

**LEVI'S STADIUM GENERAL SERVICES AGREEMENT
BY AND BETWEEN
FORTY NINERS STADIUM MANAGEMENT COMPANY LLC
AND
ADT COMMERCIAL**

This Agreement for the Performance of Services ("Agreement") is made and entered into on **April 1, 2023** ("Effective Date") by and between **ADT COMMERCIAL**, a California corporation with its principal place of business at [insert address] ("Contractor"), and the FORTY NINERS STADIUM MANAGEMENT COMPANY LLC, a Delaware limited liability company ("Stadium Manager"), with its principal place of business at 4900 Marie P. DeBartolo Way, Santa Clara, CA 95054. Stadium Manager and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

- A. The CITY OF SANTA CLARA, a municipal corporation ("City") and the SANTA CLARA STADIUM AUTHORITY, a joint exercise of powers entity, created through Government Code sections 6500 et seq. (the "Authority"), are parties to that certain Ground Lease dated March 28, 2012, as amended by that certain First Amendment to Ground Lease (Stadium Site) (as the same may be further amended from time to time, the "Ground Lease"), pursuant to which the Authority leases certain real property from the City upon which the Authority has developed and constructed a multi-purpose stadium (the "Stadium").
- B. The Authority and FORTY NINERS SC STADIUM COMPANY LLC, a Delaware limited liability company ("StadCo"), are parties to that certain Amended and Restated Stadium Lease Agreement dated March 28, 2012 as amended and restated as of June 19, 2013 (as the same may be further amended from time to time, the "Stadium Lease"), pursuant to which StadCo is granted the right during the term of the Stadium Lease to use and occupy the Stadium for the operation of an NFL franchise, subject to, and on the basis of, the terms, covenants and conditions set forth in the Stadium Lease.
- C. StadCo and FORTY NINERS FOOTBALL COMPANY LLC, a Delaware limited liability company ("Team"), are parties to a certain Sublease Agreement dated March 28, 2012, as amended and restated as of June 19, 2013 (as the same may be further amended from time to time, the "Team Sublease"), pursuant to which, during the term of the Team Sublease, the Team shall play its NFL home games at the Stadium, subject to, and on the basis of, the terms, covenants and conditions set forth in the Team Sublease.
- D. The Authority, StadCo, and Stadium Manager are parties to a certain Stadium Management Agreement effective as of March 28, 2012, as amended by that certain First Amendment to Stadium Management Agreement dated November 13, 2012, that certain Second Amendment to Stadium Management Agreement dated May 9, 2013, that certain Third Amendment to Stadium Management Agreement dated June 19, 2013, and that certain Fourth Amendment to Stadium Management Agreement dated March 18, 2014 (as the same may be further amended from time to time, the "Stadium Management Agreement"), pursuant to which the Stadium Manager will manage the operation of the Stadium year-round on behalf of the Authority and StadCo for the term and on the basis specified in the Stadium Management Agreement.
- E. Pursuant to the Stadium Management Agreement, the Stadium Manager is required to maintain and operate the Stadium and areas surrounding the Stadium, and, accordingly, desires to secure the general services generally consisting of [insert type of general service] as more fully described in **Exhibit A**, entitled "Scope of Services" (the "Services"), attached hereto and incorporated herein by this reference.
- F. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses / certifications / permits, and desire to provide the Services which meet objectives and requirements of Stadium Manager.

- G. In accordance with the Stadium Management Agreement, the Stadium Manager is authorized to enter into this Agreement on behalf of the Authority and StadCo to engage Contractor to provide the Services. The Stadium Manager and Contractor desire to enter into this Agreement whereby Contractor will perform the Services subject to the terms and conditions of this Agreement, the Ground Lease, the Stadium Lease and the Stadium Management Agreement.

TERMS

1. DEFINITIONS.

- A. **Affiliate:** shall mean any Person directly or indirectly controlling or controlled by or under direct or indirect common control with a Person. For purposes of this definition, "control" when used with respect to any entity means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and "controlling" and "controlled" have meanings correlative to the foregoing.
- B. **Additional Indemnitees:** shall mean the Authority's Affiliates (including without limitation, the Authority's Board of Directors, the City, its City Council, and all City or Agency commissions, officers, employees, volunteers and agents), the Bayshore North Project Enhancement Authority, the Successor Agency to the Santa Clara Redevelopment Agency, StadCo and its Affiliates, the Team and any Additional Team (i.e., an additional NFL franchise that plays its "home" games at the Stadium) (and their respective Affiliates), Manager's Affiliates (if not any of the previously mentioned Persons), each other tenant of the Stadium and each Event promoter, and any mortgagee, bond trustee or other financial institution from time to time holding a lien or indenture upon Manager's interest in the Stadium, the Stadium Lease or the Stadium Management Agreement.
- C. **Default Rate:** shall mean a rate per annum equal to the lesser of (i) fifteen percent (15.0%) and (ii) the maximum non-usurious rate permitted by applicable law.
- D. **Fiscal Year:** shall mean the twelve (12) month period commencing April 1 of each year after the execution of this Agreement, except that the first Fiscal Year will commence on the Commencement Date of the Stadium Lease and end on the next following March 31. If this Agreement expires or terminates on a date other than March 31 of a particular year, there shall be a partial last Fiscal Year ending on the date of such termination.
- E. **Hazardous Substance:** shall mean, as of any date: (a) any petroleum or petroleum products, flammable explosives, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls (PCBs); (b) any chemicals or other materials or substances which as of such date are defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants," "infectious wastes," "pollutants" or words of similar import under any environmental law; and (c) any other chemical or other material or substance, exposure to which or use of which as of such date is prohibited, limited or regulated under any environmental law.
- F. **Person:** shall mean any individual, corporation, partnership, limited liability company, association, trust or other entity whatsoever.

2. EMPLOYMENT OF CONTRACTOR.

Stadium Manager hereby employs Contractor to perform the Services. Stadium Manager shall pay for all such Services which are consistent with the terms of this Agreement.

3. SERVICES TO BE PROVIDED.

- A. The Recitals above and all of the exhibits and schedules referenced in this Agreement are attached and are incorporated herein by this reference.
- B. Contractor promises and agrees to furnish to the Stadium Manager all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately perform the Services as described in this Agreement including, without limitation, **Exhibit A** attached hereto.
- C. Stadium Manager may, at its discretion, provide, or cause to be provided, during the Term designated office and storage space within the Stadium for use by Contractor. The location of such office and storage space shall be in the sole discretion of Stadium Manager, and Stadium Manager may direct that the office and storage space be moved to a new location within the Stadium from time to time as it deems necessary.
- D. Except as expressly provided herein, Contractor shall be responsible for all costs and expenses incurred in performing the Services, including costs and expenses of maintaining, repairing and replacing any furniture, fixtures, equipment, or other tangible property and all applicable taxes, staffing (including all managerial and Event staff, if applicable), and training. As described in greater detail in Section [8.F](#) hereof, Contractor agrees to fully abide by all sustainability and reuse programs established for or applicable to the Stadium, as each may be modified from time to time following the Effective Date.
- E. Without limiting the generality of any other provision in this Agreement, Contractor's provision of the Services shall be subject to the reasonable prior approval of Stadium Manager acting in conjunction with Contractor, including but not limited to staffing and the manner of Contractor's performance. Contractor shall not offer exclusivity to any supplier without the prior written approval of Stadium Manager.
- F. If at any time, Contractor fails or is otherwise prevented from providing all or any portion of the Services whether due to a suspension or termination of any licenses or permits or otherwise, then, in addition to any other right of Stadium Manager, Stadium Manager shall have the right, in its sole discretion, without the payment of any kind to Contractor, to provide through any available means the Services, or any portion thereof, until such time as Contractor has resumed its provision of the Services. In the event Stadium Manager exercises its rights pursuant to this Section, Contractor shall, and shall cause its employees to cooperate and assist Stadium Manager in providing the Services.
- G. Notwithstanding the foregoing, and subject to any restrictions imposed by the Authority, including pursuant to the Stadium Lease and Stadium Management Agreement, the Stadium Manager and its designated agents reserve the right of access to all areas that Contractor is permitted to access, use and occupy hereunder for purposes of operating, inspecting, maintaining and repairing the Stadium (and all improvements therein or thereon) and for the purpose of determining whether the terms, covenants and conditions contained in this Agreement are being fully and faithfully observed and performed by Contractor. Use of any space or property that Contractor is permitted to access, use and occupy hereunder for purposes other than the operations to be conducted under this Agreement, without prior written approval of Stadium Manager in its sole discretion, is prohibited. Contractor shall not interfere with any other contractor, licensee or employee of the Authority, Stadium Manager or any other person working at the Stadium.

