

COVER SHEET

for

**Settlement Agreement and Mutual Release
(Buffet and PSC Arbitration)**

By and Between:

Forty Niners SC Stadium Company LLC and Forty Niners Stadium Management Company LLC (“Manager”) (collectively, the “Forty Niners”), on the one hand, and the Santa Clara Stadium Authority and the City of Santa Clara, on the other hand

Note from Agency Counsel/City Attorney:

The terms set forth in the attached Settlement Agreement were approved by the Agency Board/City Council in Closed Session on May 20, 2024, with authorization and direction to the Executive Director/City Manager to execute a formal Settlement Agreement reflecting such terms in a final form approved by Agency Counsel/City Attorney. The Board/City Council vote was 5-2 in favor of the settlement terms, with Mayor/Chair Gillmor and Council/Board Member Watanabe opposed.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE
(BUFFET AND PSC ARBITRATION)

This Settlement Agreement and Mutual Release (the “Settlement Agreement”) is entered into by and among, on the one hand Forty Niners SC Stadium Company LLC (“StadCo”) and Forty Niners Stadium Management Company LLC (“Manager”) (collectively, the “Forty Niners”), and on the other hand, the Santa Clara Stadium Authority (“SCSA”) and the City of Santa Clara (the “City”), with respect to certain provisions specifically related to the City, on the date of the last signature herein (the “Interim Effective Date”). Each of them is referred to herein as a “Party” and collectively as the “Parties.” All defined terms not defined herein have the meanings given to them in the Stadium Lease or the Ground Lease (as defined below).

RECITALS

- A. WHEREAS, the City and SCSA entered into a Lease Agreement on or about March 28, 2012, and then subsequently entered into a First Amendment to Ground Lease on or about June 19, 2013 (together, the “Ground Lease”);
- B. WHEREAS, StadCo and SCSA entered into the Stadium Lease Agreement on or about March 28, 2012, and then subsequently entered into the Amended and Restated Stadium Lease Agreement (the “Stadium Lease”) on or about June 19, 2013;
- C. WHEREAS, StadCo, SCSA, and Manager entered into the Stadium Management Agreement on or about March 28, 2012, and subsequently entered into four amendments of the Management Agreement, dated respectively November 13, 2012, May 9, 2013, June 19, 2013 and May 18, 2014 (collectively, the “Management Agreement”);
- D. WHEREAS, SCSA and StadCo entered into the Stadium Operations Agreement on or about August 18, 2014 (the “Operations Agreement”);
- E. WHEREAS, on June 14, 2019, StadCo filed with JAMS its initial claim against SCSA pertaining to public safety costs for certain NFL Games played in the Stadium, titled *Forty Niners SC Stadium Company LLC v. Santa Clara Stadium Authority*. On August 2, 2019, SCSA filed its initial response, which included breach and declaratory relief cross-claims pertaining to the public safety costs claims and Stadium Lease terms. StadCo and SCSA have amended these initial claims several times; which are collectively referred to herein as the “PSC Arbitration”;
- F. WHEREAS, on September 4, 2020, StadCo filed with JAMS its initial claim against SCSA pertaining to reimbursement of expenses for buffets provided to certain Stadium Builder License (SBL) holders at certain NFL games, titled *Forty Niners SC Stadium Company LLC v. Santa Clara Stadium Authority*. On September 25, 2020, SCSA filed its initial response, which included cross-claims against StadCo and Manager concerning the buffet expenses, including claims in regards to buffet expenses in StadCo and SCSA’s prior and concluded arbitration to set StadCo’s Facility Rent under the Stadium Lease. StadCo, Manager and SCSA have amended these initial claims several times, which are collectively referred to herein as the “Buffet Arbitration”;

G. WHEREAS, on or about August 31, 2022, StadCo, Manager, and SCSA entered into a Stipulation to Stay Arbitration Matters, in order to try to resolve the Buffet Arbitration and PSC Arbitration (the “Stay”);

