement shall be deducted from the next quarterly Operating Expense Reimbursement or Game Day Expense Reimbursement payment, as the case may be, to be paid by the ECSC to the Bills hereunder, unless such ineligible reimbursement shall have occurred during the last Lease Year of the Term, in which case such ineligible reimbursement shall be immediately repaid to the ECSC by the Bills (which repayment obligation shall survive the expiration or earlier termination of this 2013 Stadium Lease). The costs and expenses of such accountants shall be borne by the ECSC, unless such accountants shall have determined that the Bills received reimbursement for any ineligible Operating Expense items or ineligible Game Day Expense items that in the aggregate exceed five thousand dollars (\$5,000.00), in which case the costs and expenses of such accountants shall be borne by the Bills.

(f) If, for any reason whatsoever, including, without limitation due to a Force Majeure, Player Strike or the relocation of a Game or Games from the Stadium to another venue, a Home Game is not played at the Stadium for which Game Day Expense Reimbursement in any Lease Year has previously been paid by the ECSC to the Bills, such Game Day Expense Reimbursement shall be promptly repaid to the ECSC pro-rata for each such unplayed Home Game. The amount of repayment for each such unplayed Home Game shall be determined by dividing the total Game Day Expense Reimbursement Cap attributable to Game Day Expenses for such Lease Year by the number of scheduled Home Games for such Lease Year. To the extent that an event occurring or condition existing in a previous Lease Year results in a Home Game in the subsequent Lease Year not being played, the ECSC's obligation to pay the Game Day Expense Reimbursement for such subsequent Lease Year shall be suspended until such event or condition is eliminated. Upon such elimination, the amount of the Game Day Expense Reimbursement for such subsequent Lease Year shall be prorated for each unplayed Home Game based upon the formula set forth above and proportionately paid to the Bills on each of the remaining Operating/Game Day Expense Reimbursement Dates for such subsequent Lease Year.

(g) If, in any Lease Year in which the casualty insurance provided for in Section 18.6 is maintained, the Bills exercise its termination option in accordance with Section 7.1, the amount of the Operating Expense Reimbursement for such Lease Year shall be reduced by the portion of the premium paid or to be paid for such casualty insurance policy allocable to the balance of the casualty insurance policy year.

**9.5 Operating Expense Reimbursement Cap.** The Operating Expense Reimbursement Cap for the first Lease Year shall be the amount of the Initial Operating Expense Reimbursement. On the first Anniversary Date, and on each Anniversary Date thereafter, the Operating Expense Reimbursement for the upcoming Lease Year shall be adjusted as follows: If, on such Anniversary Date, the Price Index for the most recently available month is greater or less than the Price Index as of the Commencement Date, then the Initial Operating Expense

Reimbursement shall be multiplied by the percentage difference between the Price Index for such most recently available month and the Price Index as of the Commencement Date, and the product will be added to or subtracted from, as the case may be, the amount of the Initial Operating Expense Reimbursement, which result shall be the Operating Expense Reimbursement Cap during the ensuing Lease Year. Within sixty (60) days of each adjustment to the Operating Expense Reimbursement Cap pursuant to this Section 9.5, the ECSC shall cause a written statement to be delivered to the Bills setting forth such adjustments.

**9.6 Game Day Expense Reimbursement Cap.**

(a) Subject to the adjustments described in this Section 9.6 below, the Game Day Expense Reimbursement Cap for the first Lease Year shall be the amount of the Initial Game Day Expense Reimbursement. On the first Anniversary Date, and on each Anniversary Date thereafter, the Game Day Expense Reimbursement for the upcoming Lease Year shall be adjusted as follows: If, on such Anniversary Date, the Price Index for the most recently available month is greater or less than the Price Index as of the Commencement Date, then the Game Day Expense Reimbursement shall be multiplied by the percentage difference between the Price Index for such most recently available month and the Price Index as of the Commencement Date, and the product will be added to or subtracted from, as the case may be, the amount of the Initial Game Day Expense Reimbursement, which result shall be the Game Day Expense Reimbursement Cap during the ensuing Lease Year. Within sixty (60) days of each adjustment to the Game Day Expense Reimbursement Cap pursuant to this Section 9.6, the ECSC shall cause a written statement to be delivered to the Bills setting forth such adjustments.

(b) Notwithstanding Section 9.6(a), the Game Day Expense Reimbursement Cap for each Lease Year is based on the total number of Games being played by the Team in such Lease Year as calculated pursuant to Exhibit I attached hereto. If, for any reason whatsoever, including, without limitation due to a Force Majeure, Player Strike or the relocation of a Game or Games from the Stadium to another venue, the number of Games played at the Stadium decreases from such number of Games, then the Game Day Expense Reimbursement Cap for that year shall be adjusted accordingly on a pro rata basis.

**9.7 County's Obligation to Provide Traffic Control and Police Enforcement.** The County shall provide, in connection with all Stadium Events, the Sheriff's Traffic Detail.

**9.8 Access to the Books and Records.** At all times during the Term, the County, the ECSC and their respective employees, agents and auditors shall have the right to inspect the Books and Records in the Bills' administrative offices at the Stadium Complex. All information contained in the Books and Records shall be treated in a confidential manner, provided, however, that the foregoing shall not be construed so as to impose any limitation on the disclosure of any information contained therein if required by Applicable Law or if made in conjunction with any arbitration or litigation involving the Stadium Agreements.

**9.9 Stadium Review Committee.** The ECSC, the County and the Bills shall, promptly following the Effective Date, form the Stadium Review Committee. The ECSC, the County and the Bills shall each have the right to appoint up to seven (7) members to the Stadium Review Committee and each may remove and replace any member appointed by it in its



discretion from time to time. Should the NFL elect to appoint a representative to the Stadium Review Committee, such NFL appointee shall be deemed a representative of the Bills. The Stadium Review Committee shall meet on a regular basis, but at least semi-annually, to discuss the condition of the Stadium and regulatory and legislative matters affecting the Stadium's performance at the time of such meeting.

**ARTICLE 10  
THE STADIUM COMPLEX REPAIR, REPLACEMENT  
AND MAINTENANCE OBLIGATIONS**

**10.1 Structural Repairs.**

(a) Throughout the Term, including during the course of the Project, the County shall, pursuant to Section 7.1 of the 2013 Master Lease, perform all necessary Structural Repairs to the Structural Components of the Stadium, the Administration Building, the Field House and the Training Center, so as to keep the Structural Components of the Stadium, the Administration Building, the Field House and the Training Center in good structural condition and repair and otherwise in accordance with Applicable Law, excepting only normal wear and tear, that damage by Casualty for which the County has no obligation to repair, restore and/or replace pursuant to Section 12.1, damage to Structural Components caused by or resulting from an act of vandalism or negligence of any Stadium Patron or the negligence or wrongful act of the Bills, its employees, contractors, agents, licensees, guests or invitees and damage or alterations to Structural Components caused by construction of the Project. Any and all cost and expense incurred by the County in connection with performing the foregoing required Structural Repairs to the Structural Components shall be the responsibility of the County, subject to the right of the County to have the cost thereof funded out of the County CIA Portion, or with the consent of the Parties, the Unspent Capital Improvement Allowance, all as more specifically set forth in this Article 10. Notwithstanding the foregoing, should insurance proceeds be available from an insurance policy maintained pursuant to this 2013 Stadium Lease to cover the event or condition precipitating the Structural Repairs in question, such insurance proceeds may be used to offset the costs of such Structural Repairs prior to funding any portion thereof from the County CIA Portion or Unspent Capital Improvement Allowance.

(b) Any and all Structural Repairs required to be performed due to an act of vandalism or negligence of any Stadium Patron or the negligence or wrongful act of the Bills, its employees, contractors, agents, licensees, guests or invitees, shall be performed by the County, at the sole cost and expense of the Bills. The Bills shall pay the County for such costs and expenses within thirty (30) days after demand for such payment from or on behalf of the County together with back-up documentation. Such expenses shall not constitute Operating Expenses or Game Day Expenses, or be eligible for payment as a Capital Improvement Expense or otherwise. Any and all Structural Repairs required to be performed due to the construction of the Project shall be performed in compliance with the 2013 Construction Coordinating Agreement, and shall be paid as a Project Cost.

**10.2 Non-Structural Maintenance and Repairs.**



(a) Throughout the Term, including during the course of the Project, the Bills shall perform, or cause to be performed, at its expense, all maintenance and repairs (other than the Project, which shall be completed in accordance with the 2013 Construction Coordinating Agreement, and other than Capital Improvements) to the Stadium Complex in accordance with Applicable Law, and shall maintain the same in good condition and repair and otherwise in accordance with Applicable Law, excepting only (i) normal wear and tear, (ii) that damage by Casualty for which the Bills has no obligation to repair, restore and/or replace pursuant to Section 12.1 and (iii) damage caused by or resulting from the negligence or wrongful act of the County, its employees, contractors, agents, licensees, guests or invitees.

(b) Except for Structural Repairs, which are addressed in Section 10.1, and other Capital Improvements, as addressed in Section 10.5, any and all maintenance and repairs required to be performed to the Stadium Complex due to the negligence or wrongful act of the County, its employees, contractors, agents, licensees, guests or invitees, shall be performed by the Bills, at the sole cost and expense of the County, which such costs and expenses shall not be eligible for payment as a Capital Improvement Expense or otherwise. The County shall pay the Bills for such costs and expenses within thirty (30) days after demand for such payment from or on behalf of the Bills together with back-up documentation. For the avoidance of doubt, for purposes of this 2013 Stadium Lease, any person attending a Game or Bills' Event at the Stadium Complex shall be considered an invitee of the Bills and not of the County or ECSC.

(c) The Bills' maintenance and repair obligations set forth in this Section 10.2 shall not be eligible for payment as a Capital Improvement Expense.

**10.3 Funding the Capital Improvement Allowance.** The County, the ECSC and the Bills shall fund the Capital Improvement Allowance according to the terms of this Article 10.

(a) Aggregate Amount During the first Lease Year, the County and the ECSC shall contribute to the Capital Improvement Allowance an aggregate of Three Million Eight Hundred Thousand Dollars (\$3,800,000) of such Initial Capital Improvement Allowance in accordance with the respective percentages for such year set forth in Schedule 9.4(b). In the first and in each subsequent Lease Year, the Bills' contribution to the Capital Improvement Allowance shall be made by the ECSC's contribution to the Capital Improvement Allowance, on behalf of the Bills, of that amount of the Annual Rent paid by the Bills to the ECSC equal to the Base Annual Rent for such Lease Year, such that the Bills contribute seventeen and thirty-nine hundredths percent (17.39%) of the Capital Improvement Allowance in each Lease Year. The remainder of the Capital Improvement Allowance for such Lease Year (i.e., the Capital Improvement Allowance for such Lease Year, less the amount of the Base Annual Rent due from the Bills to the ECSC for such Lease Year) shall be paid by the ECSC and the County in accordance with the respective percentages of such remainder for such year set forth in Schedule 9.4(b). Any Annual Rent for any Lease Year exceeding the Base Annual Rent for such Lease Year shall be deemed Additional Rent and shall not be contributed to the Capital Improvement Allowance. The portion of each Lease Year's Capital Improvement Allowance funded by the County shall be referred to herein as the "County CIA Portion," and the portion of each Lease Year's Capital Improvement Allowance funded by the ECSC shall be referred to herein as the "ECSC CIA Portion." The obligations of the ECSC, the County and the Bills to contribute to the Capital Improvement Allowance shall be separate and distinct obligations of

each of the ECSC, the County and the Bills, and in no event shall such obligations be, or be deemed to be, joint and several obligations of the ECSC, the County and the Bills.

(b) Manner of Funding and Maintaining ECSC CIA Portion. On or before the Commencement Date, the ECSC shall establish an account (the "ECSC CIA Account") into which the ECSC CIA Portion and the Annual Rent received by the ECSC from the Bills shall be deposited in each Lease Year. The ECSC CIA Account shall (i) maintain ESD investment standards, and (ii) segregate each Lease Year's Annual Rent and ECSC CIA Portion (and further segregate each Lease Year's total funds in the ECSC CIA Account from each other Lease Year's respective total funds) in accordance with GAAP such that funds can be easily identified, accounted for and applied in accordance with the terms of this Article 10. Any interest accrued on funds deposited in the ECSC CIA Account shall be deposited in the ECSC CIA Account and treated as ECSC CIA Portion of the Capital Improvement Allowance for the Lease Year in which such interest was accrued. The Bills shall contribute to the Capital Improvement Allowance an amount equal to the Base Annual Rent applicable to such Lease Year; provided, however, that upon the Bills' payment of Annual Rent for such Lease Year to the ECSC, the Bills shall be deemed to have satisfied such obligation for such Lease Year. Immediately upon the ECSC's receipt of such Annual Rent from the Bills, the ECSC shall deposit such Annual Rent in the ECSC CIA Account as the Bills' share of the Capital Improvement Allowance for the Lease Year then commencing. The ECSC shall deposit the ECSC CIA Portion for such Lease Year into the ECSC CIA Account no later than five (5) Business Days following each Anniversary Date (except the ECSC CIA Portion of the Initial Capital Improvement Allowance, which shall be deposited into the ECSC CIA Account no later than five (5) Business Days following the Commencement Date). The ECSC shall provide the County with contemporaneous written notice confirming the deposits as set forth above in each Lease Year.

(c) Manner of Funding and Maintaining County CIA Portion. On or before the Commencement Date, the County shall establish an account (the "County CIA Account") into which the County CIA Portion shall be deposited in each Lease Year. The County CIA Account shall (i) maintain investment standards as required by Applicable Law, and (ii) segregate each Lease Year's County CIA Portion from each other Lease Year's County CIA Portion in accordance with GAAP such that funds can be easily identified, accounted for and applied in accordance with the terms of this Article 10. Any interest accrued on funds deposited in the County CIA Account shall be deposited in the County CIA Account and treated as County CIA Portion of the Capital Improvement Allowance for the Lease Year in which such interest was accrued. The County shall deposit the County CIA Portion for each Lease Year into the County CIA Account no later than five (5) Business Days following each Anniversary Date (except the County CIA Portion of the Initial Capital Improvement Allowance, which shall be deposited into the County CIA Account no later than five (5) Business Days following the Commencement Date); provided, however, that should the County have approved a bond resolution to fund the County CIA Portion, and the associated bond sale has not yet been completed, the County may, by providing the Bills and ECSC with written notice prior to the Commencement Date or Anniversary Date of the Lease Year in question, as applicable, extend the date by which the County must deposit the County CIA Portion in the County CIA Account by up to one hundred twenty (120) days beyond the deposit date for the same set forth in this Section 10.3(c). In the event that, in a given Lease Year the County has exercised the foregoing right to extend the deposit date for the County CIA Portion and Capital Improvement Allowance

funds are needed prior to such extended deposit date, the County shall advance the funds necessary and, upon completion of its bond sale, reimburse itself for such advance as an offset to the County CIA Portion for such Lease Year.

(d) Failure to Fund. If the County, the ECSC or the Bills (as applicable), shall fail to contribute its pro-rata portion to the Capital Improvement Allowance for any Lease Year, such unpaid portion shall accrue interest at the Default Interest Rate until paid by such non-contributing Party; provided that no interest shall be due and payable unless a contributing Party provides to the non-contributing Party written notice of the non-payment and the non-contributing Party has not remitted payment within fourteen (14) Business Days of such notice. Contemporaneously with the delivery of such notice to any non-contributing Party, the Party giving notice shall provide a copy of the same to the third Party. Any interest accrued under this Section 10.3(d) shall be deposited into the Capital Improvement Allowance account of the contributing Party.

10.4 Calculation of Capital Improvement Allowance. On each Anniversary Date, the Capital Improvement Allowance for the upcoming Lease Year shall be calculated in accordance with this Section 10.4. If the Price Index for the most recently available month is greater than or less than the Price Index at the Commencement Date, then the Initial Capital Improvement Allowance shall be multiplied by the percentage difference between the Price Index for such most recently available month and the Price Index at the Commencement Date, and the product will be added to or subtracted from, as the case may be, the Initial Capital Improvement Allowance, which sum shall thereafter be the Capital Improvement Allowance for the upcoming Lease Year; provided, however, that notwithstanding the forgoing, in no event shall the amount of the Capital Improvement Allowance for any given Lease Year exceed an amount equal to one hundred two and eight-tenths percent (102.8%) of the Capital Improvement Allowance applicable to the immediately preceding Lease Year. Within thirty (30) days of each Anniversary Date, the ECSC shall deliver to the County and the Bills a written statement setting forth any adjustments to the Capital Improvement Allowance pursuant to this Section 10.4.

10.5 Use of Capital Improvement Allowance. The County CIA Portion of the Capital Improvement Allowance for each Lease Year shall first be applied toward the payment of any and all Structural Repairs related to the imminent health and safety of Stadium Patrons and which the County is obligated to perform and pay, if any, during such Lease Year, provided that the County provides to the Bills and the ECSC written notice of such application of County CIA Portion funds, which written notice shall include a description of the Structural Repairs undertaken and an accounting of the same. The County shall not be allowed to utilize the County CIA Portion for any such Structural Repair if within the thirty (30) day period following receipt of such notice, either the ECSC or the Bills, in the exercise of reasonable discretion, notifies the County of any objection to such utilization, which objection is accompanied by a written explanation in reasonably sufficient detail outlining the rationale for the objection. The County and the objecting Party or Parties shall immediately meet in an attempt to resolve such objection. In the event that such objection is not so resolved, each of the Parties shall have the right to initiate arbitration in accordance with Article 23 of this 2013 Stadium Lease in order to determine the reasonableness of the objection to the proposed Structural Repair. The balance of the Capital Improvement Allowance (for the avoidance of doubt, such balance would be comprised of the remaining County CIA Portion, the Annual Rent and the ECSC CIA Portion)

for each Lease Year shall be applied toward Capital Improvements (excepting Structural Repairs, payment for which shall be governed in all cases by Section 10.1 and the preceding sentence of this Section 10.5) for such Lease Year, as hereinafter described. Notwithstanding the foregoing, the County shall be under no obligation to reimburse or incur any Capital Improvement Expense if, at the time the request for reimbursement is made, any Lessee Default or Material Sublessee Default has occurred and is continuing.

(a) Except in the event of an Emergency, before undertaking any Capital Improvement, except for Structural Repairs to the Structural Components, which are addressed in Section 10.1, the County shall notify the Bills and the ECSC of the proposed Capital Improvement, which notice shall be accompanied by a detailed description of the proposed Capital Improvement. The County shall not be allowed to utilize the Capital Improvement Allowance for any such Capital Improvement if within the ninety (90) day period following receipt of such notice, either the ECSC or the Bills, in the exercise of reasonable discretion, notifies the County of any objection to such utilization, which objection is accompanied by a written explanation in reasonably sufficient detail outlining the rationale for the objection. The County and the objecting Party or Parties shall immediately meet in an attempt to resolve such objection. In the event that such objection is not so resolved, each of the Parties shall have the right to initiate arbitration in accordance with Article 23 of this 2013 Stadium Lease in order to determine the reasonableness of the objection to the proposed Capital Improvements. During the pendency of any outstanding objection pursuant to this Section 10.5(a), the failure by the County to effect the underlying Capital Improvements shall not constitute grounds for a Sublessor Default. Any Party may initiate arbitration in accordance with Article 23 of this 2013 Stadium Lease in order to resolve any issues associated with any proposed Capital Improvement.

(b) Except for Structural Repairs, which are addressed in Section 10.1, in the event a proposed Capital Improvement is approved by the non-recommending Parties, within ten (10) days after such approval, (i) the ECSC shall advance to the County its and the Bills' pro-rata portion of the cost of such Capital Improvement out of the ECSC CIA Portion and Annual Rent for that Lease Year to the County, (ii) the County shall, if necessary pursuant to Section 10.3(c), advance its pro-rata portion of the cost of such Capital Improvement to the County CIA Account, and thereafter the County shall cause such Capital Improvement to be made. The Capital Improvements shall be made in accordance with the Stadium Affirmative Action Plan and all other Applicable Law. The ECSC and the Bills shall cooperate fully with the County in all reasonable respects in connection with such Capital Improvement project. The County shall advise and consult with the ECSC and the Bills concerning the selection of any architect, engineer, construction manager or general contractor that will work on any Capital Improvement project and shall submit to the ECSC and the Bills for prior approval (such approval not to be unreasonably withheld, conditioned or delayed) all contracts with any such architect, engineer, construction manager or general contractor. If so requested by the County and /or ECSC, each contractor retained by the County for any Capital Improvement project shall, prior to the commencement of such contractor's work, furnish and maintain in full force and effect, from the date of the construction contract to which it is a party until the full performance of such contract, a performance bond and a labor and material payment bond in the full amount of such contract in form and substance and issued by a surety satisfactory to the ECSC and the County. The bonds shall be in favor of the County and ECSC, shall conform in all respects to all requirements imposed by Applicable Law and shall otherwise be in form acceptable to each of the County and

the ECSC. If Applicable Law authorizes any special form of labor and material payment bond that removes mechanic's and similar liens from the Land, such form shall be provided. All premiums for such bonds shall be paid out of the Capital Improvement Allowance, or, if such funds are not available for disbursement from such Capital Improvement Allowance, then from the Unspent Capital Improvement Allowance, as set forth in this Article 10.