4. COMMENCEMENT OF SERVICES.

Contractor shall begin providing the Services on the Effective Date. Contractor shall provide the Services as described in **Exhibit A** and shall complete all Services during the Term consistent with

any milestones specified in this Agreement. The Parties may adjust any performance milestones, service schedules or commencement dates by mutual written agreement.

5. QUALIFICATIONS OF CONTRACTOR – STANDARD OF WORKMANSHIP.

- A. Contractor represents and maintains that it has the necessary expertise in the professional calling to perform the Services, and its duties and obligations, expressed and implied, contained in this Agreement, and Stadium Manager expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such Services and duties and obligations in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.
- B. Any plans, designs, specifications, estimates, calculations, reports, and other documents required to be furnished by Contractor under this Agreement shall be of a quality acceptable to Stadium Manager. To be accepted as provided under this Agreement, any such deliverable shall be a product of neat appearance and shall be well-organized, technically and grammatically correct, and checked, and shall identify the maker and checker. The minimum standard of appearance, organization, and content of the deliverable shall be that used by Stadium Manager for similar services.

6. TERM OF AGREEMENT.

The term of this Agreement (the "Term") shall begin on the Effective Date and terminate on March 31, 2026 provided however, if this Agreement extends beyond a single fiscal year, the Term for subsequent fiscal years shall be conditioned upon approval of the Authority budget for the applicable fiscal year that includes the amounts due under this Agreement. All Services contained herein shall be completed prior to the end of the Term of this Agreement. Subject to the prior approval of the Stadium Authority, the Stadium Manager shall have the option, in its sole discretion, to extend the Term for two additional one (1) year periods by notifying Contractor in writing of Stadium Manager's desire to exercise said option prior to the expiration of the then-current Term.

7. WARRANTY.

Contractor expressly warrants that all Services covered by this Agreement shall be fit for the purpose intended, shall be free from defect, and shall conform to the specifications, requirements, and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate, or defective Services at no further cost to Stadium Manager when defects are due to the negligence, errors, or omissions of Contractor. If Contractor fails to promptly correct or replace Services, Stadium Manager may make corrections or replace Services and charge Contractor for the cost incurred by Stadium Manager.

8. PERFORMANCE OF SERVICES.

- A. Contractor shall perform all Services in an efficient and expeditious manner and shall work closely with and be guided by Stadium Manager. Contractor shall be as fully responsible to Stadium Manager for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it. Contractor will perform all Services in a safe manner and in accordance with all Applicable Laws and safety regulations, the policies and procedures issued by the Stadium Manager relating to the Services, the general operating procedures of the Authority, and any and all other applicable rules, regulations, policies and directives established or implemented by the Authority and/or Stadium Manager, the designees of either of them, or the NFL, from time to time, including scheduling rules, regulations and policies, related to the use or operation of the Stadium (collectively, "Stadium Policies"). The term "Applicable Laws" as used in this Agreement shall mean any statute, law, treaty, rule, code, ordinance, regulation, permit, interpretation, certificate or order, whether now or hereafter existing, of any Governmental Authority, or any judgment, decision, decree,

injunction, writ, order or like action of any court, arbitrator or other Governmental Authority, whether now or hereafter existing. The term "Governmental Authority" as used in this Agreement shall mean any federal, state, local or foreign governmental entity, authority or agency, court, tribunal, regulatory commission or other body, whether legislative, judicial or executive (or a combination or permutation thereof), and any arbitrator to whom a dispute has been presented under Applicable Laws or by agreement of the Parties with an interest in such dispute.

- B. Contractor shall at all times maintain a sufficient number of qualified personnel at the Stadium and, if applicable, the Related Facilities (e.g., offsite parking areas) for the performance of all of Contractor's obligations under this Agreement.
- C. Contractor's authorized personnel who are scheduled to work at events at the Stadium ("Events") shall be provided with ingress to and egress from the Stadium through a gate or gates designated for such purpose by Stadium Manager, without charge, during all days on which Events are held and at all other times necessary to enable Contractor to prepare for Events and fulfill its responsibilities under this Agreement. Contractor shall be bound by and comply with all rules, policies and procedures relating to security and access rights, including requirements related to screening and identification of Contractor's personnel, established from time to time by Stadium Manager. Nothing herein contained shall be held to limit or qualify the right of the Authority or Stadium Manager to a free and unobstructed use, occupation and control of the Stadium and ingress and egress for itself, its lessees and the public.
- D. Contractor shall obtain on or before the Commencement Date and shall thereafter maintain throughout the Term, at its cost and in its name, all licenses and permits necessary for the performance of the Services and any and all other licenses and permits required to be obtained by Contractor by the terms of the Stadium Lease. Stadium Manager shall cooperate with Contractor in connection with applications submitted by Contractor for any and all licenses and permits and renewals thereof. Contractor shall not submit any application for a permit or license without first providing Stadium Manager a reasonable opportunity to review it. Contractor shall furnish Stadium Manager with copies of such licenses and permits and renewals thereof as are physically maintained at the Stadium, and all other licenses or permits otherwise required under Applicable Laws or this Agreement, and shall surrender all licenses and permits to Stadium Manager upon termination of this Agreement.
- E. In the event that Contractor fails to obtain or maintain in full force and effect any material license or permit necessary for the performance of the Services, including upon a suspension applicable to an Event or revocation thereof, (a) Stadium Manager shall have the right (but no obligation) to perform or have another Person perform the applicable obligation without compensation to Contractor and, whether or not Stadium Manager exercises that right or its termination rights, Contractor shall be responsible to Stadium Manager for the loss of income and all other damages, including consequential and special damages, suffered by Stadium Manager as the result of Contractor's breach of this Agreement, including any loss of income; and (b) Contractor shall be considered in material breach of this Agreement, and Stadium Manager may, in addition to any other rights or remedies it may have, immediately terminate this Agreement.
- F. Contractor shall comply in all respects with the Santa Clara Business and Commercial Recycling Program, as the same shall be amended from time to time, and shall, in partnership with Stadium Manager, prepare and implement a plan (the "**Waste Reduction and Recycling Plan**") that targets 100% diversion of solid waste from all Events, including composting or other diversion of compostable organics. Contractor shall train its employees in the methods and objectives of the Waste Reduction and Recycling Plan and shall direct and cause its employees to not dispose of or discharge recyclables, compostables, waste, garbage, refuse or Hazardous Substances in any area in or outside