H. WHEREAS, the Parties hereto desire to compromise and settle, and to fully and finally resolve their claims and cross-claims in the Buffet Arbitration and the PSC Arbitration, and based upon this desire and the covenants, warranties and promises herein, the Parties mutually agree to the following settlement terms.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. RESOLUTION OF THE BUFFET ARBITRATION.

a. StadCo and SCSA agree, and SCSA acknowledges, that Paragraph 4.6.1 of the Stadium Lease obligates SCSA to reimburse invoices from StadCo for all costs and expenses incurred by StadCo in providing any complimentary buffets to certain SBL holders (the “Buffet Reimbursement”). StadCo agrees and acknowledges that SCSA’s obligations under Paragraph 4.6.1 for Lease Years 14/15 through 23/24 are deemed satisfied.

b. StadCo represents and warrants that prior invoices sent to SCSA for the Buffet Reimbursement included only expenses attributable to the buffets provided to the “certain SBL holders” described in Paragraph 4.6.1 of the Stadium Lease.

c. Starting in Lease Year 24/25, and until the termination or expiration of the Stadium Lease, SCSA shall pay StadCo \$90,000 for each NFL Game at which complimentary buffets are provided to approximately 942 SBL holders in sections VIP 115, VIP 138, VIP 137 Rows 4, 5, and 6, and VIP 139 Rows 4, 5 and 6. NFL Games include any pre-, regular, and post-season NFL games played by the Team in the Stadium, in which the Team is designated as the home team by the NFL. However, NFL Games does not include League Events (as defined by Article 21 of the Stadium Lease), regardless of which team is designated by the NFL as the “home” team.

d. The \$90,000 payment referenced in the subsection above shall grow at 3% per year, starting in Lease Year 25/26.

e. **Buffet Accounting Request.**

(i) No later than conclusion of any Lease Year, SCSA may require that StadCo account for the Buffet Reimbursement for the following Lease Year (*i.e.*, SCSA may demand the accounting for Lease Year 28/29 no later than March 31, 2028) (“Buffet Accounting Request”). If such a Buffet Accounting Request is made, StadCo shall implement a system to track buffet expenses incurred for NFL Games for those SBL holders in the seats identified in subsection (c) above, and by March 15 of the Lease Year in which the tracking occurred, provide documents demonstrating the buffet expenses incurred for NFL Games for those SBL holders, and make available documents demonstrating that such expenses were appropriately allocated

(i.e., if a Buffet Accounting Request is made no later than March 31, 2028, then the system will be implemented for the Lease Year 28/29 NFL Season, and the respective documents will be provided and made available no later than March 15, 2029). SCSA reserves the right to audit those provided documents, at SCSA's own cost.

(ii) In any Lease Year in which StadCo is required to perform the accounting based on the Buffet Accounting Request, the Buffet Reimbursement payment for that Lease Year only will be increased by an additional 5% as an administrative fee ("Buffet Acct Fee"). This Buffet Acct Fee shall be in addition to the 3% annual increase. The Buffet Acct Fee is a one-time fee for any Lease Year a Buffet Accounting Request is made. The Buffet Acct Fee is not included as part of the 3% annual escalator per Section d above.

(iii) If, at the conclusion of the accounting, it is determined that the actual expenses attributable to the provision of buffets to the SBL holders identified in subsection (c) for NFL Games were less than the Buffet Reimbursement paid by SCSA for that Lease Year, StadCo will reimburse the greater of either: (1) the Buffet Acct Fee or (2) the difference between the Buffet Reimbursement and the actual cost incurred in providing the buffets described in subsection (c), above.

f. StadCo and SCSA hereby confirm that they will take all necessary steps to cause StadCo's and SCSA's approval of an amendment to the Stadium Lease to reflect the terms set forth above. Other than the specific terms stated herein, all other terms and obligations in Paragraph 4.6.1 of the Stadium Lease are not changed and remain in effect.

g. Manager's March 21, 2022 draw under the Revolving Credit Agreement of \$902,081.46 to reimburse StadCo for StadCo's claimed amount of buffet expenses due from SCSA for Lease Year 21/22 will be treated as SCSA's reimbursement of that amount. StadCo is hereby waiving any claim for the reimbursement of buffet expenses due from SCSA for Lease Years 22/23 and 23/24. StadCo hereby confirms that SCSA has no further obligation to reimburse StadCo for any buffet expenses from Lease Year 14/15 through 23/24, and that SCSA's buffet expense reimbursement obligations is deemed fully satisfied for Lease Years 14/15 through 23/24.