**10.6 Unspent Capital Improvement Allowance and Use Thereof.** The County and the ECSC shall fund the Unspent Capital Improvement Allowance in accordance with the terms of this Article 10. To the extent that (i) the County CIA Portion attributable to any given Lease Year is not spent on payment for Structural Repairs for which the County is obligated to pay during such Lease Year or other Capital Improvements and/or (ii) the ECSC CIA Portion and Annual Rent attributable to such Lease Year is not spent on completion of Capital Improvements (excluding Structural Repairs) during such Lease Year, as set forth herein, then the unspent portion of such Capital Improvement Allowance shall become part of the Unspent Capital Improvement Allowance, but shall continue to be held in the ECSC CIA Account and the County CIA Account, as appropriate, until such amounts are expended or the 2013 Stadium Lease Expiration Date, whichever first occurs; provided, however, that if, at the end of each Lease Year commencing with (i) the sixth (6th) Lease Year, (ii) the Lease Year in which the New Stadium Fund is established, or (iii) an earlier Lease Year as agreed upon by the County, the ECSC, and the Bills, whichever occurs first, not all of the Capital Improvement Allowance for such Lease Year has been spent on Capital Improvements in accordance with Section 10.5 above, and such remaining Capital Improvement Allowance has not been allocated to Structural Repairs or other Capital Improvements pursuant to Sections 10.6(a)-(c) below, then such sum may be contributed to the New Stadium Fund upon the consent of all of the Parties rather than becoming part of the Unspent Capital Improvement Allowance.

(a) The County or the Bills may, from time to time, with the approval of the other and of the ECSC, direct that the Unspent Capital Improvement Allowance be used for the payment of Capital Improvement Expenses, with monies coming first from the Lease Year(s) first occurring; provided, however, the Capital Improvements made therewith (i) do not materially change the overall function or design of the Stadium Complex or shorten the useful life thereof or materially change the aesthetics, sightlines, structure or systems thereof; (ii) are made in compliance with all Applicable Law; and (iii) are made in compliance with the terms and conditions of this 2013 Stadium Lease, including, but not limited to, the terms and conditions of Article 15. Upon installation or acquisition, as the case may be, title to all Capital Improvements shall immediately vest in the County.

(b) Within sixty (60) days of the receipt by the ECSC, the County and/or the Bills of a written request from one or more of the others to approve the making of any proposed Structural Repair or other Capital Improvement (which request shall be accompanied, at a minimum, by conceptual drawings showing the proposed Structural Repair or other Capital Improvement) using the Unspent Capital Improvement Allowance, the recipients shall notify the requesting Party or Parties and the other recipients in writing of its approval or rejection of such proposed Structural Repair or other Capital Improvement. If any of the recipients rejects such proposed Structural Repair or other Capital Improvement, then the rejection shall be accompanied by a written explanation in reasonably sufficient detail outlining the rationale for the rejection. The requesting Party or Parties and the objecting Party or Parties shall

immediately meet in an attempt to resolve such objection. In the event that such objection is not so resolved, each of the Parties shall have the right to initiate arbitration in accordance with Article 23 of this 2013 Stadium Lease in order to determine the reasonability of the objection to the proposed Structural Repairs or other Capital Improvements. During the pendency of any outstanding objection pursuant to this Section 10.6(b), the failure by the requesting party to effect the underlying Structural Repairs or other Capital Improvements shall not constitute grounds for a default hereunder by such Party. Any Party may initiate arbitration in accordance with Article 23 of this 2013 Stadium Lease in order to resolve any issues associated with any proposed Capital Improvement.

(c) In the event a proposed Structural Repair or other Capital Improvement is approved by the non-requesting Party or Parties, within ten (10) days after such approval, the ECSC shall advance to the County its and the Bills' pro-rata portion of the cost of such Capital Improvement out of the Unspent Capital Improvement Allowance in the ECSC CIA Account, with monies coming first from the Lease Year(s) first occurring, and thereafter the County shall cause such Capital Improvement to be made. The Structural Repairs or other Capital Improvements shall be made in accordance with the Stadium Affirmative Action Plan and all other Applicable Law. The ECSC and the Bills shall cooperate fully with the County in all reasonable respects in connection with such Structural Repair or other Capital Improvement project. The County shall advise and consult with the ECSC and the Bills concerning the selection of any architect, engineer, construction manager or general contractor that will work on any Structural Repair or other Capital Improvement project and shall submit to the ECSC and the Bills for prior approval (such approval not to be unreasonably withheld, conditioned or delayed) all contracts with any such architect, engineer, construction manager or general contractor. If so requested by the County and/or the ECSC, each contractor retained by the County for any Structural Repair or other Capital Improvement project shall, prior to the commencement of such contractor's work, furnish and maintain in full force and effect, from the date of the construction contract to which it is a party until the full performance of such contract, a performance bond and a labor and material payment bond in the full amount of such contract in form and substance and issued by a surety satisfactory to the ECSC and the County. The bonds shall be in favor of the County and ECSC, shall conform in all respects to all requirements imposed by Applicable Law and shall otherwise be in form acceptable to each of the County and the ECSC. If Applicable Law authorizes any special form of labor and material payment bond that removes mechanic's and similar liens from the Land, such form shall be provided. All premiums for such bonds shall be paid out of Unspent Capital Improvement Allowance.

(d) Notwithstanding anything to the contrary in this Section 10.6, the Unspent Capital Improvement Allowance for Lease Years 1 and 2 ("Accessible ACIA Funds") shall be set aside in an account held by the County to be used for cost overruns as set forth in the 2013 Construction Coordinating Agreement and, to the extent any Accessible ACIA Funds are not used therefor, returned to the Unspent Capital Improvement Allowance upon Substantial Completion of the Project, as defined in the 2013 Construction Coordinating Agreement, and placed in the ECSC CIA Account and County CIA Account, as applicable.

**10.7 Additional Provisions Regarding the Capital Improvement Allowance and the Unspent Capital Improvement Allowance.**

(a) Notwithstanding the foregoing, neither the ECSC nor the County shall be under any obligation to reimburse or incur any Capital Improvement Expense if, at the time the request for reimbursement is made, any Lessee Default or Material Sublessee Default has occurred and is continuing.

(b) If, as a proximate result of an event of Force Majeure, the Stadium cannot practically, safely and economically be used by the Bills for any Game, and provided that (i) the Parties agree that the Stadium will not be repaired, or (ii) during or after the fifth Lease Year the ECSC or the County does not consent to use of such funds to repair the Stadium, each Party may elect to have the Unspent Capital Improvement Allowance, if any, either (x) refunded to such Party, or (y) contributed to the New Stadium Fund, in either case pro rata based upon each such Party's contributions to the Capital Improvement Allowance for the relevant Lease Years.

(c) If at any time during the Term, the Bills exercise its right of termination pursuant to Section 7.1 of this 2013 Stadium Lease, the County and the ECSC shall not have any further obligations with respect to the approval, completion or funding of any pending Capital Improvement projects. All then existing balances of the Capital Improvement Allowance and the Unspent Capital Improvement Allowance shall become the property of the ECSC and the County, with each such Party entitled to a share of such balance in proportion to the amounts each such Party contributed to the Capital Improvement Allowance.

(d) Nothing herein shall be construed so as to require either the County or the Bills to expend all or any portion of the Unspent Capital Improvement Allowance at the end of the Lease Year to which such Unspent Capital Improvement Allowance relates. In amplification and not in limitation of the foregoing, to the extent any portion of any Unspent Capital Improvement Allowance is not expended at the end of the Lease Year to which it relates, the rights and obligations of the County, the ECSC and the Bills with respect thereto shall remain in full force and effect for the balance of the Term (*i.e.*, subject to Section 10.6 permitting certain funds to be contributed to the New Stadium Fund, and subject to Section 10.6(d), the amount not expended shall be carried over to the next Lease Year and, until expended, to subsequent Lease Years).

(e) All Capital Improvements (other than the Project, which shall be completed in accordance with the 2013 Construction Coordinating Agreement) shall be performed by the County or its designees, Lien free and in accordance with all Applicable Laws and the terms and conditions of this 2013 Stadium Lease.

**10.8 Allocation of Capital Improvement Allowance to New Stadium Fund: Use of New Stadium Fund.** Commencing with the Capital Improvement Allowance due for (i) the sixth (6th) Lease Year, or (ii) an earlier Lease Year as agreed upon by the County, the ECSC and the Bills, whichever occurs first, and for each Lease Year thereafter, the ECSC and the County shall have the right (but not the obligation) to, by mutual consent, allocate one-half (1/2) of their respective contributions to the Capital Improvement Allowance (and such additional amounts from the Capital Improvement Allowance, including any Unspent Capital Improvement Allowance, as the Bills, the ECSC and the County may mutually agree) to the New Stadium Fund in lieu of applying such amounts to payment for Capital Improvements. All expenditures and all disbursements from the New Stadium Fund (a) shall require the prior written approval of



the County and the ECSC, and (b) shall be made pursuant to an expenditure and disbursement procedure established by the County and the ECSC.

**10.9 New Stadium Working Group.** The purpose of the New Stadium Working Group shall be to explore, investigate, design, plan, permit, obtain approvals for, develop, perform studies related to, and perform due diligence and such other activities as the New Stadium Working Group deems to be necessary and/or desirable related to (i) the development and construction of a new stadium either on the Land or on another location in Erie County, or (ii) a substantial renovation of the Stadium. The members of the New Stadium Working Group shall commence meeting and performing the responsibilities of the New Stadium Working Group within thirty (30) days after Substantial Completion of the Project, as defined in the 2013 Construction Coordinating Agreement, or such earlier time as the County, the ECSC, and the Bills may mutually agree. Any and all reports, memoranda and other information prepared by or on behalf of the New Stadium Working Group shall be provided simultaneously to the County, the ECSC, and the Bills within five (5) Business Days after the preparation or receipt of the same by the New Stadium Working Group. The New Stadium Working Group shall have the right to recommend to the ECSC, the County, and the Bills disbursements from the New Stadium Fund to further the New Stadium Working Group's mission and objectives. Provided that the ECSC and the County approve any such disbursement in writing, the ECSC shall make such disbursement in accordance with the New Stadium Working Group's recommendations. All contracts and other agreements to be entered into by New Stadium Working Group, if any, shall require the prior written approval of the County and the ECSC.

**10.10 Limitation on Liability.** The Parties acknowledge and agree that nothing in this Article 10 imposes on the ECSC any obligation to undertake any Structural Repair or Capital Improvement. Additionally, the ECSC will not be in default under this 2013 Stadium Lease, nor shall the County or the ECSC be liable to the Bills or to any other Person for direct or consequential damage, or otherwise, for any failure on the part of the County or the ECSC to supply any services that the County or the ECSC has agreed to furnish during the Term, provided the County or the ECSC, as the case may be, uses reasonable diligence to supply such services. The County and the ECSC reserve the right temporarily to discontinue such services at such times as may be necessary by reason of an event of Force Majeure and neither the County nor the ECSC will be liable for damages to person or property nor for injury to, or interruption of, business for any discontinuance permitted under this Section 10.10, nor will such discontinuance in any way be construed as an eviction of the Bills nor cause an abatement of Rent nor operate to release the Bills from any of the Bills' obligations under this 2013 Stadium Lease.

## **ARTICLE 11 WORKING CAPITAL FINANCIAL OBLIGATIONS TO THE BILLS**

### **11.1 Working Capital Assistance.**

(a) On the Commencement Date, provided no Material Sublessee Default has occurred and is continuing, the ECSC shall pay the Initial Working Capital Assistance to the Bills, which Initial Working Capital Assistance shall be used by the Bills for Working Capital Purposes. In addition, annually thereafter, commencing on the first Anniversary Date, provided no Material Sublessee Default has occurred and is continuing, the ECSC shall pay the Working



Capital Assistance to the Bills, which Working Capital Assistance shall be used by the Bills for Working Capital Purposes.

(b) The Bills acknowledge that pursuant to the terms of the 2013 Master Lease, the County is obligated to make certain Working Capital Assistance (as defined in the 2013 Master Lease) payments to the ECSC, which payments are a portion of the Working Capital Assistance payments due from the ECSC to the Bills hereunder, as more specifically designated in the 2013 Master Lease. The obligations of the ECSC and the County with regard to payment of Working Capital Assistance shall be separate and distinct obligations of each of the ECSC and the County, and in no event shall such obligations be, or be deemed to be, joint and several obligations of the ECSC and the County. Notwithstanding the ECSC obligation to the Bills to make Working Capital Assistance payments to the Bills, as set forth in this Article 11, if the County fails to make any Working Capital Assistance (as defined in the 2013 Master Lease) payments (including the Initial Working Capital Assistance) to the ECSC as required by the 2013 Master Lease, then the ECSC may timely remit either (1) the full Working Capital Assistance payments due from the ECSC to the Bills, or (2) the Working Capital Assistance payments due from the ECSC to the Bills, less the portion of such Working Capital Assistance due from the County to the ECSC pursuant to the 2013 Master Lease. If the County fails to pay to the ECSC any Working Capital Assistance due under the 2013 Master Lease, the ECSC shall have such rights and remedies as are set forth in the 2013 Master Lease. If the ECSC fails to pay to the Bills (x) any Working Capital Assistance paid to the ECSC by the County in accordance with Section 6.3(a) of the 2013 Master Lease, or (y) any of the ECSC's portion of any Working Capital Assistance due from the ECSC to the Bills pursuant to this Section 11.1, the County shall have such rights and remedies as are set forth in the 2013 Master Lease. Notwithstanding the foregoing, any portion of the Working Capital Assistance payments due the Bills hereunder that is not paid by the ECSC when due shall bear interest at the Default Interest Rate from the date that said sum was due until actually paid by the ECSC; provided that no interest shall be due and payable unless the Bills provide the ECSC with written notice of the non-payment and the ECSC has not remitted payment to the Bills within fourteen (14) Business Days of such notice. Contemporaneously with the delivery of such notice to the ECSC, the Bills shall provide the County with a copy thereof.

(c) Notwithstanding the foregoing, if as a result of an event of Force Majeure, the Stadium cannot practically, safely and economically be used by the Bills for any Home Game, any Working Capital Assistance previously paid by the ECSC to the Bills for the Lease Year in which such unplayed Home Game falls shall be promptly repaid to the ECSC for each unplayed Home Game, and the ECSC, upon receipt of the same, shall promptly pay to the County its pro-rata share thereof in accordance with the applicable percentage set forth on Schedule 9.4(b) hereto. The amount of repayment for each unplayed Home Game shall be determined by dividing the amount of the Working Capital Assistance for such Lease Year by the number of scheduled Home Games for such Lease Year. To the extent that a Force Majeure event occurring in a previous Lease Year results in a Home Game in the subsequent Lease Year not being played, the ECSC's obligation to pay Working Capital Assistance due for such subsequent Lease Year shall be suspended until such Force Majeure is eliminated. Upon such elimination, the amount of Working Capital Assistance for such subsequent Lease Year shall be reduced pro-rata for each unplayed Home Game based upon the formula set forth above and promptly paid to the Bills by the ECSC following the calculation of such reduction.

**11.2 Adjustment to the Amount of the Working Capital Assistance.** On each Anniversary Date, the amount of the Working Capital Assistance for the upcoming Lease Year shall be adjusted in accordance with this Section 11.2. On each Anniversary Date, the Initial Working Capital Assistance shall be multiplied by the percentage difference between the Price Index for the most recently available month and the Price Index as of the Commencement Date, and the amount thereof will be added to or subtracted from, as the case may be, the amount of the Initial Working Capital Assistance, which result shall be the amount of the Working Capital Assistance for the ensuing Lease Year. Within sixty (60) days of each adjustment to the Working Capital Assistance pursuant to this Section 11.2, the ECSC shall cause a written statement to be delivered to the County and the Bills setting forth such adjustments.

## **ARTICLE 12 DAMAGE AND DESTRUCTION**

### **12.1 The County's Obligation to Restore.**

(a) Subject to the terms and conditions of Section 12.1(d), if, at any time during the Term, the Stadium Complex or any part thereof (other than Bills' Improvements) shall be damaged or destroyed by a Casualty, except as hereinafter provided in Sections 12.1(b) and 12.1(c), the County shall commence and thereafter proceed as promptly as possible to repair, restore and replace the damage to the Stadium Complex as nearly as possible (subject to Section 29.15) to its condition immediately prior to such Casualty. If, as a proximate result of any Casualty, the Stadium cannot practically, safely and economically be used by the Bills for any Game, and provided that (i) the Parties agree that the Stadium will not be repaired, or (ii) during or after the fifth Lease Year the ECSC or the County does not consent to use of such funds to repair the Stadium, each Party may elect to have the Unspent Capital Improvement Allowance, if any, either (x) refunded to such Party, or (y) contributed to the New Stadium Fund, in either case pro rata based upon each such Party's contributions to the Capital Improvement Allowance for the relevant Lease Years.

(b) In the event of Major Casualty, neither the County nor the ECSC shall have any obligation to restore the Stadium Complex (i) if the Bills shall have exercised any option to terminate this 2013 Stadium Lease pursuant to Section 7.1 or (ii) from and after the commencement of the third (3rd) Lease Year, unless the Bills deliver to the County and the ECSC, within ninety (90) days of the delivery by the County to the Bills of a reconstruction and restoration plan, budget and schedule, documentation reasonably satisfactory to the County evidencing the waiver by the Bills of its right to terminate this 2013 Stadium Lease pursuant to Section 7.1. If, in the event of a Major Casualty, the Bills fail to deliver such documentation, the terms and conditions of this 2013 Stadium Lease, including, without limitation, Section 7.1 hereof, shall remain in full force and effect.

(c) Neither the County nor the ECSC shall have any obligation to restore the Stadium Complex pursuant to this Section 12.1 following an event of Casualty if such event of Casualty is caused by or resulting from the negligence or deliberate act of the Bills, its employees, contractors, agents, licensees, guests or invitees

(d) If prior to the Substantial Completion of the Project, as defined in the 2013 Construction Coordinating Agreement, of the Project, all or any part of the Project or the portions of the Stadium Complex to which the Project is affixed, annexed or otherwise connected shall be damaged or destroyed by a Casualty, then the Bills, pursuant to Article 5 of the 2013 Construction Coordinating Agreement, shall commence and thereafter proceed as promptly as possible to repair, restore and replace the damage as nearly as possible (subject to Section 29.15) to its condition immediately prior to such Casualty.

12.2 The Bills' Obligation to Restore. If in the event of Casualty, the County is obligated to restore the Stadium Complex pursuant to Section 12.1 and, in fact, commences such restoration, the Bills shall commence and thereafter proceed as promptly as possible to repair, restore and replace the damage to the Bills' Improvements as nearly as possible (subject to Section 29.15) to their condition immediately prior to such Casualty.

12.3 New York Real Property Law Section 227. The ECSC and the Bills hereby waive, in the event of a Casualty, all rights under New York Real Property Law Section 227.