the Stadium other than in areas specifically designated therefor. Contractor shall be responsible for expeditiously collecting, separating, recycling, bagging and delivering recyclables, compostables, trash and garbage generated within the Stadium Complex, and Contractor shall cause its employees to deposit such recyclables, compostables, trash and garbage in appropriate containers or equipment in the locations specified by Stadium Manager, whereupon Stadium Manager shall be responsible for the further delivery and ultimate disposal of such recyclables, compostables, trash and garbage. In addition, Contractor shall separate, compact and recycle the trash generated by Events on non-Event days. Contractor shall take all action necessary to: (i) ensure that all such recyclables, compostables, trash and garbage are placed in bags and/or the appropriate receptacles or other containers (which receptacles and containers shall be provided by Contractor) that are durable for transport and not easily susceptible to breakage or leakage, (ii) notify Stadium Manager when the centralized Stadium recyclable, compostable and garbage receptacles are full and need to be emptied, (iii) prevent recyclables, compostables and trash from piling up around the outside of the receptacles and from using the Stadium receptacles in lieu of transferring the recyclables, compostables and trash to the required locations as described herein and (iv) ensure that recyclables, compostables and trash do not spill out prior to or during transport. Contractor agrees to and is fully committed to participating in the separation and recycling of refuse in the Stadium and to minimize the amount of non-recyclable and non-compostable refuse to be removed from the Stadium. All recyclable, compostable, trash and garbage receptacles within the areas controlled by Contractor shall be provided by Contractor and shall be cleaned and sanitized by Contractor in accordance with the standards reasonably set from time to time by the Authority and/or Stadium Manager, to ensure a consistently high standard of sanitation meeting or exceeding the standards set by the Santa Clara County Public Health Department and/or the City. Contractor will comply with all federal, state and local recycling and composting requirements and such recycling and composting programs implemented from time to time by the Authority and/or Stadium Manager and all rules and regulations applicable to the Stadium's adherence to, and/or certification by, the Leadership in Energy and Environmental Design (LEED) Green Building Rating System. Contractor shall indemnify Stadium Manager and make Stadium Manager whole for any out of pocket costs incurred by Stadium Manager which are solely attributable to any negligence or intentional act or omission of Contractor or any of its employees with respect to the recycling or trash removal program, including the expense of returned or rejected recyclable, compostable and trash removals due to mixing or contaminating the trash flow in violation of Applicable Laws or specific directives provided to Contractor in writing as part of the Stadium's sustainability and recycling, composting or trash removal programs. Stadium Manager will determine the type, appearance and location of the recyclable, compostable and trash receptacles.

- G. Contractor agrees not to use Hazardous Substances at the Stadium, except in accordance with Applicable Laws, and agrees to indemnify, defend, and hold the Indemnified Parties harmless for all Losses (as defined in Section [23.A](#) below) arising out of its use, generation or storage of Hazardous Substances at the Stadium.
- H. Contractors acknowledges and agrees that Services performed under this Agreement shall not create any right of lien for Contractor at the Stadium, which is a publicly owned building. Contractor hereby waives and releases any right of lien against Stadium Manager, StadCo, the Authority, the City, and the Stadium for the Services or any other work performed by Contractor at the Stadium during the Term of this Agreement.
- I. If required by Applicable Laws, Contractor shall file a payment bond for one hundred percent of the total amount payable hereunder with and approved by Stadium Manager.

9. MONITORING OF SERVICES.

Stadium Manager may monitor the Services performed under this Agreement to determine whether Contractor's operations conform to Stadium operating policies and directives and to the terms of this Agreement. Stadium Manager may also monitor the Services to be performed to determine whether the Services are being conducted in accordance with applicable Stadium Policies, National Football League requirements, and Applicable Laws.

10. CORRECTION OF SERVICES.

Contractor agrees to correct any incomplete, inaccurate, or defective Services at no cost to Stadium Manager, when such defects are due to the negligence, errors, or omissions of Contractor. If any action of Contractor constitutes a breach, Stadium Manager may terminate this Agreement pursuant to the provisions described herein.

11. RESPONSIBILITY OF CONTRACTOR.

- A. Contractor shall be responsible for the professional quality, technical accuracy, and coordination of the Services furnished by it under this Agreement. Neither Stadium Manager's review, acceptance, nor payments for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement and Contractor shall be and remain liable to Stadium Manager in accordance with Applicable Laws for all damages to Stadium Manager caused by Contractor failure to perform any of the Services furnished under this Agreement.
- B. Any acceptance by Stadium Manager of plans, specifications, construction contract documents, reports, diagrams, maps, and other material prepared by Contractor shall not in any respect absolve Contractor from the responsibility Contractor has in accordance with customary standards of good professional practice in compliance with Applicable Laws.
- C. Contractor shall comply and otherwise abide by, all emergency and security procedures and protocols of the Stadium Manager, the Authority, the City, the Team, the NFL and promoters of Events as the Stadium Manager or such other Persons shall adopt from time to time. Such procedures and protocols may include, without limitation, (i) employee pat-down and screening, (ii) presentment by Contractor's employees of identification cards or badges issued by Stadium Manager, which may include reporting criteria such as bar codes, "Mag Stripes", "RFID" or other identifier systems; (iii) restricting access to certain parts of the Stadium to specified employees of Contractor as reasonably approved by the Stadium Manager (with respect to security clearance standards); and/or (iv) conduct by Contractor, at its sole expense, of Team-specified minimum background and such other security screening checks on all of Contractor's employees as the Stadium Manager shall request from time to time, which checks may vary as to job function.
- D. Personnel.
 - i. Contractor shall hire, employ, train, supervise and discipline any and all persons necessary to provide the Services in accordance with the terms of this Agreement and shall use its best efforts to ensure that its employees continually practice the high standards of safety, courtesy and service customarily followed in the conduct of a first-class operation. Contractor shall use its best efforts to select qualified, competent and trustworthy employees. Any and all persons who furnish services under this Agreement, whether or not employed by Contractor prior to the Effective Date, are exclusively employees, subcontractors and/or non-affiliated third parties employed by Contractor and are not employees of the Authority, the City, StadCo or Stadium Manager. Such persons furnishing services under this Agreement shall be subject to appearance standards mutually acceptable to the parties hereto and

as permitted by Applicable Laws, and shall wear, at all times while working at the Stadium, neat and clean uniforms provided by Contractor and approved by Stadium Manager. Such uniforms shall bear such lettering and insignia (including the name and logo of the Stadium, the Stadium naming rights sponsor, if required, and the location of the employee's assignment (e.g., a Club or Suite area)) as Stadium Manager may require and shall be of a design reasonably satisfactory to Stadium Manager. Contractor shall cause its employees to conduct themselves in a professional and courteous manner, and not to unreasonably disturb or interfere with Events. Contractor shall at all times maintain accurate records of the names, addresses, employment history and other legal identification of those to whom Contractor issues employee badges, uniforms or other identifying items to ensure the proper identification and legal working status of Contractor's employees at the Stadium. Contractor shall conduct such background and other security screening checks on its employees as Stadium Manager shall reasonably request from time to time and shall not knowingly hire any person who has been previously terminated by the Authority, StadCo, Stadium Manager or any of their respective Affiliates or contractors. Upon Stadium Manager's request, and so long as any such action shall not be contrary to law, Contractor shall immediately remove from the Stadium any employee, agent, contractor or invitee of Contractor and permanently revoke such person's access credentials.

- ii. Intentionally Left Blank.
- iii. Contractor shall conduct regularly scheduled employee training programs appropriate to the Services provided, including any programs specifically requested by Stadium Manager, for all of its employees working in the Stadium (the "Employee Training Programs"). The Employee Training Programs will be mandatory for all employees, agents and any subcontractors of Contractor and, at a minimum, will include customer service, guest interaction, security procedures and specific job skills training, and will be conducted in such frequency as may be approved or directed by Stadium Manager. Contractor shall cause all Employee Training Programs to be periodically reviewed (no less frequently than annually) and updated to the extent necessary to maintain the standard of service requested by Stadium Manager. All employees of Contractor shall also be required to attend such policy and procedures training sessions as may be held by the Stadium Manager, as well as the Stadium orientation tour and training conducted by the Stadium Manager. Contractor shall not permit any employee, agent or subcontractor to work at an Event prior to his or her completion of the prescribed training sessions and Employee Training Programs.
- iv. Contractor shall promptly notify Stadium Manager upon voluntary or involuntary termination of employment of its employees or contractors and ensure that each such terminated individual is denied further access to the Stadium. In no event shall the Authority, the City, StadCo or Stadium Manager be liable, and Contractor shall indemnify, protect, and hold the Authority, the City, StadCo and Stadium Manager harmless, for Contractor's record keeping (or lack of record keeping), including the legal identification and working status of Contractor's employees and subcontractors, or for any other matters relating to Contractor's employees or subcontractors.

12. COMPENSATION AND PAYMENT.

- A. In consideration for Contractor's performance of the Services in accordance with the requirements of this Agreement, Stadium Manager shall pay Contractor for all materials provided and services rendered by Contractor in the amount(s) set forth in **Exhibit B**, entitled "Contractor Compensation and Fees."