2. **ADJUSTMENT TO PUBLIC SAFETY COSTS THRESHOLD.**

a. StadCo agrees to exercise its discretion pursuant to Paragraph 7.5.4(b) of the Lease, and to approve an increase to the Public Safety Costs Threshold.

b. For Lease Year 24/25, the Public Safety Costs Threshold shall equal Three Hundred Sixty Thousand Dollars (\$360,000) per Team Game. For each Lease Year thereafter, the Per Game Factor of the Public Safety Costs Threshold shall increase by four percent (4%), pursuant to Paragraph 7.5.3(b) of the Stadium Lease.

3. **RESOLUTION OF CREDITED PUBLIC SAFETY COSTS FOR LEASE YEARS 17/18 THROUGH 23/24.**

a. StadCo's claim against SCSA for Credited Public Safety Costs for Lease Years 17/18 through 23/24 is in the approximate amount of \$15,496,442 ("Pre-Existing Credited Public

Safety Costs”). The Pre-Existing Credited Public Safety Costs includes a current estimate of \$3,631,648 for Credited Public Safety Costs for the most recent Lease Year 23/24; as the Parties are continuing their efforts to calculate and confirm that final amount. To the extent that StadCo reimburses the City after the Interim Effective Date for Public Safety Costs for prior Lease Years, the Pre-Existing Credited Public Safety Costs will increase by the same amount.

b. StadCo agrees to waive from its Pre-Existing Credited Public Safety Costs claim against SCSA the Credited Public Safety Costs due in Lease Year 17/18 in the amount of \$663,969. StadCo also agrees to waive \$9,296 of Credited Public Safety Costs due for Lease Year 18/19, with the remaining amounts for Lease Year 18/19 due as Permitted Credits Carry-forwards, which are not waived. Based on these two waivers, the current amount of all outstanding Credited Public Safety Costs through Lease Year 23/24, including all Permitted Credits Carry-forward, is approximately \$14.8 million (“PSC 2024 Outstanding Balance”). The Pre-Existing Credited Public Safety Costs will no longer be considered Credited Public Safety Costs, or Permitted Credits Carry-forward. Rather, the PSC 2024 Outstanding Balance is hereby a SCSA contractual obligation arising from this Settlement Agreement, which SCSA shall owe to StadCo and pay from SCSA’s Litigation Contingency Reserve and Excess Revenues, as set forth below.

c. Payment of PSC 2024 Outstanding Balance.

i. Use of SCSA’s Litigation Contingency Reserve: Immediately after the Final Effective Date, SCSA will expeditiously take all steps to implement and perform the terms below, including effectuating SCSA budget amendment(s): First, SCSA agrees to liquidate its Litigation Contingency Reserve, which has a current balance of approximately \$7.4 million and is estimated to increase to a balance of approximately \$10.4 million in June 2024 based on Lease Year 23/24 final calculations and reconciliations. Any and all accrued interest from the Litigation Contingency Reserve balance has been and will be treated as Stadium Authority Revenue and transferred to the Authority Revenue Account identified in Section 3.13 of the Deposit and Disbursement Agreement. Second, from the remaining balance of that reserve, SCSA will:

(A) Pay to the City approximately \$7.1 million for Performance-Based Rent for Lease Years 22/23 and 23/24. The calculation of this Performance-Based Rent payment takes into account approximately \$735,000 of Performance-Based Rent Credits under Section 1.94(a) of the Lease (attributable to Fixed Ground Rent previously paid to the City in Lease Years 18/19-22/23), which funds shall be treated as Stadium Authority Revenue. In other words, from the remaining balance of the Litigation Contingency Reserve, approximately \$7.1 million shall be paid to the City, and approximately \$735,000 shall be retained by SCSA, transferred to the Authority Revenue Account identified in Section 3.13 of the Deposit and Disbursement Agreement and treated as Stadium Authority Revenue.