## **ARTICLE 13 EMINENT DOMAIN**

13.1 Condemnation of Stadium Complex. If, at any time during the Term, a Taking occurs that results in the appropriation of title to the whole or substantially all of the Stadium Complex, and such Taking results in a termination or cancellation of the 2013 Master Lease, then this 2013 Stadium Lease shall automatically terminate as of the date of such Taking. For purposes of this Article 13, "substantially all of the Stadium Complex" shall be deemed to have been taken if, as a direct and proximate result of the Taking: (a) the untaken portion cannot practically, safely, and economically be used by the Bills for the Games; (b) Stadium Patron access to the Stadium is prevented; (c) either the Seating Capacity in the Stadium or the number of Club Level Seats or the seating capacity within the Luxury Suites is/are diminished to less than seventy-five percent (75%) of that existing immediately prior to the Taking and either the County determines that it is not commercially reasonable to restore the same or the County fails to provide reasonable assurances to the Bills within ninety (90) days following the Taking that the County will restore the same to the reasonable satisfaction of the Bills within two hundred and forty (240) days following the Taking; (d) the capacity of the Parking Lots is reduced to less than ninety percent (90%) of that existing immediately prior to the Taking and the County is unable to provide replacement parking on premises reasonably proximate to the Stadium Complex; or (e) the Stadium Complex no longer meets the applicable NFL guidelines for NFL Stadiums. The Bills shall have the right to assert a separate claim against the condemning authority for: (a) any loss or damage with respect to the Bills' Improvements; (b) the unrealized net profit of the Team for the balance of the Term resulting from such Taking; and (c) the value of the unexpired Term. If the Bills do not elect to file a separate claim against the condemning authority, the Bills shall receive, out of the award or awards paid to the County and the ECSC on account of such Taking (including all compensation for the Stadium Complex and improvements or portions thereof taken, and damages, if any, to the parts of the Stadium Complex and the Bills' Improvements not so taken), compensation for any loss or damage with respect to the Bills' Improvements. To the extent such award or awards includes any compensation for the

unrealized net profit of the Team for the balance of the Term or the value of the unexpired Term, such compensation shall be paid to the Bills. The balance of any such award or awards shall be divided between the County and the ECSC on an equitable basis, based upon the loss and damage suffered by each Party by reason of such Taking.

**13.2 Condemnation Proceeds.** If, at any time during the Term, a Taking occurs that affects less than substantially all of the Stadium Complex, the Term shall not be reduced, extended or affected in any way, and the following provisions shall apply:

(a) The County shall commence and thereafter proceed as promptly as possible (subject to Section 29.15) to repair, restore and replace the remaining part of the Stadium Complex (other than the Bills' Improvements) as nearly as possible to its former condition. Upon any such Taking, all amounts or awards received by the County on account of such Taking including all compensation for the Stadium Complex or portions thereof taken (other than the Bills' Improvements), and damages, if any, to the parts of the Stadium Complex (other than the Bills' Improvements) not taken shall be used to pay for the cost of such repair, restoration and replacement to the extent needed therefor.

(b) The Bills shall have the right to assert a separate claim against the condemning authority for: (i) any loss or damage with respect to the Bills' Improvements; (ii) the unrealized net profit of the Team for the balance of the Term resulting from such partial Taking; and (iii) the value of the unexpired Term with respect to the portion of the Stadium Complex so taken. Provided that the County fulfills its obligations set forth under the first sentence of Section 13.2(a), the Bills shall commence and thereafter proceed as promptly as possible (subject to Section 29.15) to repair, restore and replace the remaining portion of the Bills' Improvements as nearly as possible to their former condition. All amounts or awards received by the Bills on account of the loss of or damage to the Bills' Improvements that are attributable to such Taking shall be used to pay for the costs of such repair, restoration and replacement to the extent needed therefor.

(c) Notwithstanding the foregoing, neither the County nor the ECSC shall have any obligation to restore the Stadium Complex (i) if the Bills shall have exercised any option to terminate this 2013 Stadium Lease pursuant to Section 7.2, or (ii) from and after the commencement of the third (3rd) Lease Year, unless the Bills deliver to the County and the ECSC, within thirty (30) days of the date on which title to the taken property vests in the condemning authority, documentation reasonably satisfactory to the County evidencing the waiver by the Bills of its right to terminate this 2013 Stadium Lease pursuant to Section 7.2 for a period of three (3) years following the substantial completion of such restoration.

**13.3 Condemnation Proceedings.** The County, the ECSC and the Bills shall each have the right, at their own expense, to appear in any condemnation proceeding and to participate in any and all hearings, trials and appeals therein.

**13.4 Notice of Condemnation.** The County, the ECSC and the Bills hereby agree that in the event the County, the ECSC or the Bills shall receive notice of any proposed or pending Taking, the party receiving such notice shall promptly notify the other Parties.

**13.5 Taking of a Limited Duration.** If, at any time during the Term, a Taking occurs that results in the temporary appropriation of the whole or substantially all of the Stadium Complex, whether for a fixed or indeterminate period, the covenants of the Parties to perform their respective obligations under the Stadium Agreements (including, but not limited to, the payment of Rent, Working Capital Assistance and Operating/Game Day Expense Reimbursement) shall abate and suspend during such period of time and any award pursuant to such Taking or any price paid pursuant to a purchase and sale under threat of Taking shall be divided equally among the Parties; provided, however, that if the State (or any Affiliate thereof) or the County (or any Affiliate thereof) is the condemning authority, neither the ECSC, if the State (or any Affiliate thereof) is the condemning authority, or the County, if the County (or any Affiliate thereof) is the condemning authority, shall be excused from the performance of its obligations hereunder or entitled to any share of the award or other consideration paid on account of such temporary Taking. If any such temporary Taking lasts for more than one (1) year, the Bills shall have the right to terminate this 2013 Stadium Lease upon not less than sixty (60) days' notice to the County and the ECSC.

#### **ARTICLE 14 QUIET ENJOYMENT**

**14.1 Covenant of Quiet Enjoyment.** The ECSC covenants and warrants that the Bills, on performing and observing all of its covenants and agreements contained in the Stadium Agreements, shall and may peaceably and quietly have, hold, occupy, use and enjoy, and shall have the full, exclusive and unrestricted use and enjoyment of, all of the Stadium Complex during the Term, and may exercise all of its rights hereunder, subject only to the provisions of the Stadium Agreements.

#### **ARTICLE 15 ALTERATIONS; MECHANICS' LIENS**

**15.1 General.** The Bills shall have the right, at its own expense without the County's or the ECSC's consent, to make such non-structural alterations, changes and improvements to the Stadium Complex and install such trade fixtures as the Bills may deem necessary; provided, however, that any such alterations, changes, improvements and fixtures (a) do not materially change the overall function or design of the Stadium Complex nor shorten the useful life thereof nor materially change the aesthetics, sightlines, structure or systems thereof, and (b) do not violate Applicable Law. The Bills shall not make any structural alterations, changes or improvements to the Stadium Complex without the County's and the ECSC's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. All alterations, changes, improvements and fixtures installed by the Bills at the Stadium Complex at its own expense shall remain the property of the Bills throughout the Term and the Bills shall have the right to the depreciation on such alterations, changes, improvements and fixtures. All tangible property incorporated or installed in the Stadium Complex will be permanently affixed to the real property component of the Stadium Complex, and such tangible property, once affixed, will be deemed an integral component of the Stadium Complex and title thereto shall vest in the County in accordance with Section 10.6(a) hereof.

15.2 Mechanics' Liens. Neither the ECSC nor the Bills shall permit any mechanics' liens to exist or be filed as an encumbrance against the Stadium Complex by reason of work done or performed by or for them; and, if any such lien shall be filed, the Party responsible for the payment of the Person filing such lien shall cause such lien to be discharged, released, bonded or otherwise removed as an encumbrance against the Stadium Complex within forty-five (45) days of the filing thereof.

## **ARTICLE 16 ASSIGNMENT AND SUBLETTING**

16.1 Assignment and Subletting Prohibited. Without the prior written consent of the County and the ECSC, except as herein provided in Section 26.1, the Bills will not assign or otherwise convey this 2013 Stadium Lease nor, except as hereinafter provided in Section 16.3, sublease the whole or any part of the Stadium Complex to any Person other than a Permitted Assignee. No permitted assignment or subletting of the Stadium Complex or any part thereof will be deemed: (a) a waiver of the provisions of this Section 16.1; (b) the acceptance of such assignee or subtenant as a substitute or replacement for the Bills; or (c) a release of the Bills from the further performance by the Bills of the covenants on the part of the Bills contained in this 2013 Stadium Lease. The consent by the County or the ECSC to an assignment or sublease will not be construed to relieve the Bills from obtaining either such Party's prior written consent to any further assignment or subletting. No permitted subtenant may assign or encumber its sublease or further sublease all or any portion of its subleased space, or otherwise permit the subleased space or any part of its subleased space to be used or occupied by others, without the County's and the ECSC's prior written consent in each instance.

16.2 Submission of Information. If the Bills request the County or the ECSC to consent to a specific assignment or subletting, the Bills will submit in writing to the County and the ECSC: (a) the name and address of the proposed assignee or subtenant; (b) the business terms of the proposed assignment or sublease; (c) reasonably satisfactory information as to the nature and character of the business of the proposed assignee or subtenant, and as to the nature of its proposed use of the space; (d) banking, financial or other credit information reasonably sufficient to enable the County and the ECSC to determine the financial responsibility and character of the proposed assignee or subtenant; and (e) the proposed form of assignment or sublease.

16.3 Permitted Subletting. Provided no Material Sublessee Default shall have occurred and be continuing, the Bills shall have the right, without the consent of either the County or the ECSC, to sublease all or any portion of the Stadium Complex: (a) to an Affiliate of the Bills for any purpose permitted by Section 5.1; (b) to any other Person for the purpose of staging a single entertainment event (such as a concert); (c) to any other Person for the purpose of keeping or maintaining a professional sports franchise (other than an NFL football team or a professional baseball franchise) at the Stadium; or (d) to any third party in connection with the installation of telecommunications towers or antennas, windmills, or solar energy panels or other utility and electrical components servicing the Stadium provided that the term of any such sublease does not extend beyond the Term of this 2013 Stadium Lease.

## **ARTICLE 17 INDEMNIFICATION**

**17.1 Indemnification of the County and Affiliates by the Bills.** Except to the extent that any injury or damage to persons or property on the Stadium Complex is caused by or results from the negligence or deliberate act of the County, any Affiliate of the County or their respective employees, contractors, agents, guests or invitees, the Bills will neither hold nor attempt to hold the County, any Affiliate of the County or their respective employees or agents liable for, and the Bills will indemnify, defend and hold harmless the County, all Affiliates of the County and their respective employees and agents from and against, any and all Losses incurred in connection with or arising from: (i) the use or occupancy or manner of use or occupancy of the Stadium Complex by the Bills or its employees, agents, contractors or invitees or any Person claiming under the Bills or its employees, agents, contractors or invitees; (ii) any activity, inactivity, work or thing done or permitted by the Bills or its employees, agents, contractors or invitees in or about the Stadium Complex; (iii) any breach by the Bills, its employees, agents, contractors or invitees of this 2013 Stadium Lease; and (iv) any injury or damage to the person, property or business of the Bills, its employees, agents, contractors or invitees entering upon the Stadium Complex under the express or implied invitation of the Bills. If any action or proceeding is brought against the County, any Affiliate of the County, or their respective employees or agents by reason of any such claim for which the Bills have indemnified any party hereunder, the Bills, upon written notice from such indemnified party will defend the same at the Bills' expense, with counsel reasonably satisfactory to such indemnified party. Notwithstanding the foregoing, the Bills shall have no obligation to indemnify the County with respect to any Losses arising out of the acts or omissions of the County under the Stadium Security Agreement.

**17.2 Indemnification of the ECSC and Affiliates by the Bills.** Except to the extent that any injury or damage to persons or property on the Stadium Complex is caused by or results from the negligence or deliberate act of the ECSC, any Affiliate of the ECSC or their respective employees, contractors, agents, guests or invitees, the Bills will neither hold nor attempt to hold the ECSC, any Affiliates of the ECSC or their respective employees or agents liable for, and the Bills will indemnify, defend and hold harmless the ECSC, all Affiliates of the ECSC and their respective employees and agents from and against, any and all Losses incurred in connection with or arising from: (i) the use or occupancy or manner of use or occupancy of the Stadium Complex by the Bills or its employees, agents, contractors or invitees or any Person claiming under the Bills, its employees, agents, contractors or invitees; (ii) any activity, inactivity, work or thing done or permitted by the Bills or its employees, agents, contractors or invitees in or about the Stadium Complex; (iii) any breach by the Bills or its employees, agents, contractors or invitees of this 2013 Stadium Lease; and (iv) any injury or damage to the person, property or business of the Bills, its employees, agents, contractors or invitees entering upon the Stadium Complex under the express or implied invitation of the Bills. If any action or proceeding is brought against the ECSC, any Affiliate of the ECSC or their respective employees or agents by reason of any such claim for which the Bills has indemnified any party hereunder, the Bills, upon written notice from such indemnified party will defend the same at the Bills' expense, with counsel reasonably satisfactory to such indemnified party. Notwithstanding the foregoing, the Bills shall have no obligation to indemnify ECSC with respect to any Losses arising out of the acts or omissions of the County under the Stadium Security Agreement.



**17.3 Indemnification of the Bills and Affiliates by the County.** As provided in Section 21.23 of the 2013 Master Lease, except to the extent that any injury or damage to persons or property on the Stadium Complex is caused by or results from the negligence or deliberate act of the Bills, any Affiliate of the Bills or their respective employees, contractors, agents, sublessees, sublicensees, guests or invitees, and subject to the provisions of Section 18.2(c), the County will neither hold nor attempt to hold the Bills, any Affiliates of the Bills or their respective employees or agents liable for, and the County will indemnify, defend and hold harmless the Bills, all Affiliates of the Bills or their respective employees and agents from and against, any and all Losses incurred in connection with or arising from any Civic Event sponsored by the County pursuant to Section 2.3 of this 2013 Stadium Lease or any work completed by the County or its employees, contractors, agents at the Stadium Complex in connection with its obligations arising under Sections 10.1, 12.1 or 13.2 of this 2013 Stadium Lease. If any action or proceeding is brought against the Bills, any Affiliate of the Bills or their respective employees or agents by reason of any such claim for which the County has indemnified any party hereunder, the County, upon written notice from such indemnified party will defend the same at the County's expense, with counsel reasonably satisfactory to such indemnified party. Notwithstanding the foregoing, the County shall have no obligation to indemnify the Bills with respect to any Losses arising out of the acts or omissions of the Bills under the Stadium Security Agreement.

**17.4 Indemnification of the ECSC and Affiliates by the County.** As provided in Section 21.23 of the 2013 Master Lease, except to the extent that any injury or damage to persons or property on the Stadium Complex is caused by or results from the negligence or deliberate act of the ECSC, any Affiliate of the ECSC or their respective employees, contractors, agents, guests or invitees, the County will neither hold nor attempt to hold the ECSC, any Affiliates of the ECSC or their respective employees or agents liable for, and the County will indemnify, defend and hold harmless the ECSC, all Affiliates of the ECSC or their respective employees and agents from and against, any and all Losses incurred in connection with or arising from any Civic Event sponsored by the County pursuant to Section 2.3 of this 2013 Stadium Lease. If any action or proceeding is brought against the ECSC, any Affiliate of the ECSC or their respective employees or agents by reason of any such claim for which the County has indemnified any party hereunder, the County, upon written notice from such indemnified party will defend the same at the County's expense, with counsel reasonably satisfactory to such indemnified party. Notwithstanding the foregoing, the County shall have no obligation to indemnify ECSC with respect to any Losses arising out of the acts or omissions of the Bills under the Stadium Security Agreement.

**17.5 Indemnification of the Bills and Affiliates by the ECSC.** Except to the extent that any injury or damage to persons or property on the Stadium Complex is caused by or results from the negligence or deliberate act of the Bills, any Affiliate of the Bills or its respective employees, contractors, agents, sublessees, sublicensees, guests or invitees, and subject to the provisions of Section 18.2(c), the ECSC will neither hold nor attempt to hold the Bills, any Affiliates of the Bills or its respective employees or agents liable for, and the ECSC will indemnify, defend and hold harmless the Bills, all Affiliates of the Bills or its respective employees and agents from and against, any and all Losses incurred in connection with or arising from any Civic Event sponsored by the ECSC pursuant to Section 2.3 of this 2013 Stadium Lease. If any action or proceeding is brought against the Bills, any Affiliate of the Bills or its



respective employees or agents by reason of any such claim for which the ECSC has indemnified any party hereunder, the ECSC, upon written notice from such indemnified party will defend the same at the ECSC's expense, with counsel reasonably satisfactory to such indemnified party. Notwithstanding the foregoing, the ECSC and its Affiliates shall have no obligation to indemnify the Bills with respect to any Losses arising solely out of the acts or omissions of the County under the Stadium Security Agreement.

**17.6 Indemnification of the County and Affiliates by the ECSC.** Except to the extent that any injury or damage to persons or property on the Stadium Complex is caused by or results from the negligence or deliberate act of the County, any Affiliate of the County or their respective employees, contractors, agents, guests or invitees, the ECSC will neither hold nor attempt to hold the County, any Affiliates of the County or their respective employees or agents liable for, and the ECSC will indemnify, defend and hold harmless the County, all Affiliates of the County or their respective employees and agents from and against, any and all Losses incurred in connection with or arising from any Civic Event sponsored by the ECSC pursuant to Section 2.3 of this 2013 Stadium Lease. If any action or proceeding is brought against the County, any Affiliate of the County or their respective employees or agents by reason of any such claim for which the ECSC has indemnified any party hereunder, the ECSC, upon written notice from such indemnified party will defend the same at the ECSC's expense, with counsel reasonably satisfactory to such indemnified party.

**17.7 Survival.** The provisions of this Article 17 will survive the expiration, termination or cancellation of this 2013 Stadium Lease.

## **ARTICLE 18 INSURANCE**

**18.1 Bills' Insurance.** During the Term, the Bills, at its sole cost and expense, shall keep and maintain in full force and effect a policy or policies containing the following types of coverages, deductibles, limits and other terms:

(a) Property insurance covering loss or damage to the Bills' Improvements and to all of the Bills' furniture and fixtures, machinery, equipment and any other personal property owned and used in the Bills' business and found in, on or about the Stadium Complex, for the full replacement cost value (or at least 90% thereof), with any coinsurance provision waived by an agreed amount clause, on an "all risks" basis (coverage for flood and earthquake is optional). Such "all risks" coverage may be subject to a reasonable deductible, but that deductible shall not exceed \$100,000 without the prior approval of the County and ECSC.

(b) Commercial general liability insurance (on an "occurrence" basis) for a suit for damages arising out of or in connection with the Stadium Complex with coverage and limits of not less than the following (and subject to a deductible of not more than \$100,000 without prior approval of the County and ECSC):

Bodily Injury & Property Damage Limit	\$1,000,000 each occurrence
Products/Completed Operations Limit	\$2,000,000 aggregate

Personal Injury and Advertising                      \$1,000,000 each offense  
General Aggregate Limit                                \$2,000,000 each location

Exclusions for the following coverages are not permissible:

Products/Completed Operations and Contractual Liability.

(c) Automobile liability insurance with coverage and limits of not less than the following:

Owned, Hired and Non-Owned Autos (Symbol "1" on Business Auto policies) Combined Single Limit for Bodily Injury and Property Damage – \$1,000,000 each accident.

(d) Workers' Compensation, Employers' Liability and New York State Disability Benefits Liability insurance providing statutory coverage complying with the New York Workers' Compensation Law.

(e) Excess "umbrella" liability insurance (on an "occurrence" basis) with coverage and limits of not less than the following:

Combined Single Limit for Bodily Injury, Personal Injury and Property Damage — \$100,000,000 each occurrence and aggregate, and with a retained limit of no more than \$100,000. (Coverage to be excess of required coverages under Sections 18.1(b), (c) and (d) and the Certificate of Insurance required per Section 18.2(h) must clearly so reflect)

(f) Contingent business interruption and extra expense insurance in an amount sufficient to provide for the payment of Working Capital Assistance, Operating Expense Reimbursement, and Game Day Expense Reimbursement in the event of an abatement or reduction of either such payment in accordance with either Section 11.1 or 9.4(e).

## 18.2 Requirements of the Bills' Insurance Policies.

(a) Each Bills' Insurance Policy shall be with companies that are nationally recognized and, if underwriting primary coverage, that have a policyholder's rating of at least "A" and a "FSC" rating of at least "XII" as listed at the time of issuance by *A.M. Best Insurance Reports*, or such other ratings as the County and the Bills may mutually agree, and are qualified to issue such insurance in New York State.

(b) Each Bills' Insurance Policy shall be endorsed to provide that it may not be canceled, terminated, reduced or materially changed unless at least sixty (60) days' advance notice thereof has been provided to the County and the ECSC, except in the case of cancellation or termination due to a lapse for non-payment, in which case only ten (10) days' advance notice shall be required.