- B. Contractor will invoice Stadium Manager for fees as set forth in **Exhibit B**, subject to verification by Stadium Manager. Except as otherwise expressly provided in **Exhibit B**, Stadium Manager will pay Contractor within thirty (30) days of Stadium Manager's receipt of a valid invoice.

13. TERMINATION OF AGREEMENT.

- A. In addition to any other rights or remedies Stadium Manager may have, Stadium Manager may terminate this Agreement by written notice to Contractor if: (i) Contractor fails to correct to the reasonable satisfaction of Stadium Manager any condition created or controlled by Contractor that, in Stadium Manager's reasonable judgment, poses a hazardous condition to occupants of the Stadium Complex, any of the Related Facilities (e.g., offsite parking areas), or any portion thereof, within twenty-four (24) hours after receipt of written notice from Stadium Manager; (ii) Contractor fails to perform any material obligation under this Agreement and such failure continues unremedied for a period of ten (10) days after receipt of written notice from Manager of the particular failure to perform (or thirty (30) days in the case that a remedy has commenced but cannot reasonably be accomplished in ten days); (iii) Contractor is placed into bankruptcy either voluntarily or involuntarily (and such involuntary proceeding is not dismissed within sixty (60) days), becomes financially insolvent, takes the benefit of any present or future insolvency statute, makes a general assignment for the benefit of creditors, or consents to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property; (iv) Contractor transfers or permits a transfer of this Agreement in violation of Section [14](#); (v) Contractor fails to obtain and/or maintain required licenses and permits under Section [8.D](#); or (vi) Contractor fails to work cooperatively and in good faith with the Authority, Stadium Manager, any of their respective Affiliates or any of subcontractors of any of the foregoing. Contractor and Stadium Manager acknowledge and agree that termination of this Agreement by Stadium Manager pursuant to this Section shall be "for cause."
- B. Upon the termination or expiration of this Agreement, (1) Contractor shall immediately surrender possession of the Related Facilities, if any (including any and all leasehold and other improvements therein), uniforms, equipment (and related manuals and software) to Stadium Manager, (2) Contractor shall immediately assign to Stadium Manager or its designee(s) all right, title and interest of Contractor in and to all items purchased by Contractor in connection with the Services (including uniforms and equipment), (3) Contractor shall make all payments required to be made by Contractor under this Agreement, (4) to the extent permitted by Applicable Laws, Contractor shall immediately surrender possession of and assign to Stadium Manager all permits and licenses acquired by Contractor in compliance with this Agreement and any Applicable Laws, and (5) all matters, rights and liabilities existing on the date of termination between the parties hereto shall be determined as of such termination date (except as described above), and discharged as promptly as possible thereafter, including any known claims for damages either party may have against the other for breach of the terms and conditions hereof. Any such surrender shall require delivery of possession in good condition, reasonable and ordinary wear and tear excepted and otherwise in compliance with the terms of this Agreement. Notwithstanding any termination or expiration of this Agreement, all liabilities and obligations of the parties will survive until they are fully satisfied.
- C. If the Stadium is destroyed or otherwise rendered unusable for more than thirty (30) days for any reason (a "Casualty Event"), Stadium Manager shall give Contractor a notice within ninety (90) days after the Casualty Event stating that whether the Authority intends to rebuild or restore the Stadium. If the notice states that the Authority will not rebuild or restore the Stadium, this Agreement shall be terminated. If the notice states that the Authority intends to rebuild or restore the Stadium, the Parties' obligations hereunder shall be abated during that period. If such notice states that the Authority reasonably believes that it will take longer than two (2) years to restore or rebuild the Stadium or, if a shorter amount of time, such amount of time is longer than the remainder of the Term, either party

shall have the option of terminating this Agreement by written notice to the other at any time within one hundred and eighty (180) days after Stadium Manager gives such notice, and such termination shall be effective one hundred twenty (120) days after the other party's receipt of such notice. Contractor shall not be entitled to any monetary or other damages or compensation from Stadium Manager in the event of a Casualty Event.

- D. The Parties acknowledge and agree that in the event that any permit required to be obtained by Stadium Manager for the full performance of the Services is not obtained by within a reasonable amount of time following the Effective Date, Stadium Manager shall have the right in its sole discretion to terminate this Agreement upon written notice to Contractor. Upon such termination, the Parties shall mutually agree upon any remaining payment by or refund to Stadium Manager in good faith. In no event shall Stadium Manager be responsible for any labor or other costs for services not yet performed by Contractor at the time of the notice of termination

14. NO ASSIGNMENT OR SUBCONTRACTING OF AGREEMENT.

- A. Stadium Manager and Contractor bind themselves and their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred by Contractor without the prior written approval of Stadium Manager. Contractor shall not hire subcontractors without express written permission from Stadium Manager.
- B. Stadium Manager may sell, assign, pledge and otherwise transfer or encumber (each, a **"transfer"**) this Agreement and any or all of its rights and obligations hereunder to any other Person, including any source of or guarantor or insurer of financing or any trustee, collateral agent or other Person appointed in connection with such financing (each, a **"Manager Assignee"**), whether by security agreement, collateral assignment, transfer or otherwise; provided, that such transfer shall not relieve Stadium Manager of its obligations under this Agreement unless such Manager Assignee assumes in writing Stadium Manager's obligations under this Agreement. Upon reasonable prior notice from Stadium Manager, Contractor shall make any payments due hereunder to such Manager Assignee and shall execute and deliver any documents that Stadium Manager or any Manager Assignee may reasonably request to acknowledge and confirm that upon any such transfer, this Agreement will remain in full force and effect, will continue to be a legal, valid and binding obligation of Contractor enforceable in accordance with its terms (subject to applicable bankruptcy or insolvency laws and general principles of equity), and that (to the extent accurate and correct) neither Contractor, nor to Contractor's knowledge, Stadium Manager is in material breach or violation of this Agreement.
- C. Contractor acknowledges and agrees that, in the event the Stadium Management Agreement is terminated for any reason, the Authority and StadCo shall, in accordance with the Stadium Lease, employ a replacement manager for the Stadium, who shall, following the effective date of such employment, constitute the "Stadium Manager" for all purposes under this Agreement, provided, however, that for any period of time before a replacement manager is appointed, this Agreement may be assigned to the Authority or StadCo as deemed appropriate in the Stadium Manager's sole discretion.

15. NO THIRD-PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties, except for the Authority, StadCo, and Team, and no other third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

16. INDEPENDENT CONTRACTOR.

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or

employee(s) of Stadium Manager, the Authority or StadCo. Contractor has full rights, however, to manage its employees in their performance of Services under this Agreement. All liabilities that may arise as a result of Contractor's status as an employer shall be borne exclusively by Contractor, including liability relating to payments required to be made under, and documents to be filed with respect to, the Federal Insurance Contribution Act and the Federal Unemployment Tax Act or any similar federal, state, city or local legislation or other Applicable Laws. Contractor is not authorized to bind Stadium Manager, the Authority or StadCo to any contracts or other obligations.

17. NO PLEDGING OF STADIUM MANAGER'S CREDIT.

Under no circumstances shall Contractor have the authority or power to pledge the credit of the Stadium Manager or any other of the Indemnified Parties or incur any obligation in the name of such Persons. Contractor shall save and hold harmless the Authority, StadCo, Stadium Manager, their respective Affiliates, and their respective officers, employees, boards and commissions for expenses arising out of any unauthorized pledges of credit by Contractor under this Agreement.

18. CONFIDENTIALITY OF MATERIAL.

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions, or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of Stadium Manager, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor shall be deemed confidential. Notwithstanding the above, the Contractor acknowledges that the Authority is a California public entity that is subject to the California Public Records Act. Information disclosed to Stadium Manager on behalf of the Authority regarding the Contractor's Services in connection with the performance of this Agreement may be subject to public disclosure in accordance with the Public Records Act, including this Agreement and its terms.