(B) Pay to StadCo the remaining balance of the Litigation Contingency Reserve as a partial payment of the PSC 2024 Outstanding Balance.

ii. Use of SCSA’s Excess Revenues: The remaining balance of the PSC 2024 Outstanding Balance shall be paid to StadCo from SCSA’s Excess Revenues in future years on the terms set forth herein below. Accordingly, StadCo and SCSA agree to take all necessary

steps to cause for StadCo's and SCSA's approval of an amendment to Article 14 of the Stadium Lease to provide for the following, for Lease Year 24/25 forward:

(A) Following the Final Effective Date, Excess Revenues shall be distributed according to Article 14 of the Stadium Lease, except for the distributions set forth in Paragraphs 14.7 and 14.8. For all Excess Revenues that would, under the current Stadium Lease, be deposited in the Renovation/Demolition Reserve Account described in Paragraphs 14.7 of the Stadium Lease (the "Reno/Demo Reserve"), the following order of deposits shall occur:

(1) Up to 50% of available Excess Revenues will be deposited into the Reno/Demo Reserve, until the limit currently stated in Paragraph 14.7 of the Stadium Lease is satisfied.

(2) Up to 50% of the remaining available Excess Revenues (after the deposit into the Reno/Demo Reserve set forth in section (1), above) will be transferred to StadCo, to repay the PSC 2024 Outstanding Balance, until that obligation is satisfied.

(3) The remaining available Excess Revenues (after the deposits in sections (1) and (2), above) will be available for the Additional Disbursements in Paragraph 14.8 of the Stadium Lease.

(B) Once the PSC 2024 Outstanding Balance is paid in full, the following order of deposits shall occur:

(1) Up to 50% of available Excess Revenues will be deposited into the Reno/Demo Reserve, until the limit currently stated in Paragraph 14.7 of the Stadium Lease is satisfied.

(2) The remaining available Excess Revenues (after the deposits in section (1) above) will be available for the Additional Disbursements in Paragraph 14.8 of the Stadium Lease.

4. **ADDITIONAL PUBLIC SAFETY PROVISIONS.**

a. **Permitted Credits Carry-Forward.**

i. **Expiration Date:** SCSA and City agree to take all necessary steps to cause SCSA's and City's approval of an amendment to the Ground Lease to provide for the following intended effect: beginning in Lease Year 24/25 and forward, Permitted Credits Carry-forward shall expire after ten years, not five years (*i.e.*, credits accrued as a result of public safety costs incurred during Lease Year 24/25 must be applied within the next ten succeeding Lease Years, by end of Lease Year 34/35).

ii. **Facility Rent and Performance-Based Rent Credits:** StadCo agrees to limit the amount of certain Rent credits potentially available to StadCo, which may increase the Performance-Based Rent paid to the City in those years in which the new limit is triggered, assuming such increase is not offset by other credits. Accordingly, StadCo and SCSA agree to take all necessary steps to cause an amendment to the Rent credit described in the second sentence of Paragraph 7.5.3(a) of the Stadium Lease, and, if necessary, SCSA and City agree to

take all necessary steps to cause for SCSA's and City's approval an amendment to any related definitions and terms in Ground Lease, to provide for the following intended effect: beginning in Lease Year 24/25 and forward, the Rent payable by StadCo for any Lease Year shall be reduced by the lesser of the following (1) the amount of Credited Public Safety Costs for such Lease Year, (i) less the amount of any Credited Public Safety Costs for that Lease Year paid from the Public Safety Costs Reserve (as defined in this Settlement Agreement, below), plus (ii) any Credited Public Safety Costs included among the Permitted Credits Carry-forward for the particular Lease Year; or (2) twenty-five percent (25%) of the Net Income from Non-NFL Events for such Lease Year.

b. Public Safety Capital Expenditures.