(c) Each Bills' Insurance Policy shall include waivers of any recourse against the County and the ECSC for payment of any premiums or assessments under such policy.

The County and ECSC waive all rights of recovery against the Bills and the Bills waive all rights of recovery against the County and ECSC for any loss or damage to the real or personal property of the other party occurring at or on the Stadium Complex, whether or not caused by the negligence or other fault of the County, the ECSC, the Bills or of their respective agents, employees, licensees or assignees and, further, this provision shall apply notwithstanding any other provision herein to the contrary. This mutual waiver of rights of recovery shall apply only to the extent that such loss or damage is covered by insurance. Each party shall use commercially reasonable efforts to secure from their respective property insurers permission to waive such rights of recovery. If such waiver shall in any way serve to void the insurance coverage otherwise available, then this provision shall be deemed inapplicable.

(d) Each Bills' Insurance Policy covering any liability shall contain a "cross-liability" endorsement or a "severability of interests" endorsement providing that coverage, to the maximum amount of the policy, shall be available despite any suit between the insured and any additional insured under such policy.

(e) The County, the State, ECSC and ESD must be named as additional insureds, on a direct primary basis, under all the policies listed in Sections 18.1(b) and (e) above.

The insurance required hereunder shall be primary and non-contributory insurance with respect to any insurance carried by any other party and the insurer shall be liable for the full amount of any loss up to the total limit of liability required without the right of contribution of any other insurance coverage held by any other entity named as an additional insured.

(f) Each Bills' Insurance Policy containing liability coverage shall contain an endorsement specifying the Stadium Agreements as "insured contracts."

(g) It is expressly understood and agreed by the Bills that the insurance requirements specified above contemplate the use of occurrence liability forms. If claims-made coverage is evidenced to satisfy any of these requirements, the Bills shall be subject to additional requirements as may be reasonably imposed by the County or ECSC to avoid any potential lapse in protection that is inherent in the use of claims-made coverage.

(h) The Bills shall deliver, or cause to be delivered, to the County and the ECSC certificates of insurance and any other documentation reasonably required by the County and the ECSC evidencing the existence of the Bills Insurance Policies and the various required amendments specified in Sections 18.2(b), (c), (d), (e) and (f), such delivery to be made at least three (3) Business Days prior to the Commencement Date and on each Anniversary Date. Within twenty-one (21) days after the issuance of any additional policy or amendment or supplement to any of the Bills Insurance' Policies that materially impacts the protection afforded to the County or ECSC, the Bills shall deliver to the County and the ECSC revised certificates of insurance reflecting any such addition, amendment or supplement. With respect to any Bills' Insurance Policy that expires by its terms prior to the expiration of the Term, the Bills shall deliver to the County and the ECSC certificates of insurance and any other documentation

reasonably required by the County and the ECSC evidencing the existence of the renewal or replacement of such Bills' Insurance Policy, such delivery to be made at least three (3) Business Days prior to the expiration of such Bills' Insurance Policy; provided that the Bills may instead deliver a facsimile of the binder of insurance, such facsimile delivery to be made on or prior to the expiration of such insurance policy, and within ten (10) days after the expiration of such insurance policy, the actual certificate of insurance and any other required documentation shall be furnished to the County and the ECSC.

**18.3 Reevaluation of Policy Terms and Limits.** The County, the ECSC and the Bills shall meet from time to time (but no less frequently than once every three years) to review the adequacy of the dollar limits and other terms set forth of the Bills Insurance Policies, and the dollar limits and other terms shall be increased or decreased as mutually agreed upon by the parties to take into account changes, if any, in circumstances and other relevant factors (including, without limitation, inflation, claims history, changes in law, economic feasibility and insurance markets) since the policies' dollar limits were initially established or last adjusted, as applicable.

**18.4 Adequacy of Coverage.** The Bills acknowledge that neither the County, nor the ECSC, nor their respective agents or employees, have made any representations that the insurance to be carried by the Bills pursuant to this Article 18 is adequate to protect the Bills or its properties. If the Bills believe that any such insurance coverage is inadequate, the Bills may obtain such additional insurance coverage as the Bills deem adequate, at its sole cost and expense.

**18.5 Additional Policies.** If, during the Term, the Bills purchase or otherwise procure any commercial general liability, employer's liability, automobile liability or umbrella liability insurance coverage in excess of the coverage mandated by Section 18.1, such additional coverage shall be subject to the terms, conditions and limitations of subparagraphs (a) through (h) of Section 18.2.

**18.6 Property Insurance.**

(a) Provided that the premiums therefor do not exceed the Casualty Insurance Premium Cap, during the Term, the County shall keep and maintain a policy of comprehensive property insurance against any and all losses or damage to the Buildings (other than the portions thereof constituting Bills' Improvements) in an amount not less than eighty percent (80%) of the full replacement value thereof on an "all risks" basis, to the extent commercially available subject to such deductibles as the County in its sole discretion may elect or determine. Notwithstanding the foregoing, should the premiums for the foregoing comprehensive property insurance exceed the Casualty Insurance Premium Cap, the County shall purchase comprehensive property insurance as similar in coverage and amount as is commercially available for premiums equal to the Casualty Insurance Premium Cap. The purchase of flood and earthquake coverage is not required. The County, at its sole discretion, may purchase such coverage at limits and with deductibles it deems appropriate. Except as provided in Section 12.1(b), in no event shall the proceeds of any such insurance be for the benefit of, nor be available to, nor be paid to ECSC or the Bills. The County shall provide evidence of any such property insurance coverage to the Bills on or before April 1 of each Lease Year.

(b) The Casualty Insurance Premium Cap for the first Lease Year shall be the amount of the Initial Casualty Insurance Premium Cap. On the first Anniversary Date, and on each Anniversary Date thereafter, the Casualty Insurance Premium Cap for the upcoming Lease Year shall be adjusted as follows: If, on such Anniversary Date, the Price Index for the most recently available month is greater or less than the Price Index as of the Commencement Date, then the Initial Casualty Insurance Premium Cap shall be multiplied by the percentage difference between the Price Index for such most recently available month and the Price Index as of the Commencement Date, and the product will be added to or subtracted from, as the case may be, the amount of the Initial Casualty Insurance Premium Cap, which result shall be the Casualty Insurance Premium Cap during the ensuing Lease Year. Within sixty (60) days of each adjustment to the Casualty Insurance Premium Cap pursuant to this Section 18.6(b), the County shall cause a written statement to be delivered to each of the Bills and the ECSC setting forth such adjustment.

## **ARTICLE 19 END OF TERM**

19.1 End of Term. Upon the expiration or termination of the Term, the Bills shall peaceably deliver up and surrender the Stadium Complex to the ECSC in good condition, order and repair, normal wear and tear and any Structural Repairs for which the County is responsible pursuant to Section 10.1 of this 2013 Stadium Lease or Section 7.1 of the 2013 Master Lease excepted. In amplification of, and not as a limitation upon, the foregoing, should this 2013 Stadium Lease terminate by its terms prior to the Substantial Completion of the Project (as defined in the 2013 Construction Coordinating Agreement), including as the result of a termination of the 2013 Construction Coordinating Agreement, the Bills shall return the Stadium Complex to the ECSC in a condition reasonably safe for Persons to enter the Stadium Complex, addressing the existence of incomplete Project improvements. At the end of the Term, at the request of the County, the Bills shall deliver to the County any plans, drawings, specifications, computer programs, manuals, written materials, maintenance logs and other items of equipment and personal property used by the Bills in conjunction with the operation, repair, maintenance, management and control of the Stadium Complex that are not reasonably capable of being used or adopted for another purpose (e.g., specialized tools for the Video Replay System) To the extent that any of the foregoing items were not part of the Project and the Bills were not otherwise reimbursed for the cost thereof by way of Operating/Game Day Expense Reimbursement, the County shall reimburse the Bills for the fair market value of any such requested items.

19.2 Alterations and Improvements. Upon the expiration or termination of the Term, all alterations, installations, changes, replacements, additions or improvements that (a) have been made by the Bills to the Stadium Complex and (b) cannot be removed without material damage (other than damage to be repaired by the Bills as contemplated by Section 19.3) to the remainder of the Stadium Complex, shall be deemed a part of the Stadium Complex and the same shall not be removed.

19.3 Personal Property and Trade Fixtures. Upon the expiration or termination of the Term, the Bills shall remove all personal property and trade fixtures installed by the Bills at the Stadium Complex, and shall repair any damage caused to the Stadium Complex due to the

removal of such property. If the Bills fail to remove such property within ten (10) days of the expiration or termination of the Term, such property shall be deemed abandoned. In such event, the County may, at its option, (a) cause any such abandoned property to be removed at the expense of the Bills, (b) sell all or any part of such property at public or private sale, without notice to the Bills, and/or (c) declare that title to such property shall be deemed to have passed to the County.

19.4 Termination Documentation. Upon the expiration or termination of the Term and performance of all obligations required of the ECSC hereunder, the Bills shall immediately upon the request and at the expense of the ECSC or the County, deliver a release of any instruments of record evidencing this 2013 Stadium Lease, and a quitclaim deed conveying to the County all of the Bills' right, title and interest in and to the Stadium Complex.

## **ARTICLE 20 TAXES AND ASSESSMENTS**

20.1 General Levy Taxes. Under Applicable Law as of the Effective Date, the Stadium Complex, by virtue of the County's ownership thereof, is exempt from all general levy ad valorem real estate taxes and assessments. To the extent that any such taxes and assessments are imposed on or with respect to the Stadium Complex by any Governmental Authority during the Term, such taxes and assessments, pursuant to Article 12 of the 2013 Master Lease, shall be paid by the County.

20.2 Bills' Obligation to Pay Assessments. The Bills covenant and agree to pay as Operating Expenses, all Assessments on or before the date on which such Assessments would be deemed delinquent.

20.3 Contest by the Bills. The Bills shall have the right to contest any Assessment in good faith, at its own cost and expense, provided, however, that notwithstanding such contest, the Bills shall not take any action that would adversely affect, threaten or jeopardize the interest of the County or the ECSC in the Stadium Complex or any part thereof. In the event of any such contest by the Bills, the ECSC agrees to reasonably cooperate with the Bills.

20.4 Adjustments for Partial Lease Years. For the first and last Lease Years of the Term, the portion of all Assessments to be paid by the Bills shall be prorated, depending on the proportion that each such Lease Year shall bear to the tax year in which it falls.

20.5 Imposition of Additional Taxes. If, during the Term, the State, the County or any municipality located within Erie County, New York imposes or assesses any new or additional sales tax, user charge, ticket charge or service fee on the Bills or the revenue derived by the Bills from the sale of admission tickets at the Stadium Complex, the Operating Expense Reimbursement Cap shall be increased by the amount paid by the Bills on account of any such tax, charge or fee, and such tax, charge or fee thereafter shall be deemed part of Operating Expenses so that the same may be reimbursed to the Bills as contemplated by Section 9.4 of this 2013 Stadium Lease.

**ARTICLE 21  
ENVIRONMENTAL MATTERS**

**21.1 Bills' Environmental Indemnification.** The Bills covenant and agree that they will not use, generate, store, release or dispose of any Hazardous Substances at the Stadium Complex except in compliance with all Applicable Laws. The Bills will defend, indemnify and hold harmless the County, the ECSC, their Affiliates and their respective employees and agents from and against any and all Losses, arising out of (i): (a) the presence of, the Release or threatened Release into the Environment of, or exposure to, any Hazardous Substance on, at or under the Stadium Complex; (b) the generation, manufacture, processing, distribution, use, handling, transportation, storage, treatment or disposal of any Hazardous Substance on, at or under the Stadium Complex; (c) the violation or alleged violation of any Environmental Laws with respect to the Stadium Complex; (d) the non-compliance or alleged non-compliance with any Environmental Laws with respect to the Stadium Complex; or (e) the Bills' failure to promptly undertake and diligently pursue to completion all response or corrective action with respect to a Release or threatened Release of any Hazardous Substance on, at or under the Stadium Complex, and any Proceeding incident to any of the foregoing; and (ii) all Environmental Claims, and Losses resulting from, relating to or arising out of Environmental Claims, and any Proceedings incident to any of the foregoing. Notwithstanding the foregoing, it is acknowledged and agreed that the obligation of the Bills to defend, indemnify and hold harmless shall not extend to events described in the preceding sentence (i) that occurred prior to the date on which the Bills commenced occupancy of the Stadium pursuant to the terms of the 1971 Original Lease or (ii) that occur from and after the Commencement Date on account of a Civic Event.

**21.2 Survival.** The provisions of this Article 21 will survive the expiration, termination or cancellation of this 2013 Stadium Lease.

**ARTICLE 22  
ESTOPPEL CERTIFICATES**

**22.1 Bills' Certificate.** The Bills shall at any time and from time to time, within ten (10) days of the receipt of a written request from the County or the ECSC, execute, acknowledge, and deliver to the requesting party a statement in writing certifying: (a) that this 2013 Stadium Lease has not been amended and is in full force and effect (or, if amended, stating the nature of such amendment and certifying that this 2013 Stadium Lease, as so amended, is in full force and effect); (b) the dates to which any Rent due hereunder has been paid; (c) that there are not, to the Bills' knowledge, any uncured defaults on the part of the Bills hereunder, and no events or conditions then in existence that, with the passage of time or notice or both, would constitute a default on the part of either the County or the ECSC hereunder, or specifying such defaults, events, or conditions, if any are claimed; and (d) such other information as may be reasonably required by the requesting party.

**22.2 ECSC's Certificate.** The ECSC shall at any time and from time to time, within ten (10) days of receipt of prior written notice from the Bills, execute, acknowledge, and deliver to the Bills a statement in writing certifying: (a) that this 2013 Stadium Lease has not been amended and is in full force and effect (or, if amended, stating the nature of such

amendment and certifying that this 2013 Stadium Lease, as so amended, is in full force and effect); (b) that there are not, to the ECSC's knowledge, any uncured defaults on the part of the ECSC hereunder, and no events or conditions then in existence that, with the passage of time or notice or both, would constitute a default on the part of the Bills hereunder, or specifying such defaults, events, or conditions, if any are claimed; and (c) such other information as may be reasonably required by the Bills.

## **ARTICLE 23 DISPUTE RESOLUTION**

**23.1 Arbitration.** All disputes arising under or relating to the Franchise Maintenance Covenants, or the breach or threatened breach thereof, shall be settled by an action or proceeding in a court of competent jurisdiction. All other disputes arising under or relating to the Stadium Agreements (subject to the right of any Party to submit a dispute arising under the 2013 Construction Coordinating Agreement to pre-arbitration meetings prior to proceeding with this Section 23.1, as more particularly set forth in the 2013 Construction Coordinating Agreement), or the breach or threatened breach thereof, shall be settled by arbitration, conducted in Buffalo, New York in accordance with the Commercial Arbitration Rules of the American Arbitration Association as follows:

(a) Arbitration will be commenced by a written demand made by any Party upon the other Parties.

(b) The arbitration will be submitted to three arbitrators selected by those Parties appearing in the arbitration from the lists of highly experienced commercial arbitrators maintained by the American Arbitration Association, which may include arbitrators on its Large Complex Case Panel, and who reside in any of the states contiguous to New York State (*i.e.*, Pennsylvania, New Jersey, Connecticut, Massachusetts and Vermont). In the event that an insufficient number of qualified arbitrators are available from states contiguous to the State of New York, such that the Parties appearing in the arbitration are unable to agree upon a panel of three arbitrators from said states within forty-five (45) days following the filing of the demand for arbitration, additional arbitrators will be drawn from the national list of arbitrators maintained by the American Arbitration Association, but not from the states of New York, Michigan or Florida.

(c) The arbitrators will not have power to add to, modify, detract from, terminate or otherwise alter in any way the provisions of the Stadium Agreements. No arbitrator may make an award of punitive or exemplary damages.

(d) The arbitrating Parties will each pay for the services of its attorneys and witnesses, plus its proportionate share of the costs relating to the arbitration.

(e) The decision or award of the arbitrators shall be entered with a court of competent jurisdiction and will be enforced according to the laws of the State of New York.

(f) Disputes arising under the 2013 Construction Coordinating Agreement may be submitted to pre-arbitration meetings for possible resolution prior to proceeding to



arbitration pursuant to this Section 23.1, in accordance with the 2013 Construction Coordinating Agreement.

**ARTICLE 24  
SUBLESSEE DEFAULT**

**24.1 Events of Sublessee Default.** Any of the following events shall constitute a "Sublessee Default":

- (a) The Bills breach any of the Franchise Maintenance Covenants;**
- (b) The Bills default in the due and punctual payment of Rent, and such default continues for fifteen (15) days after written notice from the ECSC or the County;**
- (c) The Bills breach any of the other agreements, terms, covenants or conditions set forth in this 2013 Stadium Lease that the Bills are required to perform or observe, and such breach continues for a period of thirty (30) days after written notice from the ECSC or the County to the Bills or, if such breach cannot be cured reasonably within such thirty (30) day period, if the Bills fail to diligently commence to cure such breach within thirty (30) days after written notice from the ECSC or the County and to diligently complete such cure thereafter.**
- (d) The Bills breach any of the agreements, terms, covenants or conditions set forth in any Stadium Agreement that the Bills are required to perform or observe pursuant to the terms thereof and said breach continues beyond any applicable notice and cure period provided for in such agreement, provided that with respect to a Bills failure to timely pay certain of its obligations as more specifically identified in Section 4.3(h) of the 2013 Construction Coordinating Agreement, if such failure results in a Default (as defined in the 2013 Construction Coordinating Agreement), the Parties shall use the original due date(s) for the relevant payment(s), as set forth in the Funding Schedule (as defined in the 2013 Construction Coordinating Agreement) for the purpose of calculating any damages resulting therefrom.**
- (e) This 2013 Stadium Lease or the Stadium Complex or any part of the Stadium Complex is taken upon execution or by other process of law directed against the Bills, or are taken upon or subject to any attachment by any creditor of the Bills or claimant against the Bills, and said attachment is not discharged or disposed of within ninety (90) days after its levy;**
- (f) The Bills file a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or admit the material allegations of any such petition by answer or otherwise, or are dissolved or make an assignment for the benefit of creditors;**
- (g) Involuntary proceedings under any such bankruptcy law or insolvency act or for the dissolution of the Bills are instituted against the Bills, or a receiver or trustee is appointed for any material portion of the property of the Bills, and such proceeding is not dismissed or such receivership or trusteeship vacated within ninety (90) days after such institution or appointment;**

**24.2 The ECSC's Remedies.** If any one or more Sublessee Defaults occur, the ECSC has the right, subject to the terms and conditions of Section 6.4 and Section 6.5, at its election:

(a) To discharge, pay or otherwise perform the obligation of the Bills giving rise to such Sublessee Default, and all amounts paid by the ECSC and all costs and expenses incurred by the ECSC in connection with the discharge, payment or performance of any such obligation (together with interest at the Default Interest Rate from the date of payment by the ECSC) will either, at the option of the ECSC, (i) be payable by the Bills to the ECSC on demand, or (ii) be offset by the ECSC against the next payment or payments to be made by the ECSC pursuant to this 2013 Stadium Lease;

(b) To give the Bills ninety (90) days' written notice of the expiration of the Term and upon the giving of such notice and the expiration of such ninety (90) day period, the Bills' right to possession of the Stadium Complex will cease and this 2013 Stadium Lease will be terminated, except as to the Bills' liability for the payment of any financial obligations accruing hereunder prior to the date of such termination, including, but not limited to, any liability for the payment of any applicable Termination Fee, as if the expiration of the term fixed in such notice were the end of the Term, provided, however, that to the extent that the Sublessee Default giving rise to such notice occurs during an NFL Season, such ninety (90) day period shall not begin to run until the last Game of such NFL Season has been played;

(c) To commence arbitration in accordance with Article 23 seeking a declaration that ECSC is entitled to summary eviction of the Bills under Article 7 of the New York Real Property Actions and Proceedings Law (provided, however, that to the extent such arbitration is commenced during an NFL Season, any warrant of eviction obtained thereby shall not be effective until the last Game of such NFL Season has been played); or

(d) To exercise any other right or remedy available to it at law, in equity or otherwise.