19. NO USE OF STADIUM MANAGER NAME OR EMBLEM.

Contractor shall have no right to use the trademarks, symbols, trade names or other intellectual property of the Authority, Stadium Manager, Levi's Stadium®, the San Francisco 49ers, or their respective Affiliates, or Stadium tenants or their Affiliates or other Event performers directly or indirectly, in connection with any production, promotion, service or publication, without the written approval of Stadium Manager.

20. OWNERSHIP OF MATERIAL.

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, and other material developed, collected, prepared, or caused to be prepared under this Agreement shall be the property of Stadium Manager, but Contractor may retain and use copies thereof. Stadium Manager shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than the Services, including, but not limited to, the release of this material to third parties.

21. RIGHT OF STADIUM MANAGER TO INSPECT RECORDS OF CONTRACTOR.

Stadium Manager, through its authorized employees, representatives, or agents shall have the right during the term of this Agreement and for three (3) years from the date of final payment for Services, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in

accordance with generally accepted accounting principles to establish the correctness of all charges submitted to Stadium Manager. Any expenses not so recorded shall be disallowed by Stadium Manager.

Contractor shall submit to Stadium Manager any and all reports concerning its performance under this Agreement that may be requested by Stadium Manager in writing. Contractor agrees to assist Stadium Manager in meeting Stadium Manager's reporting requirements with respect to Contractor's Services hereunder.

22. FAIR EMPLOYMENT.

Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of Applicable Law.

23. HOLD HARMLESS/INDEMNIFICATION.

- A. Contractor shall indemnify, defend and hold harmless the Authority, Stadium Manager and the Additional Indemnitees, and their respective officers, directors, managers, members, partners, owners and employees (collectively, "**Indemnified Parties**") from and against all losses, costs, suits, actions, claims, damages, amounts paid in settlement, liabilities, costs and expenses, including reasonable attorneys' fees (collectively, "**Losses**"), resulting to, imposed upon, asserted against or incurred by any of them (including in any action between the parties) in connection with or arising out of (i) any breach by Contractor under this Agreement, (ii) any activity, inactivity, work or thing done or permitted by Contractor or its employees, agents or contractors in or upon the Stadium or Related Areas, including the performance of the Services, or (iii) any injury or damage to any Person or to the property of any Person caused by any action or omission of Contractor or its employees, agents or contractors.
- B. If any claim, demand, action or proceeding is made or commenced by any third party (a "**Third Party Claims**") against any Indemnified Party, the Indemnified Party shall give Contractor prompt notice thereof; the failure to give such notice shall not affect the liability of Contractor under this Agreement except to the extent the failure materially and adversely affects the ability of Contractor to defend the Third Party Claim. Contractor shall have the right to assume the defense and resolution of the Third Party Claim, provided that (i) the Indemnified Party shall have the right to participate in the defense of the Third Party Claim at its own expense through counsel of its choice (control of the defense will remain with Contractor), (ii) Contractor shall not consent to the entry of any judgment or enter into any settlement that would require any act or forbearance on the part of the Indemnified Party or which does not unconditionally release the Indemnified Party from all liability in respect of the Third Party Claim or would otherwise bring dishonor or disrepute upon Authority, Stadium Manager, any of their respective Affiliates, without the prior written consent of the Indemnified Party, and (iii) the Indemnified Party may undertake the defense of the Third Party Claim, at Contractor's expense, if Contractor fails to (A) assume the defense within ten (10) business days after notice from the Indemnified Party or (B) diligently prosecute the defense.

24. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any longer time period set forth in **Exhibit C** entitled "Insurance Requirements" and attached hereto and incorporated herein by this reference, Contractor shall purchase and maintain in full force and effect, at no cost to Stadium Manager insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as required in **Exhibit C**.

25. AMENDMENTS.

This Agreement may be amended only with the written consent of both Parties.

26. INTEGRATED DOCUMENT.

This Agreement represents the entire agreement between Stadium Manager and Contractor. No other understanding, agreements, conversations, or otherwise, with any representative of Stadium Manager prior to execution of this Agreement shall affect or modify any of the terms or obligations of this Agreement. Any verbal agreement shall be considered unofficial information and is not binding upon Stadium Manager.

27. SEVERABILITY CLAUSE.

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

28. WAIVER

Contractor agrees that waiver by Stadium Manager of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement

29. NOTICES.

All notices to the Parties shall, unless otherwise requested in writing, be sent to Stadium Manager addressed as follows:

Attention: Jim Mercurio, Vice President
Address: Forty Niners Stadium Management Company LLC
4900 Marie DeBartolo Way
Santa Clara, CA 95054

With a copy to: Legal Affairs
Forty Niners Stadium Management Company LLC
4949 Marie P. DeBartolo Way
Santa Clara, CA 95054

And to Contractor as follows:

Attention: [insert name/title or department]
Address: [insert contractor name]
[insert address]
[insert address]

If notice is sent via email, a signed, hard copy of the material shall also be mailed. The workday the email was sent shall control the date notice was deemed given if there is a computer-generated

confirmation of receipt returned to the sender on the date of transmission. An email transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

30. CAPTIONS.

The captions of the various sections, paragraphs, and subparagraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

31. LAW GOVERNING CONTRACT AND VENUE.

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

32. DISPUTE RESOLUTION.

- A. Unless otherwise mutually agreed to by the Parties, any controversies between Contractor and Stadium Manager regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.
- B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours) provided the Parties may mutually agree to extend the time allowed for mediation under this Agreement.
- C. The costs of mediation shall be borne by the Parties equally.
- D. For any contract dispute, mediation under this section is a condition precedent to filing an action in any court. In the event of mediation which arises out of any dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness costs, and cost of suit through mediation only. In the event of litigation, the prevailing Party shall recover its reasonable costs of suit, expert's fees, and attorney's fees. If mediation does not resolve the dispute, the Parties agree that the matter shall be litigated in a court of law, and not subject to the arbitration provisions of the Public Contract Code.

33. COMPLIANCE WITH ETHICAL STANDARDS.

By executing this Agreement, Contractor promises and agrees that it and all of its members, officers, employees, agents, subcontractors and authorized representatives will comply with the "Ethical Standards for Contractors Seeking to Enter into an Agreement with Stadium Manager" attached hereto as **Exhibit D** and incorporated herein by this reference.

34. CONFLICT OF INTERESTS.

This Agreement does not prevent either Party from entering into similar agreements with other parties. To prevent a conflict of interest, Contractor certifies that to the best of its knowledge, no Stadium Manager, StadCo, Team, Authority, or City officer, employee, or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code

Section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise Stadium Manager if a conflict arises.

35. LABOR COMPLIANCE REQUIREMENTS.

- A. Contractor is aware of the requirements of California Labor Code Section 1720 et seq., and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Stadium Manager shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement upon request. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request and shall post copies at Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the Indemnified Parties free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Contractor and any subcontractor shall forfeit a penalty of up to \$200 per calendar day or portion thereof for each worker paid less than the prevailing wage rates.
- B. When Contractor employs workmen in an apprenticeable craft or trade, Contractor shall comply with the provisions of Section 1777.5 of the California Labor Code with respect to the employment of properly registered apprentices upon public works. The primary responsibility for compliance with said Section for all apprenticeable occupations shall be with Contractor. The Contractor or any subcontractor that is determined by the Labor Commissioner to have knowingly violated Section 1777.5 shall forfeit as a civil penalty an amount not exceeding \$100 for each full calendar day of noncompliance, or such greater amount as provided by law.
- C. Contractor is advised that eight (8) hours labor constitutes a legal day's work. Pursuant to Section 1813 of the California Labor Code, Contractor shall forfeit a penalty of \$25.00 per worker for each day that each worker is permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, except when payment for overtime is made at not less than one and one half (1 1/2) times the basic rate for that worker.
- D. Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. The payroll records shall be certified and shall be available for inspection at all reasonable hours at the principal office of Contractor in the manner provided in Labor Code Section 1776. In the event of noncompliance with the requirements of this Section, Contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects such Contractor must comply with this Section. Should noncompliance still be evident after such 10-day period, Contractor shall, as a penalty to Stadium Manager, forfeit not more than \$100.00 for each calendar day or portion thereof, for each worker, until strict compliance is effectuated. The amount of the forfeiture is to be determined by the Labor Commissioner. A contractor who is found to have violated the provisions of law regarding wages on public works with the intent to defraud shall be ineligible to bid on public works contracts for a period of one to three years as determined by the Labor Commissioner. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due. The responsibility for compliance with this Section is on Contractor. The requirement to submit certified payroll records directly to the Labor