i. NFL Share: SCSA and the City acknowledge and affirm the manner in which NFL Event Public Safety Costs Capital Expenditures are treated in the Stadium Lease, the Stadium Operations Agreement, and any other contracts which bear on those expenses. Specifically, when the Stadium Capital Expenditure Reserve is used for public safety capital expenditures, StadCo need not reimburse the City for that expenditure (because those expenditures are not paid by the City, but out of the Stadium Capital Expenditure Reserve), but StadCo's "fair share" of that expenditure, calculated pursuant to Section 3.2 of the Stadium Operations Agreement, is included when calculating whether (and by what amount) Public Safety Costs have exceeded the Public Safety Cost Threshold, and is included when calculating the amount of Credited Public Safety Costs for which StadCo is entitled to be reimbursed, or to receive a Rent credit.

ii. Non-NFL Share: StadCo and Manager acknowledge and affirm that the depreciation for Non-NFL Event Public Safety Capital Expenditures is treated as a non-cash charge against Non-NFL Event revenue for purposes of calculating Performance Based Rent, but Manager does not and should not charge the SCSA for the amortized amounts as actual cash Non-NFL Event expenses. In accordance with this acknowledgement, Manager agrees, within 20 business days of the Final Effective Date, to transfer to the SCSA the Non-NFL Event Public Safety Capital Expenditures that were charged as cash Non-NFL Event expenses in Lease Years 18/19 through 23/24.

c. Off-Site Parking Permit Fees: In consideration for the Settlement Agreement terms, SCSA agrees to waive its claims pertaining to the application of Off-Site Parking Permit Fees, and SCSA hereby acknowledges and accepts StadCo's interpretation by which Off-Site Permit Parking Fees are treated in the Stadium Lease, Paragraph 7.5.3(a), and any other contracts which bear on those expenses. Specifically, offsite parking permit fees reduce the PSC reimbursement that StadCo pays to the City, but those fees do not reduce the Public Safety Cost total used in calculating whether (and by what amount) Public Safety Costs have exceeded the Public Safety Cost Threshold, and are included when calculating the amount of Credited Public Safety Costs for which StadCo is entitled to be reimbursed, or to receive a Rent credit.

d. Overhead for Double-Badgers: The Parties acknowledge that there have been disputes concerning the rate of overhead that the City has included in Public Safety Costs. Within 60 days after the Final Effective Date, the City agrees to engage, or re-engage, consultants with appropriate expertise in this matter to review the rate of overhead that should be charged on the As-Needed Per Diem Police Officer for NFL Games (who are permanently

employed by other agencies, but are temporary employees of the City for NFL Games), and the City further agrees to move forward in good faith with this analysis. To the extent that the City determines that it is appropriate to reduce the rate of overhead charged on such employees, this reduction will become effective as of Lease Year 24/25. The City further agrees to consult with StadCo regarding scoping of the consultants' work, and their final analyses. StadCo hereby confirms that the City and its consultants have sole and final discretion in regards to the consultant's final analyses and City's charging of these overhead rates. Nothing in this subsection is intended to diminish any of StadCo's pre-existing rights, including, for example, that Public Safety Costs can include only the "actual and reasonable costs of police, traffic control, fire, emergency services and similar services provided by the City for NFL Games in the Stadium in accordance with the Public Safety Plan, including a fair share of Public Safety Capital Expenditures attributable to NFL Games."

e. Public Safety Plan: As provided under Stadium Lease Paragraph 7.5.1, SCSA acknowledges that it has coordinated with the City regarding the traffic management, security and public safety at all Stadium Authority Events, and StadCo acknowledges that it has coordinated with the City regarding the traffic management, security and public safety at all Tenant Events. The Parties confirm that they will continue to engage in such coordination in order to provide appropriate levels of such services in accordance with the Stadium Operations Agreement and, for NFL Games, the Public Safety Plan.

f. Cancellation Pay: StadCo agrees not to object to the City's inclusion of reasonable cancellation pay for public safety personnel in the Public Safety Costs that are reimbursable pursuant to Stadium Lease Paragraph 7.5.2, and subject to the Public Safety Cost Threshold.