**24.3 The County's Remedies.** If any one or more Sublessee Defaults occur, the County has the right, subject to the terms and conditions of Section 6.4 and Section 6.5, at its election:

(a) To discharge, pay or otherwise perform the obligation of the Bills giving rise to such Sublessee Default, and all amounts paid by the County and all costs and expenses incurred by the County in connection with the discharge, payment or performance of any such obligation (together with interest at the Default Interest Rate from the date of payment by the County) will be payable by the Bills to the County on demand; or

(b) To give the Bills ninety (90) days' written notice of the expiration of the Term and upon the giving of such notice and the expiration of such ninety (90) day period, the Bills' right to possession of the Stadium Complex will cease and this 2013 Stadium Lease will be terminated, except as to the Bills' liability for the payment of any financial obligations accruing hereunder prior to the date of such termination, including, but not limited to, any liability for the payment of any applicable Termination Fee, as if the expiration of the term fixed

in such notice were the end of the Term, provided, however, that to the extent that the Sublessee Default giving rise to such notice occurs during an NFL Season, such ninety (90) day period shall not begin to run until the last Game of such NFL Season has been played;

(c) To commence arbitration in accordance with Article 23 seeking a declaration that the County is entitled to summary eviction of the Bills under Article 7 of the New York Real Property Actions and Proceedings Law (provided, however, that to the extent such arbitration is commenced during an NFL Season, any warrant of eviction obtained thereby shall not be effective until the last Game of such NFL Season has been played); or

(d) To exercise any other right or remedy available to it at law, in equity or otherwise.

**24.4 Cumulative Remedies.** Subject to the terms and conditions of Section 6.4 and Section 6.5, each right and remedy afforded to the ECSC or the County pursuant to this Article 24 is cumulative and is in addition to every other right or remedy provided for in this 2013 Stadium Lease or now or hereafter existing at law, in equity or otherwise, and the exercise by either the ECSC or the County, as the case may be, of any one or more of the rights or remedies provided for in this 2013 Stadium Lease or now or hereafter existing at law, in equity or otherwise will not preclude the simultaneous or later exercise by the ECSC or the County, as the case may be, of any or all other rights or remedies provided for in this 2013 Stadium Lease or now or hereafter existing at law, in equity or otherwise.

## **ARTICLE 25 SUBLESSOR DEFAULT**

**25.1 Events of Sublessor Default.** Any of the following events shall constitute a "Sublessor Default":

(a) The ECSC breaches any of the agreements, terms, covenants, or conditions that this 2013 Stadium Lease requires the ECSC to perform, and such breach continues for a period of thirty (30) days after written notice from the Bills to the ECSC and the County or, if such breach cannot be cured reasonably within such thirty (30) day period, if the ECSC fails to diligently commence to cure such breach within thirty (30) days after written notice from the Bills and to complete such cure within a reasonable time thereafter.

(b) Either the ECSC or the County breach any of the agreements, terms, covenants or conditions set forth in the 2013 Construction Coordinating Agreement or the 2013 Master Lease that the ECSC or the County, as the case may be, is required to perform or observe pursuant to the terms thereof and said breach continues beyond any applicable notice and cure period provided for in such agreements, provided that with respect to a County or ECSC failure to timely pay certain of its respective obligations as more specifically identified in Section 4.3(h) of the 2013 Construction Coordinating Agreement, if such failure results in a Default (as defined in the 2013 Construction Coordinating Agreement), the Parties shall use the original due date(s) for the relevant payment(s), as set forth in the Funding Schedule (as defined in the 2013 Construction Coordinating Agreement) for the purpose of calculating any damages resulting therefrom.

(c) The County breaches any of the agreements, terms, covenants or conditions set forth in this 2013 Stadium Lease that this 2013 Stadium Lease requires the County to perform or observe, and such breach continues for a period of thirty (30) days after written notice from the Bills to the County and the ECSC or, if such breach cannot be cured reasonably within such thirty (30) day period, if the County fails to diligently commence to cure such breach within thirty (30) days after written notice from the Bills and to diligently complete such cure thereafter.

#### **25.2 The Bills' Remedies.**

(a) If any one or more Sublessor Defaults occur, the Bills have the right, at its election, to discharge, pay or otherwise perform the obligation of the ECSC or the County giving rise to such Sublessor Default, and all amounts paid by the Bills and all costs and expenses incurred by the Bills in connection with the discharge, payment or performance of any such obligations (together with interest at the Default Interest Rate from the date of payment by the Bills) will either, at the option of the Bills, (i) be payable by the Party whose action or inaction gave rise to such Sublessor Default on demand or (ii) in the case of any Sublessor Default arising out of an action or inaction of the ECSC, be offset by the Bills against the next payment or payments to be made by the Bills pursuant to this 2013 Stadium Lease;

(b) If any one or more Sublessor Defaults occur, the Bills have the right, at its election, to exercise any other right or remedy available to it at law, in equity or otherwise; or

(c) If, upon the completion of arbitration conducted in accordance with Article 23, it is determined that a Material Sublessor Default exists, and such Material Sublessor Default remains uncured for a period of thirty (30) days following such determination, the Bills shall have the right, at its election, to give the County and the ECSC ten (10) days' written notice of the expiration of the Term and upon the giving of such notice and the expiration of such ten (10) day period, the Term shall end and this 2013 Stadium Lease shall become null and void, except for the provisions hereof that shall specifically survive such termination.

**25.3 Cumulative Remedies.** Each right and remedy afforded to the Bills pursuant to this Article 25 is cumulative and in addition to every other right or remedy provided for in this 2013 Stadium Lease or now or hereafter existing at law, in equity or otherwise, and the exercise by the Bills of any one or more of the rights or remedies provided for in this 2013 Stadium Lease or now or hereafter existing at law, in equity or otherwise will not preclude the simultaneous or later exercise by the Bills of any or all other rights or remedies provided for in this 2013 Stadium Lease or now or hereafter existing at law, in equity or otherwise.

**25.4 Cure of Sublessor Defaults.** Upon serving either the ECSC or the County with notice of any event that, with the passage of time, could ripen into a Sublessor Default, the Bills shall simultaneously serve a copy of such notice upon the other Party. Such other Party shall thereupon have the same period as provided to the Party whose action or inaction gave rise to such notice to discharge, pay or perform the obligations of such Party, and the Bills shall accept such discharge, payment or performance by or at the instigation of such other Party as if the same had been done by the Party required to perform such obligation.

**ARTICLE 26  
LEASEHOLD MORTGAGES**

26.1 Leasehold Mortgages. The Bills shall have the right, during the Term, to grant a Lien securing indebtedness for borrowed money against or with respect to its interest in this 2013 Stadium Lease and/or in the subleasehold estate in favor of the Bills created by this 2013 Stadium Lease, provided that the terms of any such Lien do not provide for or otherwise permit, at any time, the Franchise, the Bills' interest in this 2013 Stadium Lease or the subleasehold estate in favor of the Bills created by this 2013 Stadium Lease to be owned or controlled, directly or indirectly, by any Person other than a Permitted Assignee, or during the pendency of the foreclosure or other enforcement of such Lien, the NFL. Except as provided in the preceding sentence, without the County's prior written consent, the Bills agree not to grant any Liens securing indebtedness for borrowed money against or with respect to the leasehold estate in favor of the Bills created by this 2013 Stadium Lease. The consent by the County to any such proposed Lien shall not be construed to permit the granting by the Bills of any future or additional Liens or the transfer, assignment or conveyance by such Lien holder of this 2013 Stadium Lease or the leasehold estate created hereby.

**ARTICLE 27  
ENTRY BY THE ECSC AND THE COUNTY**

27.1 The ECSC's Right of Entry. The ECSC, its agents, employees, and contractors may enter the Stadium Complex at any time in response to an Emergency and at reasonable hours upon prior written notice to:

- (a) Inspect the Stadium Complex;
- (b) Determine whether the Bills are complying with all of its obligations in this 2013 Stadium Lease;
- (c) Supply services to be provided by the ECSC to the Bills according to this 2013 Stadium Lease; and
- (d) Undertake obligations of the ECSC under the terms of this 2013 Stadium Lease (provided that in exercising such right of access, the ECSC shall use commercially reasonable efforts to avoid any unnecessary interference with Stadium Events).

27.2 County's Right of Entry. The Bills and the ECSC recognize that the County has a substantial interest in the manner in which the Stadium Complex is operated and maintained and has a responsibility to the public to ensure that the Stadium Complex is operated and maintained in a manner consistent with public facilities. In furtherance of the foregoing, the County and its employees, agents and representatives shall have the right at all times to enter into and upon any and all parts of the Stadium Complex for the purpose of inspecting the same and performing its obligations under the Stadium Agreements (provided that in exercising such right of access, the County shall use commercially reasonable efforts to avoid any unnecessary interference with Stadium Events, subject in all cases to the County's rights and obligations under Applicable Law).

**ARTICLE 28  
PROTECTION OF THE 2013 MASTER LEASE**

28.1 Generally. The Bills shall not do or cause to be done or suffer or permit to be done any act or thing that would constitute a Sublessee Default or would or might constitute a default under Section 4.2 of the 2013 Master Lease or that would or might cause the ECSC or the County to become liable for any damages, costs, claims or penalties or that would or might materially increase the obligations of the ECSC as lessee under the 2013 Master Lease, or that would or might adversely affect or reduce any of the ECSC's rights or benefits under the 2013 Master Lease. The Bills represent that they have examined the 2013 Master Lease and that they are fully familiar with the terms thereof. The provisions of this Section 28.1 shall survive the expiration, termination or cancellation of this 2013 Stadium Lease.

28.2 Modification of 2013 Master Lease. The County and the ECSC may modify, or cause or suffer to be modified, the 2013 Master Lease, without in any instance first obtaining the consent of the Bills to such modification unless the modification in question would adversely affect the Bills' rights or obligations hereunder or under the 2013 Master Lease.

28.3 The County's Rights Against the Bills. Without in any way limiting the enforceability of any of the terms and conditions of the 2013 Master Lease or this 2013 Stadium Lease that expressly afford the County a right against the Bills or the NFL for the payment or performance of an obligation, the Bills, the NFL and the ECSC acknowledge and agree that the County is a third-party beneficiary of this 2013 Stadium Lease and, as such, has the right, with or without the consent of the ECSC, to enforce any obligation of the Bills or the NFL hereunder directly against the Bills or the NFL, as the case may be, in its own name. Without limiting the generality of the foregoing, in the event the County seeks to enforce an obligation of the Bills arising under Article 9 of this 2013 Stadium Lease, the ECSC shall refrain from separately enforcing such obligation for so long as the County diligently and in good faith pursues such enforcement.

28.4 Amounts Expended in Curing Lessee Defaults. To the extent the Bills cure any Lessee Default pursuant to Section 16.6 of the 2013 Master Lease, any amounts paid by the Bills and all costs and expenses incurred by the Bills in connection with the discharge, payment or performance of any such obligations (together with interest at the Default Interest Rate to the date of repayment by the ECSC) will either, at the option of the Bills, (i) be payable by the ECSC to the Bills on demand, or (ii) be offset by the Bills against the next payment or payments to be made by the Bills pursuant to this 2013 Stadium Lease.

**ARTICLE 29  
MISCELLANEOUS**

29.1 Public Sector Capacity. In entering into the Stadium Agreements, the County is acting in a proprietary rather than a governmental capacity. Nothing contained herein shall limit the County from exercising its governmental or police powers with respect to the protection of the public health, safety or welfare.

**29.2 Exculpatory Provisions.** All covenants, stipulations, promises, agreements and obligations of the Parties contained herein shall be deemed to be covenants, stipulations, provisions, agreements and obligations of the Party making such covenant, stipulation, promise, agreement or obligation and not of any member, director, officer, employee or agent of such Party in his or her individual capacity, and no recourse shall be had for any claim hereunder against any such member, director, officer, employee or agent.

**29.3 No Construction Against Drafting Party.** The County, the ECSC and the Bills acknowledge that each of them and their counsel have had an opportunity to review this 2013 Stadium Lease, have mutually contributed to the drafting of this 2013 Stadium Lease, and that this 2013 Stadium Lease will not be construed against any of the parties as the drafting party.

**29.4 No Waiver.** No failure of any Party to this 2013 Stadium Lease to require, and no delay by any Party to this 2013 Stadium Lease in requiring, any other Party to comply with any provision of this 2013 Stadium Lease shall constitute a waiver of the right to require such compliance. No failure of any Party to this 2013 Stadium Lease to exercise, and no delay by any Party to this 2013 Stadium Lease in exercising, any right or remedy under this 2013 Stadium Lease shall constitute a waiver of such right or remedy. No waiver by any Party to this 2013 Stadium Lease of any right or remedy under this 2013 Stadium Lease shall be effective unless made in writing. Any waiver by any Party to this 2013 Stadium Lease of any right or remedy under this 2013 Stadium Lease shall be limited to the specific instance and shall not constitute a waiver of such right or remedy in the future.

**29.5 Notices.** Unless otherwise provided in this 2013 Stadium Lease, any agreement, notice, request, consent, approval, instruction or other communication to be given hereunder by any Party to the other shall be in writing and (i) delivered personally (such delivered notice to be effective on the date it is delivered); (ii) mailed by certified mail, postage prepaid (such mailed notice to be effective four (4) days after the date it is mailed); (iii) sent by recognized overnight courier (such couriered notice to be effective one (1) day after the date it is delivered to such courier); or (iv) sent by facsimile transmission, with a confirmation sent by way of one of the above methods, addressed to the Party for whom it is intended at its address set forth in Section 1.2 (such facsimile notice to be effective on the date that confirmation of such facsimile transmission is received); provided that any Party may designate in a writing to any other party any other address or telecopier number to which, and any other Person to whom or which, a copy of any such notice, request, instruction or other communication should be sent.

**29.6 Severability.** If any provision of this 2013 Stadium Lease proves to be illegal, invalid, or unenforceable, the remainder of this 2013 Stadium Lease will not be affected by such finding, and in lieu of each provision of this 2013 Stadium Lease that is illegal, invalid, or unenforceable, a provision will be added as a part of this 2013 Stadium Lease as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

**29.7 Written Amendment Required.** No course of performance or other conduct hereafter pursued, accepted or acquiesced in, and no oral agreement or representation made in the future, by any Party to this 2013 Stadium Lease, whether or not relied or acted upon,

and no usage of trade, whether or not relied or acted upon, shall modify or terminate this 2013 Stadium Lease, impair or otherwise affect any obligation of any Party pursuant to this 2013 Stadium Lease or otherwise operate as a waiver of any such right or remedy. No modification of this 2013 Stadium Lease or waiver of any such right or remedy shall be effective unless made in writing duly executed by the duly authorized representatives of the Parties to this 2013 Stadium Lease and approved by the County.

**29.8 Entire Agreement.** The Stadium Agreements, including the joinders, exhibits, schedules and addenda thereto, if any, contain the entire agreement between the Parties concerning the Stadium Complex, and there are no promises, agreements, conditions, understandings, inducements, representations or warranties, oral or written, express or implied, between them other than as expressly set forth in the Stadium Agreements or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the County, the ECSC, the ESD, the Bills and/or the NFL. No promises or representations, except as contained in Stadium Agreements, have been made to the ECSC respecting the condition or the manner of operating the Stadium Complex. This 2013 Stadium Lease and the other Stadium Agreements supersede and replace in its entirety the MOU.

**29.9 Captions.** The captions of the various articles and sections of this 2013 Stadium Lease are for convenience only and do not necessarily define, limit, describe, or construe the contents of such articles or sections.

**29.10 Brokers.** The ECSC and the Bills respectively represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Stadium Complex. Each of them will indemnify and defend the other against and hold the other harmless from any claims for fees or commissions from anyone with whom either of them has consulted or negotiated with regard to the Stadium Complex.

**29.11 Governing Law; Venue.** Each Party hereby consents to the jurisdiction of the courts of the State of New York and/or the United States District Court for the Western District of New York in any action or proceeding arising under or relating to this 2013 Stadium Lease (with Buffalo, Erie County, New York, as the venue for any action or proceeding). Each Party agrees not to institute suit against the others in a court in any jurisdiction, except as stated above, without the other Parties' consent. Each such party waives any claim that Erie County, New York or the Western District of New York is an inconvenient forum or an improper forum based on improper venue. Each such party agrees to service of process in any form or manner permitted by law, addressed to it as set forth in Section 1.2. The Parties further agree that all matters with respect to the validity, construction or interpretation of this 2013 Stadium Lease shall be governed by and interpreted in accordance with the internal law of the State of New York, without reference to any conflict of laws provisions except for Sections 5-1401 and 5-1402 of the New York General Obligations Law. Each Party agrees that a true, correct and complete copy of this Agreement kept in a Party's course of business may be admitted into evidence as an original.

**29.12 Binding Effect.** The covenants, conditions, and agreements contained in this 2013 Stadium Lease will bind and inure to the benefit of the Parties and their respective distributees, successors and permitted assigns.



29.13 **Recording.** Upon the execution and acknowledgment hereof, this 2013 Stadium Lease or a memorandum hereof shall be recorded in the real property records of Erie County, New York.

29.14 **Counterparts.** This 2013 Stadium Lease may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. Any Party may execute this 2013 Stadium Lease by facsimile signature and the other Parties shall be entitled to rely on such facsimile signature as evidence that this 2013 Stadium Lease has been duly executed by such Party. Any Party executing this 2013 Stadium Lease by facsimile signature shall immediately forward to the other Parties an original signature page by overnight mail.

29.15 **Force Majeure.** If any Party is delayed, prevented or hindered from the performance of any covenant or condition of this 2013 Stadium Lease because of Force Majeure, such performance shall be excused for the period of the delay, and the period for such performance shall be extended for a period equivalent to the period of such delay.

29.16 **No Merger.** The terms and provisions of this 2013 Stadium Lease (including, without limitation, the representations, warranties and covenants) shall not merge, be extinguished or otherwise affected by the delivery and execution of any document delivered pursuant to this 2013 Stadium Lease unless such document shall specifically so state and shall be signed by the County, the ECSC and the Bills.

29.17 **Only Sublessor — Sublessee Relationship.** Nothing contained in this 2013 Stadium Lease shall be deemed or construed by the Parties or by any third Person to create the relationship of principal and agent, partnership, joint venture or any association between the ECSC and the Bills, it being expressly understood and agreed that neither the method of computation of Rent nor any act of the Parties shall be deemed to create any relationship between the ECSC and the Bills other than the relationship of sublessor and sublessee. It is agreed that all Persons provided by the Bills to perform the obligations of the Bills contemplated hereby are not employees or agents of the ECSC. The Bills acknowledge that the Bills' employees and agents shall not, by reason of this 2013 Stadium Lease or by reason of the performance of any services in connection with the satisfaction of the Bills' obligations hereunder, be considered employees of, or entitled to any employee benefits of, the ECSC or the County.

29.18 **Applicable Standard.** Any approval, consent, decision or election to be made or given by a Party may be made or given in such Party's sole judgment and discretion, unless a different standard (such as reasonableness) is provided for explicitly.

29.19 **Additional Assurances.** From time to time after the date of this 2013 Stadium Lease, without further consideration and subject to the other terms of this 2013 Stadium Lease, the Parties shall promptly execute and deliver such other instruments and take such other action as any other Party reasonably may request to consummate the transactions contemplated hereby.

**29.20 Representations and Warranties.** The representations and warranties of the Parties set forth in Article 9 of the 2013 Construction Coordinating Agreement are hereby incorporated by reference as if fully set forth in this 2013 Stadium Lease. Such representations and warranties shall survive the expiration, termination or cancellation of the 2013 Construction Coordinating Agreement and this 2013 Stadium Lease.

**29.21 Authority.** The Bills and the ECSC (and the County and NFL by execution of the joinders attached hereto) each represent and warrant that (i) it has full power and authority to enter into this 2013 Stadium Lease and to perform and carry out all obligations, covenants and provisions hereof; and (ii) this 2013 Stadium Lease constitutes the legal, valid and binding obligations of said party in accordance with the terms hereof and has been duly authorized by all necessary board, director, shareholder, manager, legislative, executive, committee and/or agency action, as the case may be, of such party.