Commissioner under Labor Code Section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

- E. Pursuant to Labor Code Sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted, nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. Contractor is directed to review, fill out and execute the "Public Works Contractor Registration Certification" attached hereto as **Exhibit E** and incorporated herein by this reference prior to Agreement execution. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.
- F. This Agreement is subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be the Contractor's sole responsibility to evaluate and pay the cost of complying with all labor compliance requirements under this Agreement and applicable law. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Services, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay subject to any applicable liquidated damages and shall not be compensable by the Stadium Manager. Contractor shall defend, indemnify and hold the Indemnified Parties free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.
- G. It shall be Contractor's sole responsibility to comply with, and maintain adequate records of its adherence to, all applicable state prevailing wage requirement. Contractor is responsible for maintaining and providing the following documentation to Stadium Manager for review and approval within the timeframes specified below.
 - i. Division of Apprenticeship Standards (DAS) 140 Form (applicable if the compensation paid or to be paid to Contractor is \$30,000 or more). Contractor, on behalf of itself and its subcontractors, must provide a copy of DAS 140 forms filed with the appropriate apprenticeship committee(s) the earlier of Contractor's first application for payment for Services performed under this Agreement or ten (10) days of Agreement execution.
 - ii. DAS 142 Form (applicable if the compensation paid or to be paid to Contractor is \$30,000 or more). Contractor, on behalf of itself and its subcontractors, must provide a copy of DAS 142 forms filed with the appropriate apprenticeship committee(s) or evidence of an approved exemption with its first application for payment for Services involving an apprenticeable craft or trade classification – additional DAS 142 forms or evidence of approved exemptions must be provided following this initial submission with future applications for payment in the event those applications are for Services involving an apprenticeable craft or trade classification not covered under the first application for payment.
 - iii. California Apprenticeship Council (CAC) Form CAC-2; Training Fee Contributions (applicable if the compensation paid or to be paid to Contractor is \$30,000 or more). Contractor, on behalf of itself and its subcontractors, must submit evidence of mandatory training contributions required under Labor Code Section 1777.5, as it may be amended from time to time, via submission of completed Form CAC-2

and/or confirmation of payment to a valid union trust fund with each application for payment submitted to Stadium Manager.

- iv. Certified Payroll Records; Statement of Compliance. Contractor, on behalf of itself and its subcontractors, must submit complete payroll records on forms substantially similar to the Department of Industrial Relations Form A-1-131 with each application for payment submitted to Stadium Manager. Each set of certified payroll records submitted to Stadium Manager with any application for payment must be accompanied by a signed Statement of Compliance certifying the information on the certified payroll records is true and correct. For the period covered by any application for payment in which Contractor and its subcontractors did not perform Services, Contractor must additionally submit a signed Statement of Non-Performance certifying no work was performed. Contractors are advised the submission of electronic certified payroll records to the Department of Industrial Relations via the eCPR system is not an acceptable substitute to maintaining and providing full certified payroll records as required by this provision and applicable law.
- v. Fringe Benefit Statement. Contractor, on behalf of itself and its subcontractors, must submit complete Fringe Benefit Statement(s) for the crafts and trade classifications utilized to perform the Services covered by any application for payment. All Fringe Benefit Statements must be submitted with the application for payment to which each applies.
- vi. Demand for Compliance Records. At any time during or subsequent to the full performance of the Services under this Agreement and in addition to the obligations set forth above, Stadium Manager and/or the Authority may require Contractor to produce and or correct and re-submit any prevailing wage compliance records, which must be reviewed and approved by Stadium Manager and/or the Authority, prior to full release of payment.
- vii. Withholding for Non-Compliance. In the event Contractor or any subcontractor is found not to be in compliance with the foregoing requirements for any application for payment whether for progress payments or final payment, Stadium Manager has the right to withhold up to ten percent (10%) of the amount owed to Contractor under the affected application for payment until full compliance is achieved. Contractor acknowledges and agrees the foregoing amount is a reasonable estimate of the value of the documentation specified above.

[Signatures continued on next page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly appointed representatives as of the Effective Date.

STADIUM MANAGER:

FORTY NINERS STADIUM MANAGEMENT COMPANY LLC

By: _____

Name: Peter Wilhelm

Title: Chief Financial Officer

CONTRACTOR:

[INSERT CONTRACTOR NAME]

By: _____

Name: [insert name]

Title: [insert title]

EXHIBIT A

SCOPE OF SERVICES

Contractor shall provide the following services at the Stadium during the Term, as requested and directed by Stadium Manager:

1. Overview

- a. Contractor shall provide testing, inspection, and maintenance services for a multi-year period from April 1, 2023 through March 31, 2026, for the fire suppression systems at the Stadium, as requested by Stadium Manager; provided however, if the services extend beyond a single fiscal year, the term for subsequent fiscal years shall be conditioned upon approval of the Santa Clara Stadium Authority budget for the applicable fiscal year that includes the amounts due under this Agreement.
- b. Contractor shall provide the following services:
 - i. Monthly testing, inspections, and maintenance
 - ii. Quarterly testing, inspections, and maintenance
 - iii. Annual testing, inspections, and maintenance
 - iv. 5 –year testing, inspections, and maintenance
 - v. Additional services as required by Stadium Manager

2. General Requirements

- a. Contractor shall perform all testing, inspection and maintenance for the fire sprinkler systems and the dry systems at the Stadium in accordance with the standards set forth by National Fire Protection Association (NFPA), as those standards may be amended from time to time during the Term of the Agreement. The NFPA standards are considered the minimum requirements for this scope of work. It shall be the responsibility of the Contractor to also comply with any recommendations from the equipment manufacturers with respect to testing, inspection and maintenance.
- b. Contractor shall perform the work described herein and shall furnish all labor, equipment, tools, special skills and materials required to perform these services.
- c. All material and work shall be in full accordance with the rules and requirements of the Occupational Safety and Health Administration (OSHA); National Electrical Code (NEC); National Fire Codes published by the National Fire Protection Association (NFPA); California Administrative Codes (CAC); Uniform Building Code (UBC); Uniform Plumbing Code (UPC); and other applicable federal, state, and local laws and regulations. These specifications shall not be construed to permit work not conforming to these requirements. The regulations shall govern where they require higher standards or conflict with the specifications. Rulings and interpretations of the enforcing agencies shall be considered a part of these specifications if commonly known to the trade. All regulations and standards shall be the latest publication unless governing authorities require otherwise. In addition, the entire installation shall be in accord with the best practices available in the industry, and shall present a neat, workman- like appearance upon completion.