5. OTHER SETTLEMENT TERMS AND MATTERS.

a. Non-NFL Ticket Surcharge: StadCo, Manager and SCSA agree to amend the Stadium Lease and any other contracts that bear on these terms, to provide the following intended effect:

i. The Non-NFL Event Ticket Surcharge described in Paragraph 12.1 of the Stadium Lease shall be increased from \$4 to \$8, and shall be increased by an additional \$1 every four Lease Years thereafter (*i.e.*, as of Lease Year 29/30, the Non-NFL Event Ticket Surcharge will be \$9). This increased surcharge shall only apply to events booked after the Final Effective Date. For purposes of this provision, "booked" means the time at which economic terms are agreed upon and accepted by Manager and the promoter, and any other parties whose consent is needed to book the event, regardless of whether a contract has been executed or not.

ii. The additional revenues generated by the above-described increase in the Non-NFL Event Ticket Surcharge ("Additional NNE Surcharge Revenues") will be deposited into a newly created SCSA account managed by SCSA (the "Public Safety Costs Reserve"). The Public Safety Costs Reserve shall be used to reimburse StadCo for Credited Public Safety Costs generated on and after Lease Year 24/25. (For clarity, this Public Safety Costs Reserves will not be used to pay StadCo the PSC 2024 Outstanding Balance, which shall be repaid pursuant to Section 3 above.)

iii. To the extent that the increased surcharge generates revenue above that necessary to reimburse StadCo for the then-current Lease Year's Credited Public Safety Costs, such revenue, including interest accrued on such revenue, shall be retained in the Public Safety Costs Reserve. If, by the end of the following Lease Year, there is more than \$2 million in the Public Safety Costs Reserve, StadCo and SCSA will meet and confer in good faith to mutually determine how those excess funds will be used. In the event that StadCo and SCSA do not reach an agreement by the following July 1, the funds in excess of the \$2 million reserve will be transferred to the Stadium Capital Expenditure reserve, described in Paragraph 14.3 of the Stadium Lease. Upon the termination or expiration of the Stadium Lease, any and all amounts remaining in this Public Safety Costs Reserve will be treated as Stadium Authority Revenue.

iv. Manager is permitted to increase the Non-NFL Event Ticket surcharge beyond the minimum amounts set forth above, if it determines, pursuant to the authority granted to it in Article 3 of the Management Agreement, that increasing the surcharge will be in compliance with Section 2.9 of the Management Agreement. Additional revenues generated by increasing the Non-NFL Event Ticket surcharge beyond the minimum amounts shall be Additional NNE Surcharge Revenues.

b. Senior / Youth Fee: StadCo and SCSA hereby agree to amend the Stadium Lease and any other contract that bear on these terms, to provide the following intended effect: the amount of the City of Santa Clara Senior and Youth Program Fee, as set forth in Paragraph 12.2 of the Stadium Lease, shall be increased from \$0.35 to \$0.40 starting in Lease Year 24/25 and shall be further increased by \$0.05 every ten Lease Years (*i.e.*, the fee will be \$0.45 as of Lease Year 34/35 and \$0.50 as of Lease Year 44/45). The "maximum amount" per Lease Year, set forth in Paragraph 12.2 of the Stadium Lease, shall be increased by \$50,000 to \$300,000 in Lease Years 24/25, and will be increased by another \$50,000 every ten years (*i.e.*, the "maximum amount" will be \$350,000 in Lease Year 34/35 and \$400,000 in Lease Year 44/45).

c. Declaratory Relief Decision: After the Final Effective Date, StadCo, Manager and SCSA will make good faith, expeditious efforts to obtain a final binding decision in the PSC Arbitration ("Arbitration Decision"). StadCo, Manager and SCSA agree that the Arbitration Decision will not be confidential and may be made public. StadCo, Manager and SCSA also agree that obtaining the Arbitration Decision is not a condition precedent to the effectiveness of the Settlement Agreement, nor to the effectiveness of the Final Effective Date. Notwithstanding any of the foregoing, StadCo, Manager, and SCSA each reserve the sole discretion not to proceed with obtaining the Arbitration Decision. If any of them opt not to proceed, the PSC Arbitration shall be dismissed with prejudice, with each Party to bear its own fees and costs, within five (5) business days of a notice not to proceed. Upon such dismissal, the Stay will be terminated and have no further effect.