**29.22 Stadium Affirmative Action Plan.** The Bills shall comply with the Stadium Affirmative Action Plan.

**29.23 Limited Liability of ECSC.** Notwithstanding anything contained herein to the contrary, the liability and obligation of ECSC to perform and make good the obligations contained herein shall not be enforced by any Proceeding wherein damages or any money judgment shall be sought against ECSC, ESD or the State; provided, however, that the foregoing limitation shall not be construed so as to limit the ability of any Party to commence a Proceeding against ECSC, or, if applicable, in accordance with the terms of the Four Party Agreement dated as of the date hereof among the County, the Bills, ESD and ECSC, against ESD, seeking:

(a) Recovery for Losses arising out of the negligence or willful misconduct of ECSC;

(b) Recovery for Losses arising out of the negligence or willful misconduct of any employee of ECSC or ESD;

(c) Recovery for Losses arising out of the negligence or willful misconduct of any Person at the Stadium Complex at the behest, request or invitation of ECSC (including any guest or invitee in conjunction with an ECSC-sponsored Civic Event, but excluding the Bills or its employees, contractors, agents, licensees, guests or invitees);

(d) Recovery of any Project Insurance Policy proceeds;

(e) Reimbursement from ECSC for Operating Expenses and Game Day Expenses in accordance with Section 9.4 and Section 9.5 of this 2013 Stadium Lease;

(f) Payment by ECSC of Working Capital Assistance in accordance with Section 11.1 of this 2013 Stadium Lease;

(g) Payment by ECSC pursuant to Section 2.3 of the 2013 Construction Coordinating Agreement; and/or

(h) Payment by the ECSC of Capital Improvement Allowance payments in accordance with Article 10 of the 2013 Stadium Lease.

**29.24 Vending at the Stadium Complex.** Provided the Bills furnish Unaffiliated Vendors with opportunities for vending at the Stadium Complex and non-profit and charitable organizations with opportunities to operate concession stands within the Stadium in accordance with the Vending Plan, the County shall use reasonable efforts to prohibit vending on the County-owned rights-of-way contiguous to the Stadium Complex by all Persons other than those permitted under Section 35 of the New York General Business Law, it being acknowledged and agreed by the Parties that the failure of the County to fulfill this obligation, after taking into account any applicable notice and cure periods, shall constitute a Sublessor Default hereunder. If during the Term, the Bills cease to provide vending opportunities for Unaffiliated Vendors and/or non-profit and charitable organizations in accordance with the Vending Plan, the County shall not have any obligation hereunder to prohibit vending in the County-owned rights-of-way contiguous to the Stadium Complex for the period during which any of such vending opportunities are unavailable.

**IN WITNESS WHEREOF**, the ECSC and the Bills have executed this Lease as of the day and year first above written.

**SUBLESSOR:**

**ERIE COUNTY STADIUM CORPORATION**

By: \_\_\_\_\_  
\_\_\_\_\_, President

**SUBLESEE:**

**BUFFALO BILLS, INC.**

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

STATE OF NEW YORK )

: SS.

COUNTY OF NEW YORK )

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2013, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )

: SS.

COUNTY OF NEW YORK )

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2013, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**JOINDER OF THE COUNTY**

The County hereby executes this Joinder to the 2013 Stadium Lease for the purpose of: (a) acknowledging its approval of the subletting of the Stadium Complex to the Bills pursuant thereto and on all of the terms and conditions set forth in the 2013 Stadium Lease; and (b) acknowledging to the ECSC and Bills, and agreeing to perform and/or comply with its obligations arising under the 2013 Stadium Lease, as the case may be; including, without limitation, obligations arising under Sections 2.3, 4.2(b), 4.2(c), 4.2(e), 4.4, 4.5(c), 5.1, 5.2, 6.5, 9.7, 9.8, 9.9, 10.1, 10.2, 10.3, 10.5, 10.6, 10.7(e), 12.1, 13.2, 13.4, 13.5, 15.1, 17.3, 17.4, 18.3, 18.6, 19.1, 20.1, 20.5(a), 23.1, 25.1(b), 25.2, 25.3, 27.2, 28.2, 29.3, 29.5, 29.11, 29.19, 29.21 and 29.24 thereof.

The County represents and warrants to the ECSC and the Bills that: (a) it has full power and authority to enter into this Joinder to 2013 Stadium Lease and to perform and carry out all obligations, covenants and provisions hereof; and (b) this Joinder to 2013 Stadium Lease constitutes the legal, valid and binding obligation of the County in accordance with the terms hereof, and has been duly authorized by all necessary legislative, executive, committee and/or agency action, as the case may be, of the County.

The County further represents and warrants to the ECSC and the Bills that no further legislative action or approval on the part of the County is or shall be required in order to enable the County to perform and carry out all obligations, covenants and provisions of this Joinder to 2013 Stadium Lease.

**THE COUNTY OF ERIE**

By: \_\_\_\_\_  
Mark C. Poloncarz, County Executive

Approved as to form:

\_\_\_\_\_  
County Attorney

Approved as to Content:

\_\_\_\_\_  
Deputy County Executive

**JOINDER OF THE NFL**

The National Football League hereby executes this Joinder (this "Joinder") to the 2013 Stadium Lease, dated \_\_\_\_\_, 2013, between Erie County Stadium Corporation and Buffalo Bills, Inc. (the "2013 Stadium Lease") solely for the limited purpose of: (a) agreeing to the first two sentences of Section 3.2(a) of the 2013 Stadium Lease during the Term (as defined in the 2013 Stadium Lease), (b) making the representations and warranties set forth in the first sentence of Section 6.7 of the 2013 Stadium Lease; (c) acknowledging the covenant of the Bills in the third-to-last sentence of Section 6.7 of the 2013 Stadium Lease; and (d) evidencing that all required consents or approvals of the NFL or its member clubs have been granted by all action necessary under the NFL Rules and Regulations with respect to the 2013 Stadium Lease, the other documents contemplated by the MOU, and the transactions contemplated in each of the foregoing, all as of the date hereof. The National Football League shall not be bound by any provision of or obligated in any manner under the 2013 Stadium Lease except as expressly set forth in this Joinder.

**NATIONAL FOOTBALL LEAGUE**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**DESCRIPTION OF THE LAND**

Being all that tract or parcel of land located on the east side of Abbott Road in the Town of Orchard Park, County of Erie, State of New York and being part of Lots 39 and 40, Township 9, Range 7 of the Holland Land Company's survey and further bounded and described as follows:

Beginning at a point on the centerline of Abbott Road, said point being Two Hundred Fifty-Five and Fifty-Three hundredths feet (255.53') south of the centerline of Southwestern Boulevard as measured along the centerline of Abbott Road and said point of beginning being on the extension southwesterly of the southerly line of lands conveyed to Penn Mutual Life Insurance Company by Liber 6132 of Deeds at Page 195;

thence northeasterly at an angle with the centerline of Abbott Road measured from the south to the east of  $115^{\circ}47'49''$  and parallel with Southwestern Boulevard a distance of Two Hundred Thirty-Six and Sixty-Five hundredths feet (236.65') to the southeast corner of Liber 6132 of Deeds at Page 195;

thence north along the east line of Liber 6132 of Deeds at Page 195 and its extension north and being parallel with Abbott Road a distance of Two Hundred Fifty-Five and Fifty-Three hundredths feet (255.53') feet to the centerline of Southwestern Boulevard;

thence northeast along the centerline of Southwestern Boulevard at an included angle with the last described line of  $115^{\circ}47'49''$  a distance of Two Hundred Fifty-Four and Twenty-Six hundredths feet (254.26') to a point on the south line of lands conveyed to Charles Druse by Liber 471 of Deeds at Page 317;

thence continuing along the centerline of Southwestern Boulevard a distance of Three Hundred Sixty-One and Thirty-One hundredths feet (361.31');

thence south at right angles to the south line of Charles Druse by Liber 471 of Deeds at Page 317 a distance of One Hundred Ninety-One and Thirty-Five hundredths feet (191.35') to said south line;

thence east at right angles with the last described line and along the said south line a distance of One Thousand Seventy-Eight and Seventy-Seven hundredths feet (1,078.77') to the east line of Lot 40, Township 9, Range 7;

thence south along the east line of Lot 40, Township 9, Range 7 and at an included angle with the last described line of  $90^{\circ}50'18''$  a distance of Two Thousand Seven Hundred Thirty-Five and Twenty-Four hundredths feet (2,735.24') to the southeast corner of Lot 40, Township 9, Range 7;

thence continuing in a straight line a distance of Sixty-Six and Four hundredths feet (66.04') to the northeast corner of Lot 39, Township 9, Range 7;



thence west at an included angle with the last described line of 88°00'47" and along the north line of Lot 39, Township 9, Range 7 a distance of ninety-six and ninety-seven hundredths feet (96.97') to the northeast corner of lands conveyed to the Town of Orchard Park by Liber 8087 of Deeds at Page 67;

thence southwest at a deflection to the left of 77°41'52" and along an easterly line of lands conveyed by Liber 8087 of Deeds at Page 67, a distance of Five Hundred Twenty and Seven hundredths feet more or less (520.07' ±) deeded and Five Hundred Nineteen and Sixty-Eight hundredths feet (519.68') measured to an angle point in said easterly line;

thence southwest along said easterly line and at an included angle with the last described line of 173°23'30" a distance of Two Hundred One and Forty-Seven hundredths feet (201.47') to the southeast corner of said lands conveyed by Liber 8087 of Deeds at Page 67;

thence west at an included angle with the last described line of 110°41'58" a distance of One Hundred Seventy-Six and Twenty hundredths feet (176.20') to the southwest corner of said lands conveyed by Liber 8087 of Deeds at Page 67;

thence north at right angles to the last described line a distance of One Hundred Eighty-One and Seventy-Five hundredths feet (181.75');

thence west at a deflection to the left of 90°0' deeded and 89°46'49" measured a distance of Six Hundred Twenty-Seven and no hundredths feet (627.0') deeded and Six Hundred Twenty-Three and Forty-One hundredths feet (623.41') measured to a point One Thousand One Hundred Eleven and Forty-Four hundredths feet (1,111.44') north of the centerline of Big Tree Road as measured at right angles with this described line;

thence south at right angles with the last described line a distance of Eight Hundred Sixty and Eighty-Four hundredths feet (860.84') to a point Two Hundred Fifty and Sixty hundredths feet (250.60') north of the centerline of Big Tree Road as measured along the extension south of this described line;

thence west at right angles with the last described line a distance of One Hundred Seventy-Seven and Thirty-Nine hundredths feet (177.39');

thence south at right angles with the last described line a distance of Two Hundred Twenty and Sixty-Four hundredths feet (220.64') to the centerline of Big Tree Road;

thence westerly along the centerline of Big Tree Road and at an included angle with the last described line of 80°24'47" a distance of One Hundred Ninety-Two and Fifty-Three hundredths feet (192.53');

thence westerly along the centerline of Big Tree Road and at a deflection to the left of 0°20'00" a distance of Forty-Eight and Twenty-Two hundredths feet (48.22');

thence north at an included angle with the last described line of 99°15'20" a distance of One Thousand Five Hundred Seventy and Eighty hundredths feet (1,570.80') deeded and One

Thousand Five Hundred Ninety-Two and Forty-Seven hundredths feet (1,592.47') measured to the north line of Lot 39, Township 9, Range 7;

thence west along the north line of Lot 39 a distance of Five Hundred Fifty-Two and Ninety-Five hundredths feet (552.95') to the centerline of Abbott Road as now laid out;

thence northeast at an included angle with the last described line of  $80^{\circ}08'15''$  a distance of Six Hundred Ninety-Seven and Eighty-One hundredths feet (697.81') to an angle point in the centerline of Abbott Road as now laid out;

thence northeasterly along the centerline of Abbott Road as now laid out and at a deflection to the left of  $1^{\circ}29'56''$  a distance of Seven Hundred Sixty-Eight and Ninety-Three hundredths feet (768.93') to a point of curve in the centerline of Abbott Road as now laid out;

thence northerly along a curve to the left having a radius of One Thousand Nine Hundred Nine and Eighty-Six hundredths feet (1,909.86') and a central angle of  $15^{\circ}50'16''$  an arc length of Five Hundred Twenty-Three and Four hundredths feet (523.04') to the point of tangency;

thence northwesterly along the center line of Abbott Road and tangent to the last described line a distance of Two Hundred Eighty-Two and Eighty-One hundredths feet (282.81') to the point of beginning;

Excepting from the above described parcel the "burial ground lot" further bounded and described as follows:

Commencing at the intersection of centerlines of Abbott Road and Southwestern Boulevard;

thence southwest along the centerline of Abbott Road and its extension a distance of Eight Hundred One and Fifty hundredths feet (801.50');

thence southeasterly at a deflection to the right of  $16^{\circ}33'49''$  a distance of Two Hundred Ten and Eighty-Eight hundredths feet (210.88') record and Two Hundred Seventeen and Fifty-Five hundredths feet (217.55') measured;

thence east at an angle with the last described line measured from the north to the east of  $79^{\circ}55'55''$  a distance of Eight Hundred Sixty-One and Twenty-Seven hundredths feet (861.27') record and Eight Hundred Sixty-Three and Sixteen hundredths feet (863.16') measured to the point of beginning;

thence continuing east a distance of One Hundred Forty and Fifteen hundredths feet (140.15');

thence north at an included angle with the last described line of  $88^{\circ}46'27''$  a distance of Eighty-Two and Forty-Four hundredths feet (82.44');

thence west at an included angle with the last described line of  $91^{\circ}13'33''$  a distance of One Hundred Forty and Fifteen hundredths feet (140.15');

thence south at an included angle with the last described line of  $88^{\circ}46'27''$  a distance of Eighty-Two and Forty-Four hundredths feet (82.44') to the point of beginning and containing 0.27 acres, more or less.

Also excepting from the above described parcel the southerly half of Southwestern Boulevard, said having a full right-of-way width of 100' as conveyed to the County of Erie by Liber 2062 of Deeds at Page 496;

Also excepting from the above described parcel that portion of lands lying within the above described parcel along Big Tree Road as conveyed by Edna Oaks to the State of New York by Liber 4287 of Deeds at Page 256 and shown on Map 25-R-1, Parcel 31;

The remaining parcel containing 138.98 acres more or less.

Also conveying the following described parcel

Being all that tract or parcel of land located on the west side of Abbott Road in the Town of Orchard Park, County of Erie, State of New York and being part of Lots 39 and 40, Township 9, Range 7 of the Holland Land Company's survey and further bounded and described as follows:

Commencing at the centerline of Abbott Road at its intersection with the centerline of Southwestern Boulevard;

thence  $S 5^{\circ}19'26'' E$  along the centerline of Abbott Road a distance of Five Hundred Thirty-Eight and Thirty-Four hundredths feet (538.34') to a point of curve in the centerline of Abbott Road as now laid out;

thence southerly along a curve to the right having a radius of One Thousand Nine Hundred Nine and Eighty-Six hundredths feet (1,909.86') and being the centerline of Abbott Road as now laid out an arc length of Nineteen and no hundredths feet (19.00') to its intersection with the north line of lands formerly conveyed to E.I. DuPont DeNemours & Company by Liber 1295 of Deeds at Page 469 and the point of beginning;

thence southerly along a curve to the right forming the centerline of Abbott Road as now laid out having a radius of One Thousand Nine Hundred Nine and Eighty-Six hundredths feet (1,909.86') an arc length of Five Hundred Four and Four hundredths feet (504.04') to a point of tangency;

thence  $S 10^{\circ}22'02'' W$  along the centerline of Abbott Road as now laid out and tangent to the last described curve a distance of Seven Hundred Sixty-Eight and Ninety-Three hundredths feet (768.93') to an angle point;

thence  $S 11^{\circ}51'58'' W$  along the centerline of Abbott Road as now laid out a distance of One Thousand Sixty-One and Seventy-Two hundredths feet (1,061.72') to the southeast corner of lands conveyed to the County of Erie by Liber 7551 of Deeds at Page 607;

thence N 78°41'03" W a distance of Three Hundred Twenty and no hundredths feet (320.00') to an angle point in lands conveyed to the County of Erie by Liber 7551 of Deeds at Page 607;

thence S 11°51'58" W along an east line of lands conveyed to the County of Erie by Liber 7551 of Deeds at Page 607 and parallel with the centerline of Abbott Road a distance of Three Hundred Twenty and no hundredths feet (320.00') to the northwest corner of lands conveyed by James F. Piridy and wife to the County of Erie by Liber 8070 of Deeds at Page 377;

thence S 78°41'03" E a distance of One Hundred Twenty and no hundredths feet (120.00') to a point;

thence S 11°51'58" W and parallel with the centerline of Abbott Road a distance of One Hundred Forty and no hundredths feet (140.00') to a point;

thence S 78°41'02" E a distance of Two Hundred and no hundredths feet (200.00') to the centerline of Abbott Road at the northeast corner of lands of the County of Erie as shown on SK 217-90 and known as Parcel No. 1, said point being Six Hundred Seventy-Five and Ten hundredths feet (675.10') north of the centerline of Big Tree Road as measured along said centerline of Abbott Road;

thence S 11°51'58" W along said centerline of Abbott Road as shown on SK 217-90 a distance of Four Hundred Fifty-Five and Fifteen hundredths feet (455.15') to the southeast corner of lands of the County of Erie as shown on SK 217-90 and known as Parcel No. 1;

thence N 78°21'07" W a distance of Three Hundred Eighty-Two and Twenty-Six hundredths feet (382.26');

thence N 28°01'26" W a distance of Sixty-Nine and Thirty-Six hundredths feet (69.36');

thence N 80°00'42" W a distance of Ninety-Three and Forty hundredths feet (93.40');

thence N 76°20'34" W a distance of One Hundred Fifty and Thirteen hundredths feet (150.13');

thence N 85°10'45" W a distance of One Hundred and Sixty-Six hundredths feet (100.66');

thence N 80°36'35" W a distance of Fifty and One hundredths feet (50.01');

thence N 11°18'00" E a distance of Three and no hundredths feet (3.00');

thence N 84°44'22" W a distance of Fifty and Twenty-Eight hundredths feet (50.28');

thence N 11°18'00" E a distance of One and Fourteen hundredths feet (1.14');

thence N 81°18'40" W a distance of Thirty-Five and Three hundredths feet (35.03') to a point;

thence N 11°51'58" E and parallel with the centerline of Abbott Road a distance of Eight Hundred Seventy-One and Sixteen hundredths feet (871.16') to a point on the extension west of the north line of lands conveyed by James F. Piridy to Frank Nucherno by Liber 8815 of Deeds at Page 624;

thence S 78°41'02" E and along the extension west of lands conveyed by Liber 8815 of Deeds at Page 624 a distance of Two Hundred Nineteen and Eighty-Four hundredths feet (219.84') to a point on the extension south of the west line of lands conveyed to E.I. DuPont DeNemours & Company by Liber 1295 of Deeds at Page 469;

thence N 00°01'46" E and along the west line of lands conveyed by Liber 1295 of Deeds at Page 469 and its extension south and also north a distance of Two Thousand One Hundred Ninety-Two and Eighty-Six hundredths feet (2,192.86') to the southerly line of Southwestern Boulevard being 100' wide;

thence N 64°45'18" E along the southerly line of Southwestern Boulevard a distance of One Hundred and no tenths feet (100.0');

thence S 0°01'46" W a distance of Fifty-Nine and Fourteen hundredths feet (59.14') to the north line of lands conveyed to E.I. DuPont DeNemours & Company;

thence S 89°14'02" E along the said north line a distance of Nine Hundred Fifty-Eight and Eighty-Two hundredths feet (958.82') to the point of beginning;

The remaining parcel containing 58.65 acres more or less.

**EXHIBIT B**

**I ♥ NEW YORK HOSPITALITY CENTER**

[Diagram under review by ECSC].