3. General Services

- a. Contractor shall have, and maintain throughout the Term, expertise in testing, inspecting, maintaining, and servicing facilities with the following characteristics:

- i. A fire suppression system with a wet sprinkler system serving most of the facility, but also including several areas with dry systems, pre-action systems, along with specialized systems serving areas such as kitchens and hood vents.
- ii. The following table sets forth the quantities of each sprinkler head in the Stadium that shall require maintenance and servicing by Contractor:

| Sprinkler Type | Count |
|---|--------------|
| 1. Concealed Pendent, QR EC, K=11.2 165F Reliable XLO QREC (SIN R4441) Tan/Wood | 284 |
| 2. Concealed Pendent, QR EC, K=11.2 165F Reliable XLO QREC (SIN R4441) White | 1090 |
| 3. Concealed Pendent, QR SC, K=5.6 165F Reliable G5-56 (SIN RA3415) Black | 35 |
| 4. Concealed Pendent, QR SC, K=5.6 165F Reliable G5-56 (SIN RA3415) White | 1413 |
| 5. Dry (12" Barrel) Pendent, QR SC, K=5.6, 155, Reliable F3QR (SIN R5714) | 217 |
| 6. ESFR Pendent, QR, SC, K=16.8, 165F, Tyco ESFR-17 (SIN TY7226) | 41 |
| 7. ESFR Upright QR, SC, K=16.8, 165F, Tyco ESFR-17 (SIN TY7126) | 84 |
| 8. Exposed Pendent, QR EC, K=8, 155F Reliable F1FR QREC (SIN R4842) Black | 51 |
| 9. Exposed Pendent, QR EC, K=5.6, 155F Tyco EC-11 QREC (SIN TY5237) Black | 99 |
| 10. Exposed Pendent, QR SC, K=5.6, 155F Reliable F1FR56 (SIN RA1414) | 134 |
| 11. Exposed Sidewall, QR SC, K=5.6, 155F Reliable F1FR56 (SIN RA1414) | 11 |
| 12. Exposed Upright, QR EC, K=11.2, 155F Tyco EC-11 (SIN TY5137) Black | 1108 |
| 13. Exposed Upright, QR EC, K=5.6, 155F Reliable F1FR56 (SIN RA1425) | 1385 |

| | |
|---|-------------|
| 14. Exposed Upright, SR SC, K=8, 155F Reliable F1 LO (SIN R1742) | 8 |
| 15. Exposed Upright, SR SC, K=8, 286F Reliable F1 LO (SIN R1722) | 93 |
| 16. Institutional Pendent, QR SC, K=5.6, 165F Reliable INST XL (SIN R1334) | 5 |
| 17. Semi-Recessed Pendent, QR EC, K=8, 155F Reliable F1FR (SIN R4842) | 1113 |
| 18. Semi-Recessed Pendent, QR SC, K=5.6, 155F Reliable F1FR56 (SIN R1414) | 499 |
| 19. Semi-Recessed Pendent, SR EC, K=11.2, 155F Tyco EC-11 (SIN TY5237) | 503 |
| 20. Semi-Recessed Pendent, QR SC, K=8, 155F Reliable F1 LO (SIN R1712) | 10 |
| 21. Under Duct Upright, QR SC, K=5.6, 155F Reliable F1FR56 (SIN R1425) | 144 |
| Grand Total | 8327 |

- b. Contractor shall, in the course of performing the maintenance services under this Agreement, maintain, inspect, and test all fire suppression systems at the Stadium, including the following components:
- i. Fire Pump Controller
 - ii. Tamper Switches
 - iii. Flow Valves
 - iv. Test / Drain Valves
 - v. Horizontal Centrifugal Fire Pump
 - vi. Jockey Pump
 - vii. Pump controllers
 - viii. Wet Standpipes
 - ix. Wall Hydrants
 - x. Pre – Action Systems (Semi-Annual of 8th Floor Control Room and 2nd floor Server Room)

- xi. FM 200 Suppression Systems (Semi-Annual of 8th Floor Control Room and 2nd floor Server Room)
- c. The specific requirements for testing, inspection, and maintenance for each component of the systems are set forth in the relevant NFPA standards, and relevant guidance by the Office of the State Fire Marshall. It is the responsibility of the Contractor to be thoroughly familiar with the fire suppression systems throughout the stadium, and to be thoroughly familiar with the necessary testing, inspection and maintenance requirements for each component of the systems, including any manufacturer recommendations.
- d. Fire sprinkler components shall be cleaned, recalibrate and retested if necessary by Contractor to ensure continued performance and reduce the risk of system failure. During scheduled visits, minor maintenance replacements shall be made, such as replacement of faulty heads, valves and fire pumps.
- e. Microprocessor based systems shall have the software and firmware upgraded when required to maintain the listing requirements of the Stadium Manager.
- f. Contractor shall perform necessary maintenance for deficient or inoperable devices such as those found during the course of system testing, inspection or preventative maintenance, or have failed during operation shall be provided. Only original replacement components manufactured by the original equipment manufacturer or other equal and compatible components may be used in order to preserve U.L Listings and meet NFPA requirements.
- g. Contractor shall provide telephone response to emergency requests from Stadium Manager within (thirty) 30 minutes of contact, and service technicians shall be onsite within four (4) hours. Such response level shall be provided 24-hours a day, 365-days a year. Non-emergency calls, as determined by Stadium Manager in its sole discretion, shall be handled the next business day.
- h. If appropriate and approved by Stadium Manager, certain of the monthly inspections may be performed by the Stadium Manager's engineering staff at the direction of Contractor.
- i. Following each inspection, Contractor shall provide Stadium Manager with complete documentation of testing and a report of any deficiencies shall be presented for review by Stadium Manager before the technician leaves the Stadium.
- j. Testing shall be conducted during off or non-operational hours and the schedule shall be pre-approved by the Stadium Manager.
- k. Any and all technicians selected to perform services under this Agreement and/or at the Stadium shall be highly trained and qualified with a minimum of 5 years' experience in servicing the systems/equipment at the Stadium.
- l. Contractor shall be required to obtain and maintain on the work site MSDS sheets on hazardous materials brought to the premises or intended to be installed or used in the premises at all times. MSDS sheets shall be presented to Stadium Manager no less than 48 hours in advance of work performance or actual use of materials. No hazardous materials may remain on the premises unless specifically agreed by Stadium Manager.

4. Specific Services

- a. In December 2024, Contractor shall perform a sprinkler/standpipe five-year inspection as detailed in this Agreement, in strict accordance with NFPA rules and regulations, and as mutually agreement upon by the Parties.
- b. Once during each year of the Term (with the initial year ending March 31, 2024), Contractor shall perform an annual sprinkler/standpipe inspection as detailed in this Agreement, in strict accordance with NFPA rules and regulations, and as mutually agreement upon by the Parties.
- c. Eight times during each year of the Term (with the initial year ending March 31, 2024), Contractor shall perform a monthly sprinkler/standpipe inspection as detailed in this Agreement, in strict accordance with NFPA rules and regulations, and as mutually agreement upon by the Parties.
- d. Once during each year of the Term (with the initial year ending March 31, 2024), Contractor shall perform an annual fire pump inspection as detailed in this Agreement, in strict accordance with NFPA rules and regulations, and as mutually agreement upon by the Parties.
- e. Twice during each year of the Term (with the initial year ending March 31, 2024), Contractor shall perform a semi-annual FM200 suppression inspection as detailed in this Agreement, in strict accordance with NFPA rules and regulations, and as mutually agreement upon by the Parties.

The Parties shall mutually agree upon the time and date for Contractor or a subcontractor of Contractor to perform and complete any and all Services at the Stadium during the Term.

EXHIBIT B

CONTRACTOR COMPENSATION AND FEES

The Parties mutually agree that as consideration for the Services contained in this Agreement, Stadium Manager shall compensate Contractor upon the completion (and verification of the completion by Stadium Manager) of the Services contained in **Exhibit A** in accordance with the compensation terms specified below.

| Type of Service | Frequency | Year One 4/1/23 to 3/31/24 | Year Two 4/1/24 to 3/31/25 | Year Three 4/1/25 to 3/31/26 |
|--------------------------------------|---------------------------------|---|--|---|
| Monthly Inspection | 8 times per year | \$2,030.00 per inspection | \$2,125.00 per inspection | \$2,215.00 per inspection |
| Quarterly Inspection | 3 times per year | \$2,007.00 per inspection | \$2,102.00 per inspection | \$2,200.00 per inspection |
| Semi-Annual Inspection | 2 times per year | \$1,735.00 per inspection | \$1,782.00 per inspection | \$1,824.00 per inspection |
| Annual Inspection | 1 time per year | \$20,829.56 | Included with 5 Year Inspection Cost | \$21,959.56 |
| 5-year Inspection Tank | 1 Time during the Term in 2024 | N/A | \$2,985.00 | N/A |
| 5-year Inspection | 1 time during the Term in 2024 | N/A | \$37,835.22 | N/A |
| Replacement of Gauges at 5-year Test | 1 time during the Term in 2024 | N/A | \$4,385.00 | N/A |
| Hourly rate of additional services | As requested by Stadium Manager | \$225.00 per hour straight time \$337.50 per hour overtime | \$230.00 per hour straight time \$345 per hour overtime | \$235.00 per hour straight time \$352.50 per hour overtime |

Total Not to Exceed Amount for Three Years: \$228,000

Year One – 4/1/23 through 3/31/24 - \$66,000 inclusive of cost for additional services as required.

Year Two – 4/1/24 through 3/31/25 - \$92,000 inclusive of 5-year testing and cost for additional services.

Year Three – 4/1/25 through 3/31/26 - \$70,000 inclusive of cost for additional services as required.

The pricing list above will govern all of services provided by Contractor to Stadium Manager during the Term. Any and all additional costs, including taxes, shipping, handling, and any subcontractor costs, shall be at Contractor's sole expense and Contractor shall have no right to invoice Stadium Manager or any third-party for any additional costs incurred by Contractor in the performance of the Services under this Agreement.

EXHIBIT C

INSURANCE REQUIREMENTS

At all times during the term hereof, Contractor shall keep and maintain in full force and effect the following types of insurance coverage and/or bonds:

1. Commercial general liability insurance, including property damage, against liability for personal injury, bodily injury, death and damage to property occurring in or about the property in the amount of Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) in the aggregate.
2. Automobile liability in the amount of One Million Dollars (\$1,000,000) with respect to owned, hired and non-owned vehicles.
3. Workers compensation insurance, as required by applicable law. Contractor is directed to review and execute the "Contractor's Certification Regarding Worker's Compensation" attached hereto as **Exhibit F** and incorporated herein by this reference prior to Agreement execution.
4. Employer's liability in the amount of One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) each employee, by disease, and One Million Dollars (\$1,000,000) policy aggregate by disease.
5. Liability insurance covering claims arising out of errors and omissions by vendors rendering professional services, in the amount of One Million Dollars (\$1,000,000) each occurrence including contractual liability coverage, with all coverage retroactive to the earlier of the date of agreement or commencement of Contractor's services.
6. Umbrella or excess liability insurance in the amount of Two Million Dollars (\$2,000,000) providing excess coverage over general liability, auto liability, and employer's liability specified above.

The above stated limits may be achieved by a combination of primary and excess/umbrella coverage. Any deductible or self-insured retention amounts are the sole responsibility of the Contractor. Contractor is responsible for insuring any equipment brought to Stadium. Stadium Manager shall have no liability for such equipment.

All insurance policies and bonds required to be maintained by Contractor shall be issued by insurers or sureties (as the case may be) reasonably satisfactory to client, authorized to do business in the state of California and having an AM Best rating and financial size category of A-/VII or better. All policies of the vendor shall be (i) primary and non-contributing with respect to any policies carried by client; (ii) with respect to liability insurance only, a provision including Stadium Manager, Santa Clara Stadium Authority, Forty Niners SC Stadium Company LLC and Forty Niners Football Company LLC as Additional Insured; (iii) a waiver by the insurer of any right to subrogate against Stadium Manager (iv) a severability of interest or endorsement; (v) a provision that the insurer will not cancel or change the coverage provided by such without giving the Stadium Manager thirty (30) days' prior written notice; and (vi) general liability be an "occurrence form" policy. Any policy of insurance required to be carried by Contractor that names Stadium Manager as Additional Insured shall not be subject to a deductible or self-insured retention, it being the intent of the parties that such insurance shall fully and completely insure such additional insured entities for all loss or expense; if any such policy has a deductible or self-insured retention clause applicable to these operations, Contractor shall provide evidence that insurance carrier shall pay without regard to such deductible or self-insured retention.

EXHIBIT D

ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH STADIUM MANAGER

Termination of Agreement for Certain Acts.

- A. Stadium Manager may, at its sole discretion, terminate this Agreement in the event any one or more of the following occurs:
1. If a Contractor¹ does any of the following:
 - a. Is convicted² of operating a business in violation of any Applicable Law;
 - b. Is convicted of a crime punishable as a felony involving dishonesty³;
 - c. Is convicted of an offense involving dishonesty or is convicted of fraud or a criminal offense in connection with: (1) obtaining; (2) attempting to obtain; or, (3) performing a public contract or subcontract;
 - d. Is convicted of any offense which indicates a lack of business integrity or business honesty which seriously and directly affects the present responsibility of a Stadium Manager contractor or subcontractor; and/or,
 - e. Made (or makes) any false statement(s) or representation(s) with respect to this Agreement.
 2. If fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individual associated with Contractor can be imputed to Contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of Contractor, with Contractor's knowledge, approval or acquiescence, Contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.

¹ For purposes of this Agreement, the word "Consultant" (whether a person or a legal entity) also refers to "Contractor" and means any of the following: an owner or co-owner of a sole proprietorship; a person who controls or who has the power to control a business entity; a general partner of a partnership; a principal in a joint venture; or a primary corporate stockholder [i.e., a person who owns more than ten percent (10%) of the outstanding stock of a corporation] and who is active in the day to day operations of that corporation.

² For purposes of this Agreement, the words "convicted" or "conviction" mean a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere within the past five (5) years.

³ As used herein, "dishonesty" includes, but is not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, failure to pay tax obligations, receiving stolen property, collusion or conspiracy.

- B. Stadium Manager may also terminate this Agreement in the event any one or more of the following occurs:
1. Stadium Manager determines that Contractor no longer has the financial capability⁴ or business experience⁵ to perform the terms of, or operate under, this Agreement; or
 2. If Stadium Manager determines that Contractor fails to submit information, or submits false information, which is required to perform or be awarded a contract with Stadium Manager, including, but not limited to, Contractor's failure to maintain a required State-issued license, failure to obtain a Stadium Manager business license (if applicable), or failure to purchase and maintain bonds and/or insurance policies required under this Agreement.
- C. In the event a prospective Contractor (or bidder) is ruled ineligible (debarred) to participate in a contract award process or a contract is terminated pursuant to these provisions, Contractor may appeal the action to the Authority by filing a written request with the Authority Secretary within ten (10) days of the notice given by Stadium Manager to have the matter heard. The matter will be heard within thirty (30) days of the filing of the appeal request with the Authority Secretary. Contractor will have the burden of proof on the appeal. Contractor shall have the opportunity to present evidence, both oral and documentary, and argument.

⁴ Contractor becomes insolvent, transfers assets in fraud of creditors, makes an assignment for the benefit of creditors, files a petition under any section or chapter of the federal Bankruptcy Code (11 U.S.C.), as amended, or under any similar law or statute of the United States or any state thereof, is adjudged bankrupt or insolvent in proceedings under such laws, or a receiver or trustee is appointed for all or substantially all of the assets of Contractor.

⁵ Loss of personnel deemed essential by Stadium Manager for the successful performance of the obligations of Contractor to Stadium Manager.

EXHIBIT E
PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION

Pursuant to Labor Code Sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information.

No bid will be accepted, nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Contractor hereby certifies that it is aware of the registration requirements set forth in Labor Code Sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.⁶

Name of Contractor:_____

DIR Registration Number:_____

DIR Registration Expiration:_____

Small Project Exemption: ____ Yes or ____ No

Unless Contractor is exempt pursuant to the small project exemption, Contractor further acknowledges:

- Contractor shall maintain a current DIR registration for the duration of the project.
- Contractor shall include the requirements of Labor Code Sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening (or contract execution where no bid occurred) and maintain registration status for the duration of the Agreement.
- Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Name of Contractor_____

Signature_____

Name and Title_____

Dated_____

⁶ If the Agreement is exempt from the contractor registration requirements pursuant to the small project exemption under Labor Code Sections 1725.5 and 1771.1, please mark "Yes" in response to "Small Project Exemption."

EXHIBIT F

CONTRACTOR'S CERTIFICATION REGARDING WORKER'S COMPENSATION

I, the undersigned Contractor, am aware of the provisions of Section 3700 *et seq.* of the California Labor Code, which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I, the undersigned Contractor, agree to and will comply with such provisions before commencing the performance of the Services on this Agreement.

Name of Contractor: _____

By: _____
Signature

Name (Print)

Title (Print)