**EXHIBIT C**

**CONCESSIONAIRE INSURANCE REQUIREMENTS**

**Concessionaire's Insurance**

**(a) Required Coverages**

**1. Commercial General Liability**

<b>Bodily Injury &amp; Property Damage Limit</b>	<b>\$1,000,000 per occurrence</b>
<b>Products/Completed Operations Limit</b>	<b>\$1,000,000 aggregate</b>
<b>Personal Injury and Advertising</b>	<b>\$1,000,000 each person/organization</b>
<b>General Aggregate Limit</b>	<b>\$2,000,000 each location</b>

**Exclusions for the following coverages are not permissible:**

**Products/Complete Operations  
Contractual Liability**

**2. Automobile Liability**

**Owned, Hired and Non-Owned Autos**

<b>Combined Single Limit for Bodily Injury and Property Damage</b>	<b>\$1,000,000 each accident</b>
--	----------------------------------

<b>3. Liquor Liability (where the sale or dispensing of alcoholic beverages is contemplated)</b>	<b>\$1,000,000 each occurrence \$1,000,000 aggregate</b>
--	--

**4. Excess "Umbrella" Liability**

<b>Combined Single Limit for Bodily Injury and Property Damage</b>	<b>\$25,000,000 each occurrence and aggregate</b>
--	---

**(Coverage to be excess of required coverages (a) 1, 2 and 3 and the Certificate of Insurance required per item (e) below must clearly so reflect)**

**5. Workers' Compensation & Employers' Liability**

**Statutory coverage complying with the New York Workers' Compensation Law**

- (b) All insurance carriers providing the above coverages for the concessionaire must be licensed to do so in New York State. All such carriers must also be rated no lower than "A" by the most recent Best's Key Rating Guide or Best's Agent's Guide or must be otherwise acceptable to the County.
- (c) The County, ECSC and ESD must be named as additional insureds, on a direct primary basis, under all the policies listed in (a) 1, (a) 3 and (a) 4 above for liability arising out of responsibilities of the concessionaire under its agreement with the Bills.
- (d) The insurance required hereunder shall be primary insurance and the insurer shall be liable for the full amount of any loss up to the total limit of liability required without the right of contribution of any other insurance coverage held by any other entity named as an additional insured in item (c) above.
- (e) Certificates of insurance must be provided to and approved by the County prior to commencing work under the concessionaire's contract. If any policy expires or is cancelled during the term of this Stadium Lease, the concessionaire shall immediately furnish an original certificate of insurance evidencing proper renewal or replacement of the policy. The certificate of insurance must provide evidence of the additional insured status for all required parties.
- (f) At least 60 days advance written notice of the cancellation, non-renewal or material change of any of the required coverages will be provided to the County and the respective policies will be so endorsed and the required certificates of insurance shall evidence this as well.
- (g) It is expressly understood and agreed by the concessionaire that the insurance requirements specified above contemplate the use of occurrence liability forms. If claims-made coverage is evidenced to satisfy any of these requirements, the concessionaire shall be subject to additional requirements as may be reasonably imposed by the County to avoid any potential lapse in protection which is inherent in the use of claims-made coverage.
- (h) It is understood that the concessionaire maintain and evidence total General Liability, Auto Liability and Liquor Liability limits of \$26,000,000. This may be accomplished as outlined in (a) above or in any other combination of primary and excess layers so long as all other requirements are fulfilled.
- (i) Notwithstanding the foregoing, with respect to a Bills' Event, the insurance requirements specified in this Exhibit C may be modified in the Bills' reasonable discretion, including a reduction in the amount of insurance required to be provided by the participating concessionaire for such event; provided, however, that in no event shall the amount of such insurance be less than \$15,000,000.



**EXHIBIT D**

**SURVEY**

**See attached.**



**EXHIBIT E**  
**VENDING PLAN**

**A. VENDING OPPORTUNITIES INSIDE THE STADIUM**

The Buffalo Bills attract a large number of patrons to attend home football games. In order to serve these patrons, the Buffalo Bills, through their concessionaire, offer a large number of vending and concession opportunities within the Stadium. The Buffalo Bills are committed to providing high quality, diverse food, beverage, souvenir, novelty and similar products within the Stadium. There are currently forty (40) such vending locations within the Stadium. In the past, a number of the concession stands have been operated by not-for-profit or charitable organizations from the Western New York community. The Buffalo Bills intend to continue to provide these opportunities to not-for-profit and charitable organizations. If the Buffalo Bills discontinue this practice, they will notify Erie County and New York State in advance in accordance with the Notice provision in Section 29.5 of the 2013 Stadium Lease.

**B. VENDING OPPORTUNITIES OUTSIDE THE STADIUM**

During the term of the 1971 Original Lease, a number of "outside" vendors stationed themselves along Abbott Road within the County right of way and elsewhere around the Stadium. These vendors were not regulated by the Buffalo Bills or Erie County either with regard to their activities or location. The vendors presented a safety hazard to vehicular and pedestrian traffic. Part B of this vending plan was designed in connection with the 1998 Stadium Lease to concentrate the vending activity in areas removed from the most critical crossing point along Abbott Road.

**LOCATION OF VENDING**

1. Vending will be completely prohibited in the County owned right of way on Abbott Road where Abbott Road fronts the Stadium Complex including publicly owned parking lots. Vending will not be prohibited in these portions of the County owned right of way in front of private property whether residential or commercial.
2. Vending will be allowed on the Stadium Complex in up to three designated vending sites. The locations of the designated vending sites are shown in more particularity on the reduced copy of the survey attached hereto as Schedule E-1.

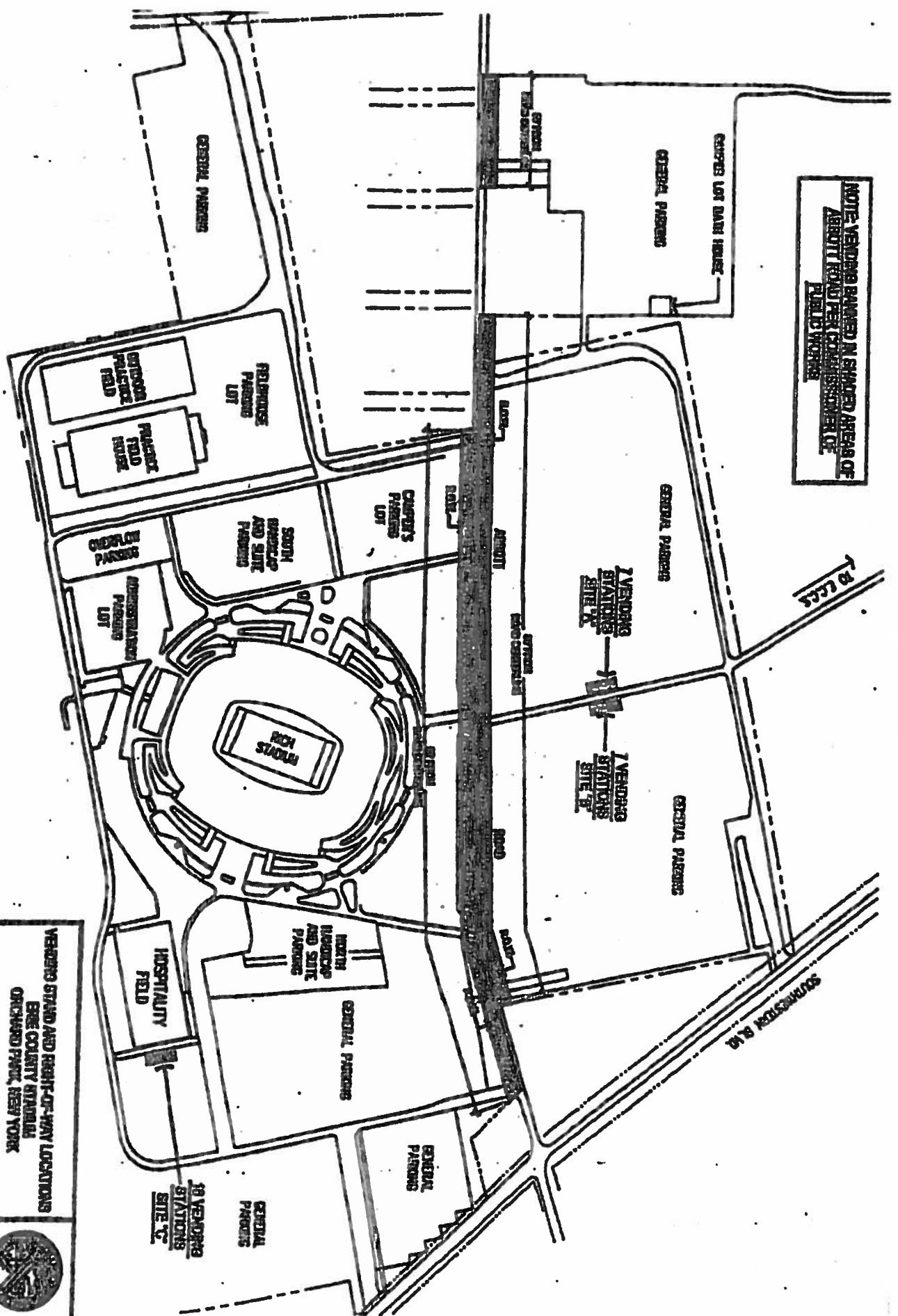
**VENDOR PERMITS**

Anyone wishing to vend at one of the designated vending sites outside the Stadium must apply for a vending permit through the Erie County Bureau of Weights and Measures as described in the materials attached hereto as Schedule E-2. Vendor permits and specific sites will be awarded by a lottery that will be opened to applicants. Veterans and Disabled Veterans, who meet the qualifications in Section 32 and 35 of the General Business Law will receive first consideration in the lottery process.

**SCHEDULE E-1 TO EXHIBIT E**

**See attached.**

**NOTE: VENDING BANDED IN SHaded AREAS OF ABBOTT ROAD PER COMMISSIONER OF PUBLIC WORKS**



**VENDING STAND AND RIGHT-OF-WAY LOCATIONS  
SHEE COUNTY MARKET  
ORCHARD PARK, NEW YORK**



**ORCHARD PARK**  
**DEPARTMENT of PUBLIC WORKS**  
 10000 ROUTE 100  
 ORCHARD PARK, NY 11663



Approved by:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SCHEDULE E-2 TO EXHIBIT E**

**See attached.**



Buildings & Grounds | Division of Highways | Weights & Measures | Contact Us

Home

## Stadium Vendor Permits

### APPLICATION FOR VENDING PERMITS RALPH WILSON STADIUM

The County of Erie is currently accepting applications for 30 vending sites at several designated locations, on county-owned land, around the outside of the Ralph C. Wilson Stadium. Vendor Permits and specific sites will be awarded by a lottery that will be opened to applicants. Veterans and Disabled Veterans, who meet the qualifications in Sections 32 and 36 of the General Business Law, will receive first consideration in the lottery process.

Applications must be postmarked by July 23, 2012.

The lottery will be held at 1:00 pm on July 30, 2012 at the address below.

The application packet will contain eligibility requirements as well as other forms necessary for completion of the application process. The packet may also be obtained from:

**BUREAU OF WEIGHTS AND MEASURES  
2380 CLINTON STREET  
CHEEKTOWAGA, NEW YORK 14227**

- [Stadium Vendor Application Package](#)
- [Insurance requirements for stadium vendors](#)
- [Erie County Stadium map](#)

#### More Information

- [Weights & Measures Home](#)
  - [Home](#)
  - [About W&M](#)
  - [History](#)
  - [Licensing Fees](#)
  - [Mobile Office](#)
  - [Compliance Programs](#)
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## COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF WEIGHTS AND MEASURES

Dear applicant,

Enclosed please find an application package for a license to vend at one of the designated outdoor sites at the Ralph Wilson Stadium. This package includes the application and the stadium vendor site request form. Please return your completed application with all required documentation by the specified date to:

Erie County Bureau of Weights and Measures  
2300 Clinton Street  
Cheektowaga, New York 14227

Please note that incomplete applications will not be considered for licensing. If you have vended at Ralph Wilson Stadium in the past, your confirmation of insurance will need to be updated. To be considered for the lottery, the applicant must supply all information and documentation. Prior data submitted will not be a viable substitute.

The lottery will be held on the specified date at the address listed above. Attendance is not required. Applicants will be awarded their location strictly based upon their stadium vendor site request form.

\*\*The applicants' name and Erie County, Erie Stadium Corporation and the Buffalo Bills Inc. as additional named insureds must appear on the certificate of insurance. If the insurance is issued in a business or corporate name, proof of the applicant's association must be furnished\*\*

Very truly,

*Edwin E. Gonsiorek Jr.*

Edwin E. Gonsiorek Jr.  
Director





APR \_\_\_\_\_

**COUNTY OF ERIE**  
Bureau of Weights and Measures  
2380 Clinton Street, Cheektowaga, New York, 14227  
Phone : (716) 823-1310 Fax: (716) 823-7686

**APPLICATION FOR RALPH WILSON STADIUM OUTDOOR VENDOR SITE**

All information must be printed/typed

**Name: (business)** \_\_\_\_\_

**Name: (first, last)** \_\_\_\_\_

**Address: (business)** \_\_\_\_\_

**Address: (home)** \_\_\_\_\_

**Phone No: (business)** \_\_\_\_\_ **Phone No: (home)** \_\_\_\_\_

Please check one of the following which describes your application intent:

( ) Disabled Veteran      ( ) War or Overseas Veteran      ( ) Others

Disabled Veterans require items 1, 4, 7 plus a copy(s) of items 2, 3, 5 and 6 if applicable.

Overseas War Veterans require items 1, 4, 7 plus a copy(s) of items 2, 3, 5 and 6 if applicable.

All others require items 1 and 7 plus a copy(s) of items 2 and 6 if applicable.

Indicate the item(s) included with your application by placing an "X" in the space provided.

	Included	Not Included
1.) Certificate of insurance per Section 3 ( a )		
2.) Sales tax certificate per Section 3 ( c )		
3.) Disabled veteran vending permit and license per Section 3 ( e )		
4.) Veterans must furnish a copy of DD Form 214 per Section 3 ( d )		
5.) Veteran peddling license per Section 3 ( f )		
6.) Food service permit per Section 3 ( d )		
7.) Stadium Vendor Site Allocation Form		

I, the undersigned, have read the Regulations of Vendors and understand that if I am issued a vending permit, I must comply with all regulations. I agree to defend, indemnify and hold harmless the County of Erie, the Erie County Stadium Corporation and the Buffalo Bills Inc. against any claims arising out of the activities of the undersigned, its' officers, employees and agents while present on the grounds of the Ralph Wilson stadium.

\_\_\_\_\_  
(Signature of applicant)

\_\_\_\_\_  
(Date)

## STADIUM VENDOR SITE REQUEST

Please mark your preference for the location of your desired vendor stand.

Number the outline provided below from 1 to 30 (1 being your first choice).

If you are not willing to accept certain booths, do not place a number next to that location.

If you are selected during the lottery, your location will be based solely upon this list.

Applicants who do not submit this form will not be assigned a site by our department.

<b>SITE A</b>	
1.	_____
2.	_____
3.	_____
4.	_____
5.	_____
6.	_____
7.	_____

<b>SITE B</b>	
8.	_____
9.	_____
10.	_____
11.	_____
12.	_____
13.	_____
14.	_____

<b>SOUTH</b>	<b>ABBOTT ROAD</b>	<b>NORTH</b>
--------------	--------------------	--------------

<b>SITE C</b>	
15.	_____
16.	_____
17.	_____
18.	_____
19.	_____
20.	_____
21.	_____
22.	_____
23.	_____
24.	_____
25.	_____
26.	_____
27.	_____
28.	_____
29.	_____
30.	_____

**EXHIBIT F**

**COUNTY LAW NO. 2-1994**

See attached.

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  
~~City~~ of ERIE  
~~Town~~  
~~Village~~

Local Law No. 2 of the year 1994

A local law in relation to the advertisement of tobacco products in county facilities.  
(Insert Title)

Be it enacted by the LEGISLATURE of the  
(Name of Legislative Body)

County  
~~City~~ of ERIE  
~~Town~~ as follows  
~~Village~~

SECTION 1. LEGISLATIVE FINDINGS.

a. The United States Surgeon General has determined that smoking tobacco causes lung cancer and has found cigarette smoking to be as addictive as cocaine and heroin. The National Institute on Drug Abuse and the United States Public Health Service have concluded that the nicotine in tobacco is a powerful, habit-forming drug and described nicotine addiction as the most widespread example of drug dependence in our country. In addition, the American Medical Association has concluded cigarette smoking is the chief avoidable cause of death in our society.

b. The Journal of Health Politics, Policy and Law reports the tobacco industry spends more than \$2 billion annually to advertise its products, equalling more than \$35 for each of the nation's 56 million smokers.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

c. Studies published in the Journal of the American Medical Association and the Health Education Journal establish a link between advertising and children's recognition and acceptance of tobacco products. It was found that children's favorable attitudes toward advertising and smoking precede actual tobacco use and correlate with the child's intention to smoke.

d. Tobacco advertising at publicly owned sports facilities where sporting events are broadcast on television is routinely visible during those telecasts and circumvents federal law prohibiting tobacco product advertising on television.

## **SECTION 2. DECLARATION OF PURPOSE.**

It is the purpose of this law to promote the public health by prohibiting tobacco advertising in county facilities in order to sever the link between advertising and children's recognition and acceptance of tobacco products.

**SECTION 3. DEFINITIONS.**

a. "Advertise" shall mean to display any poster, sign, or other written or visual material which is intended to communicate commercial information or images to the public.

b. "County facility" shall mean any structure, premises, facility, fixture, or improved or unimproved real property, owned by or leased to Erie County.

c. "Tobacco product" shall mean any product containing tobacco, the prepared leaves of plants of the Nicotiniana family, including but not limited to cigarettes, loose tobacco, cigars, snuff, chewing tobacco, or any other preparation of tobacco.

**SECTION 4. ADVERTISING.**

Tobacco product advertising prohibited in county facilities. Every lease, contract, or amendment, or renewal or extension thereof, relating to use of county facilities or to advertising in county facilities shall specifically prohibit any advertising of any tobacco product in a county facility.

**SECTION 5.           APPLICABILITY.**

This local law applies to advertising in all county facilities, except this local law shall not apply to tobacco product advertising permitted under leases of county facilities entered into before the effective date of this local law.

**SECTION 6.           SEVERABILITY.**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

**SECTION 7.           EFFECTIVE DATE.**

This law shall take effect immediately.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_ of the (Country)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ (Name of Legislative Body) on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 19 94 of the (Country)(City)(Town)(Village) of Erie was duly passed by the Erie County Legislature on March 24, 19 94, and was (approved)(not disapproved)(repassed after disapproval) by the ERIE COUNTY EXECUTIVE (Elective Chief Executive Officer\*) and was deemed duly adopted on April 21, 1994, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_ of the (Country)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ (Name of Legislative Body) on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ (Elective Chief Executive Officer\*) on \_\_\_\_\_ 19\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_ of the (Country)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ (Name of Legislative Body) on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ (Elective Chief Executive Officer\*) on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.



5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 19\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_\_\_ pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2, above.

Joseph J. [Signature]  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body.

Date: 5-2-94

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK  
COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]  
ERIE COUNTY ATTORNEY  
Title \_\_\_\_\_

County \_\_\_\_\_  
City \_\_\_\_\_ of ERIE  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Date: 5/3/94

**EXHIBIT G**

**STADIUM AFFIRMATIVE ACTION PLAN**

See attached.

## **EXHIBIT G: PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES**

### **I. General Provisions**

- A. Empire State Development and its subsidiary the Erie County Stadium Corporation (collectively "ESD") are required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-145 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction. Section 313(3) of Article 15-A includes leases in the definition of State contracts.**
- B. Buffalo Bills, Inc. (hereinafter "Contractor"), as the contractor to the subject contract (the "Contract") agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to ESD, to fully comply and cooperate with the ESD in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.**
- C. Contractor agrees to include in any, contract or subcontract, including a lease or sublease, purchase order or other agreement ("Bills Subcontract"), such provisions as may be necessary to effectuate the provisions of Article 15-A, Section 313, including but not limited to requiring the contracting party to, (A) make a good faith effort to solicit active participation by enterprises identified in the directory of NYS certified businesses found at the following internet address: <http://www.esd.ny.gov/mwbe.html>, and (B) require the party to agree as a condition of entering into such contract, to be bound by the provisions of NYS Executive Law 15-A, Section 316 regarding enforcement of the MWBE Regulations with respect to work in connection with the Bills Subcontract.**
- D. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract. Should such failure occur, ESD may elect to initiate enforcement proceedings as allowed by this Contract which may include liquidated or other appropriate damages as set forth herein. In addition, ESD reserves the right, as provided for in New York State Executive Law, Article 15-A, to issue a complaint to the New York State Division of Minority and Women Business Development where sanctions or penalties may be imposed for Contractor's failure to meet the requirements established herein.**
- E. Contractor will furnish to ESD access to its books, records and accounts and to all information and reports required, as may be relevant, for the purposes of investigation to ascertain compliance with the requirements set forth herein. Under no circumstances shall Contractor be obligated to provide ESD access to all its financial records.**

### **II. Contract Goals**

- A. For purposes of this Contract, ESD hereby establishes an overall goal of not less than 23% for Minority and Women-Owned Business Enterprises ("MWBE") participation, 13% for Minority-**

**EXHIBIT G: PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO  
STATE CONTRACTS: REQUIREMENTS AND PROCEDURES**

Owned Business Enterprises ("MBE") participation and 10% for Women-Owned Business Enterprises ("WBE") participation.

- B. The MWBE participation goals shall apply to all project costs which shall include: 1) the \$130 million Budget for the Project as defined in the 2013 Construction Coordinating Agreement which amount shall be reduced in accordance with Section II(D); 2) all Game Day Expense Reimbursements and all Operating Expense Reimbursements as defined in the 2013 Stadium Lease (collectively the "Annual Reimbursements"); and 3) the Annual Capital Improvement Allowance as defined in the 2013 Stadium Lease. Project costs for MWBE participation goals shall not include Working Capital Assistance as defined in the 2013 Stadium Lease.
- C. The parties agree that goals for MWBE participation for any Capital Improvement as defined in the 2013 Stadium Lease shall be subject to MWBE goals in accordance with the following process:
- I. The County shall provide ESD and the Contractors written notice of any Capital Improvement in accordance with Article 10 of the 2013 Stadium Lease.
  - II. Upon receipt of said written notice, in consultation with the County, ESD shall establish MWBE participation goals for the work to be performed.
  - III. The County shall enforce the MWBE participation goals with respect to such Capital Improvement in accordance with this Exhibit G and shall be bound by the terms herein with respect thereto.
- D. The \$130 million Budget subject to MWBE goals shall be reduced by \$13,693,941 for budget items where no reasonable MWBE utilization is available. The MWBE utilization goal of 23% shall apply only to the remaining \$116,306,059 for a MWBE participation dollar value goal of \$26,750,394.
- E. The MWBE participation goals for the Annual Reimbursements shall apply to all funds provided by ESD and the County but shall exclude the amount of such funds that are allocated by the Contractor to pay for utilities and insurance. In year 1, the Annual Reimbursements are expected to be \$4,731,000 and shall be reduced for MWBE participation purposes by \$2,143,981. The aggregate MWBE participation of 23% shall apply to the remaining \$2,587,019 for a year 1 MWBE participation dollar value goal of \$595,014. The amount excluded for costs associated with utilities and insurance shall be adjusted annually in accordance with Section 9.5 of the 2013 Stadium Lease.
- F. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MWBEs found at the following internet address:
- <http://www.esd.ny.gov/mwbe.html>
- Additionally, Contractor is encouraged to contact the Division of Minority and Women Business Development (518) 292-5250; (212) 803-2414; or (716) 846-8200 to discuss additional methods of maximizing participation by MWBEs on the Contract.
- G. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors

**EXHIBIT G: PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO  
STATE CONTRACTS: REQUIREMENTS AND PROCEDURES**

or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the ESD for liquidated or other appropriate damages, as set forth herein.

**III. Equal Employment Opportunity (EEO)**

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor will send to each employment agency, labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under this Section.
- C. Contractor shall comply with the following provisions of Article 15-A:
  - 1. Contractor and subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
  - 2. The Contractor shall require that all Bills Subcontracts providing services with funds paid for in whole or in part from ESD or the County of Erie shall have an EEO/Workforce goal of 13.2% for Minority Group Members according to the provisions of Executive Law Article 15-A, §310(8) and 6.9% for Woman.
  - 3. The Contractor shall submit an EEO policy statement to the ESD with the executed Contract.
  - 4. If Contractor or subcontractor does not have an existing EEO policy statement, the ESD may provide the Contractor or subcontractor a model statement (see EXHIBIT G-1: MWBE Participation/Equal Employment Opportunity Policy Statement). Exhibits G-1 through G-7 are attached hereto and incorporated herein.
  - 5. The Contractor's EEO policy statement shall include the following language:
  - 6. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
    - a. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract, all qualified applicants will be afforded equal employment

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opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

- b. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
  - c. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.
7. If ESD determines that the Contractor and/or its subcontractors are not in compliance with the requirements of this Section 3 and ESD is unsuccessful in its efforts to resolve the matter and bring the Contractor or subcontractor into compliance with the requirements, ESD may file a complaint with the Director of the Division of Minority and Women's Development in the Department of Economic Development ("Director") according to the provisions of Executive Law Article 15-A, §§ 313 & 316l.
  8. The penalties imposed for any violation which is premised upon either a fraudulent or intentional misrepresentation by any of the subcontractors or the subcontractors willful and intentional disregard of the requirements of this Section 3 may include a determination that the subcontractor shall be ineligible to submit a bid to any contracting agency or be awarded any contract for up to one year following the final determination.

**D. EXHIBIT G-2: Staffing Plan**

To ensure compliance with this Section and with the Apprenticeship Law as defined in the 2013 Construction Coordinating Agreement, the Contractor shall submit to ESD and the County a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of the executed Contract.

**E. EXHIBIT G-3: Work Force Employment Utilization Report ("Workforce Report")**

1. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the ESD and the County of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
2. Separate forms shall be completed by Contractor and any subcontractor performing work on

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the Contract.

3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.
- F. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**IV. MWBE Utilization Plan**

- A. The Contractor represents and warrants that prior to the Initial Construction Commencement Date, Contractor shall submit to ESD an MWBE Utilization Plan (EXHIBIT G-4).
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section II-A of this Exhibit.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.
- D. Contractor further represents and warrants that Contractor will submit necessary updates and amendments to the Utilization Plan as required by ESD. Contractor shall provide ESD notice of any updates, changes or amendments to the Utilization Plan.

**V. Waivers**

- A. For Waiver Requests Contractor should use the Waiver Request Form (EXHIBIT G-5).
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If ESD, upon review of the MWBE Utilization Plan and updated Monthly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract

## **EXHIBIT G: PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES**

goals and no waiver has been issued in regards to such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

### **VI. Monthly MWBE Contractor Compliance Report**

Contractor is required to submit a Monthly MWBE Contractor Compliance and Payment Report (EXHIBIT G-6) to ESD and the County by the 10<sup>th</sup> day following each end of each month over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

### **VII. Liquidated Damages - MWBE Participation**

- A. Where ESD determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, ESD may assess liquidated damages pursuant to Executive Law Article 15-A, §316-a.**
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:**
  - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and**
  - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.**
- C. In the event a determination has been made, which requires the payment of liquidated damages, Contractor shall pay such liquidated damages to ESD within sixty (60) days after they are assessed by ESD unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Women Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of ESD, unless such enforcement is subsequently stayed as a result of the filing of appropriate judicial proceedings.**

### **VIII. Apprenticeship Law Certification**

In accordance with the Apprenticeship Law as defined in the 2013 Construction Coordinating Agreement, the Contractor shall submit to the County the New York State Certified Apprenticeship Training Program Certification in Compliance with Exhibit G-7.



## **EXHIBIT H**

### **I ♥ NEW YORK HOSPITALITY CENTER TERMS AND CONDITIONS OF USE**

**Definitions:** All terms not otherwise defined herein shall have the same meaning as set forth in the 2013 Stadium Lease.

During the Term: (i) the Bills will grant the State a license to use the I ♥ New York Hospitality Center (the "Center") for all Games and for other permitted purposes specified below; and (ii) the Bills will provide the State with the Tickets (defined below), all on the terms and conditions set forth below:

#### **I. Terms of Use; Scope and Purpose**

1.1 Except upon the occurrence of a Termination Event (as defined in Article V below), the State shall have exclusive use of the Center for Games during the Term.

1.2 The State's use and access to the Center shall be for the Games, Civic Events, and Bills' Events. In the event that a Bills' Event is scheduled at the Stadium, the Bills shall provide to the State Tickets as are necessary to access the Stadium and view such Bills' Event from the Center, at no cost to the State. The State may access the Center at any other time upon three (3) Business Days' advance written notice, which notice shall include a statement of the duration of such access, subject, however, to the Bills' option to provide alternate space during certain periods as more particularly described in Section 2.2(b) of the 2013 Stadium Lease. The Bills make no representations or warranties that Bills' Events will in fact be held at the Stadium or that any Bills' Event will be viewable from the Center.

#### **II. Access and Use of the Center**

2.1 For Games and Bills' Events, the Bills shall provide sixteen (16) tickets to the State (the "Tickets") at no cost to the State, so as to permit unfettered access to the Center for the purpose of viewing such Games and/or Bills' Events. Tickets will be provided the State in accordance with this Section 2.1 in any instance in which a Game or Bills' Event requires a Ticket so as to access the Stadium and thus the Center. The Tickets are valid only for admission to the Center to view the Games and not for admission to any other Luxury Suite, seating area, or other area of the Stadium restricted to the public. All holders of the Tickets are subject to its terms and conditions printed on such Tickets.

2.2 The Bills shall provide one (1) parking pass for every four (4) Tickets, at no cost to the State, which shall provide the holder of the same free access to Parking Lots on the day of the Game or Bills' Event for which the Tickets were provided.

2.3 The number of people present in the Center at any one time cannot exceed sixteen (16) persons.

2.4 The State shall promptly pay for all food, beverage and related services consumed and used in the Center, all on the pricing terms and conditions of such supplier of such food, beverage or related service in effect at such time, provided that such pricing terms shall be non-

discriminatory. In addition, the State shall be responsible for any sales, use, or excise tax related to the consumption or use of food, beverage, or related service in the Center. If required by the Bills, the State agrees to make such payment directly by credit card or otherwise to the Bills' authorized concessionaire.

2.5 The State may not bring alcoholic or intoxicating beverages, illegal drugs or controlled substances into the Center. The Center shall not be used for any illegal, improper, immoral or objectionable purpose, or in any way that obstructs or interferes with the other Stadium Patrons.

2.6 The State and its invitees shall maintain proper decorum while using the Center, and the State agrees to abide by: (i) all terms and conditions of this Exhibit H, (ii) applicable Buffalo Bills' rules and policies in effect from time to time, (iii) Applicable Law, and (iv) reasonable requests made by the Bills' stadium personnel, as may be promulgated from time to time. The State shall be fully responsible for the acts and omissions of its invitees.

2.7 No advertising or displays of any kind may be placed or solicitation conducted in or around the Center without the prior permission of the Bills, which may be withheld in the Bills' reasonable discretion; provided, however, that the State shall be permitted to utilize Team logos, trademarks and the like in accordance with Section 2.5 of the 2013 Stadium Lease.

2.8 The State shall not offer the Tickets for resale without the Bills' prior written permission.

2.9 The Bills retain the right to control access to the Center. The Bills reserve the right to deny access to the Center for any person without a valid Ticket.

2.10 The Bills shall have the right to control or prohibit the use or emission of lighting and sound from any source within the Center.

2.11 Upon the expiration of the Term or a Termination Event, the State shall surrender possession of the Center to the Bills in the condition in which the Center was originally delivered to the State, normal wear and tear, and damage caused by Casualty or Force Majeure excepted.

### **III. Condition; Maintenance of Center during Term**

3.1 (a) At the time of the delivery of possession of the Center to the State, the Center shall be furnished and equipped with the following fixtures, furnishings and equipment and shall contain the following items:

- (i) Wet Bar
- (ii) Countertops
- (iii) Refrigerator
- (iv) Color Television
- (v) Carpeting

**(vi) Cushioned Theatre-Style Seating**

**(b) Prior to accepting delivery of possession of the Center, the State shall conduct an initial inspection of the Center. If the State does not object to the condition of the Center at such time, the State shall be deemed to have accepted the condition of the Center in all respects, with the existing carpeting, furniture, equipment, and décor.**

**3.2 The State shall not make any additions, changes, or alterations of a permanent nature to the interior or exterior of the Center, of the fixtures, furniture, and equipment contained within the Center, without the prior written approval of the Bills, which may not be unreasonably withheld. In the event of an approved addition, change, or alteration to the Center (or the Center's fixtures, furniture, and equipment), the State shall be solely responsible for all costs related to such addition, change, or alternation, and the addition, change, or alternation shall be made free and clear of any Liens, in good and workmanlike manner, and in compliance with all applicable permits authorizations, building or zoning laws, and all other Applicable Laws, ordinances, orders, rules, regulations, and requirements of duly constituted Governmental Authorities. Any fixtures or materials incorporated into the Center shall become the property of the Bills unless the State requests prior to undertaking the installation of such fixture or materials to remove such fixture or materials at the expiration of the Term, and if so removed, shall be at State's own expense to repair and restore the Center to its original condition at the time it was first delivered by the Bills to the State.**

**3.3 During the Term, the Bills shall make ordinary and reasonable repairs to the Center and the furniture, fixtures, and equipment listed under 3.1 above. At its own expense, the Bills shall clean the Center before and after Games, Bills' Events and at other times at which the Center is used.**

**3.4 At its own expense, the Bills shall ensure the Center is equipped with hot and cold running water, electricity, heating and air conditioning during Games, Bills' Events and at other times at which the Center is used.**

**IV. Limitation of Liability; Indemnification; Reimbursement**

**4.1 Bills, and its affiliates, agents, servants, directors and employees (collectively the "Bills Group"), shall not be liable for any loss, damage or injury to the State or its invitees or their property in or upon the Center unless caused by the actual negligence or willful misconduct of any member of the Bills Group.**

**4.2 The State shall indemnify and hold the Bills Group harmless from any liability for damages, including personal injury and property damage occurring in or upon the Center and occasioned by any act or omission, neglect or wrongdoing of the State, its representatives or invitees. The State further agrees to indemnify and hold harmless the Bills Group for any liability arising out of property damage or personal injury occurring in or upon the Center, which is not due to the actual negligence or willful misconduct of a member of the Bills Group. Such indemnification shall include any judgments, settlements, or awards as well as out-of-pocket costs and reasonable attorney fees incurred in connection with any defense.**

4.3 The State shall promptly reimburse the Bills for any destruction, loss, damage or repair, other than those referred to in Section 3.3 above, to the Center or any other property owned or operated by the Bills, which is caused by the State or its invitees. Bills shall provide the State with written notice of any such destruction, loss or damage promptly upon discovery thereof.

## **V. Early Termination**

5.1 The State's right to access and use the Center (and be provided with Tickets to Games and Bills' Events in connection with such use) may be terminated by the Bills prior to the expiration of the Term, by providing the State with thirty (30) days' prior written notice upon the occurrence of any of the following ("Termination Event"):

(i) The 2013 Stadium Lease is terminated in accordance with its terms;

(ii) The State's failure to promptly pay for food, beverages, or related services used in the Center during the Term; provided, however, upon the Bills written notice to the State of its failure to pay such food, beverage or related services bill, the State may cure such default by paying the outstanding balance within thirty (30) days of its receipt of notice;

(iii) The State's failure to comply with the terms and conditions of the State's access and use of the Center as set forth in this Exhibit H;

(iv) Pursuant to the Bills' right to terminate under Article 6 of these terms and conditions, below.

5.2 Upon the termination of the State's right to access and use the Center herein, the Bills shall have no further obligation of any kind to the State relative to the State's access and use of the Center, and the Bills shall have the right to enter the Center and take possession thereof. Further, the State shall: (i) surrender all Tickets previously provided by the Bills; (ii) surrender all keys to access the Center; (iii) surrender all parking passes and other documentation (if any) related to the State's use of the Center; and (iv) take such other actions as may reasonably be requested by the Bills.

5.3 Upon the termination of the State's right to access and use the Center herein, the Bills may re-license the Center and assign new tickets (if needed) for access to the Center to view the Games.

5.4 The proceeding provisions are not exclusive and are in addition to any other right or remedies the Bills may have as a matter of law. No waiver by the Bills of any default or breach by the State shall be construed to be a waiver or release of any other subsequent default or breach and no failure or delay by the Bills in the exercise of any remedy provided for herein shall be construed as a forfeiture or waiver thereof or of any other right or remedy available to the Bills.

## **VI. Untenantability of Center**

6.1 If the Center (i) shall be destroyed or damaged so as to be untenable, (ii) such destruction or damage is not caused by negligence of the State or its invitees, then the Bills shall repair the Center, and the State's license to access and use the Center shall remain in force. If

such damage is caused by the State or its invitees, then Bills may elect to terminate the State's right to use and access the Center regardless of whether such damage is repaired.

6.2 If the license to access and use the Center remains in force, and such damage to the Center was not caused by the State or its invitees, then the State shall have the option of licensing a like number of seats elsewhere in the Stadium (provided such seats are available) for each Game while the Center is untenable.

6.3 If the Bills are not required under paragraph 6.1 to repair the Center, the Bills shall take possession of the Center and the State's license to access and use the Center shall terminate.

6.4 In addition to any other provision in these terms and conditions, the State shall pay to repair and restore the condition of the Center as a result of damage or destruction caused by the State or its invitees; provided, however, that such obligation shall be offset to the extent any Bills' Insurance Policy covers the same and such Bills' Insurance Policy allows, by its terms, for the use of such insurance proceeds by the State.

## **VII. Miscellaneous Provisions**

7.1 The State's license to access and use the Center (and be provided the Tickets to Games and Bills' Events) may not be assigned by the State nor may the Center be sub-licensed without prior written consent of the Bills, which consent may not be unreasonably withheld; provided, however, that such prospective assignee or sub-licensee is subject to the Bills ordinary review of character and creditworthiness.

7.2 All of the terms and provisions set forth herein shall be binding upon and inure to the benefit of the respective parties hereto and their successors and assigns.

7.3 It is understood the Bills may mortgage, pledge, assign or otherwise encumber the Center and/or this license as security for financing, subject to the limitations on Liens contained in the 2013 Stadium Lease, and that in such event this license and the rights and interests of the State to use and access the Center hereunder shall be subordinate thereto, provided that any such mortgagee, pledgee, assignee or the holder of any such Lien shall agree to recognize this license and the rights and interests of the State hereunder in the event of foreclosure or enforcement if the State is not then in default hereunder.

7.4 When requested to do so by the Bills, the State shall execute, acknowledge and deliver to the Bills an instrument, commercially reasonable in form and content, in proper form for recording, wherein the State agrees to and does subordinate its license to use and access the Center to the lien of the mortgages or other financing arrangements above mentioned, and to all renewals, modifications or other financing arrangements thereunder, and to any person claiming by, through, or under such mortgage or other financing arrangements.

7.5 The Bills and each of its employees and agents shall have the continuing right to enter the Center at any and all times for the performance of the duties required to be performed by the Bills hereunder; to investigate any suspected violations of the provisions of these terms and conditions, rules and regulations of the Bills or any Applicable Laws; and to inspect the Center

and its condition; provided, however, that the Bills shall make reasonable efforts to avoid such entry during times when the State and its invitees are using the Center.

7.6 In the event that any portion of these terms and conditions shall be invalid under applicable existing laws, then such portions are to be modified in the letter and spirit of the terms and conditions to the extent permitted by applicable law so as to be rendered valid.

**EXHIBIT I**

**CALCULATION OF NUMBER OF GAMES EXPECTED IN ANY LEASE YEAR**

The number of Games occurring in any Lease Year shall be deemed to be equal to that number of Games to be played by the Team in accordance with NFL Rules and Regulations, less those Home Games played at locations other than the Stadium in accordance with Section 6.1(b)(ii)-(iii) of this 2013 Stadium Lease.

**SCHEDULE 9.4(a)**

**SCHEDULE OF GAME DAY EXPENSE AND OPERATING EXPENSE  
QUARTERLY REIMBURSEMENT PAYMENT PERCENTAGES**

<b>Reimbursement Date</b>	<b>Percentage of Operating/Game Day Expense Reimbursement Due</b>
August 1	Thirty-Four Percent (34%)
November 1	Thirty-Four Percent (34%)
February 1	Sixteen Percent (16%)
May 1	Sixteen Percent (16%)

**SCHEDULE 9.4(b)**

**SCHEDULE OF COUNTY AND ECSC OBLIGATIONS FOR PUBLIC ENTITIES'  
PORTION OF CAPITAL IMPROVEMENT ALLOWANCE**

The respective contributions of ECSC and the County to the Public Entities' Portion of the Capital Improvement Allowance shall be as follows:

<b><u>Lease Year(s)</u></b>	<b><u>ECSC Contribution</u></b>	<b><u>County Contribution</u></b>
1	57%	43%
2	56%	44%
3	55%	45%
4	54%	46%
5	53%	47%
6	52%	48%
7	51%	49%
8	50%	50%
9	50%	50%
10	50%	50%