6. **STADIUM LEASE AND CONTRACT AMENDMENTS, APPROVALS, AND CONDITIONS OF DISMISSAL OF ARBITRATION ACTIONS.**

a. The implementation of this Settlement Agreement will require amendments to the Stadium Lease and the Ground Lease, and possibly to certain other contracts. The Parties have made a good faith effort to identify the specific contracts and provisions that will need to be amended in order to implement this Settlement Agreement, but they acknowledge that it is possible that contracts other than those specifically identified in this Settlement Agreement will

need to be amended. Accordingly, the Parties agree to take all necessary steps to prepare and cause for the approval all contractual amendments that materially conform to this Settlement Agreement in order to implement its provisions. However, except as strictly required to be amended in order to implement the terms and conditions of this agreement, this Settlement Agreement does not obligate the Parties to agree to amend any other terms of the Stadium Lease, the Ground Lease, or any other contract.

b. Such contract amendments require the consent of the National Football League (the “NFL”) and Stadium Lenders (together with the NFL, the “Approving Entities”). The Parties agree to expeditiously seek such consents, and to cooperate in good faith with each other in those efforts.

c. The Stay shall remain in effect while the Parties are seeking said consents. For clarity, the Parties agree that any requirement for StadCo or Manager to submit any claims pursuant to Government Code Sections 810 *et seq.*, or to file new or amended arbitration claims, for any existing or future claims related to buffet or public safety obligations are and have been stayed, subject to the terms of the Stay.

d. The Stay shall not be terminable, other than by mutual consent of the Parties, unless and until one or more of the Approving Entities formally and finally declines to approve the amendments necessary to implement this Settlement Agreement. For purposes of this Section 6, including all subsections thereof, an Approving Entity shall not be deemed to have formally and finally declined to approve any of said amendments by proposing a modification of any such amendment unless, after considering such proposed modification in good faith, the Parties decline to accept such proposed modification.

e. SCSA and the City agree to take all actions necessary to delegate authority to the City Manager and to the Executive Director of the SCSA to negotiate the amendments necessary to implement this Settlement Agreement, on behalf of SCSA and the City, for submission to SCSA Board and City Council for final approval and execution. Similarly, SCSA and the City agree to take all actions necessary to perform its obligations under this Settlement Agreement, on behalf of SCSA and the City, including the preparation and submission of any budget amendments to SCSA Board and City Council for final approval.

f. In the event that any of the Approving Parties fully and finally refuses to approve the contractual amendments necessary to implement this Settlement Agreement, or the Parties do not provide final approval and execution of the contractual amendments necessary to implement this Settlement Agreement, then all provisions of this Settlement Agreement as of that date shall be of no force or effect, and this Settlement Agreement and all negotiations and proceedings related thereto shall be deemed to be without prejudice to the rights of any and all Parties, who shall to the extent possible be restored to their respective positions as of the date of this Settlement Agreement.

g. The Parties agree that while they pursue these approvals, and unless and until those approvals are fully and finally rejected by any of the Approving Entities or the Parties do not provide final approval and execution of the amendments necessary to implement this Settlement Agreement, none of them shall take actions inconsistent with this Settlement Agreement, or that would make it impossible or infeasible to implement the terms of the

Settlement Agreement, or that would make it impossible or infeasible to restore any of the Parties to their respective positions as of the Interim Effective Date. For example, SCSA agrees that it shall not withdraw funds from the Litigation Contingency Reserve.

h. Assuming the Approving Entities provide their full and final approvals of the contractual amendments, the date upon which the contractual amendments necessary to implement the terms of this Settlement Agreement have been fully and finally approved by and executed by SCSA, the City, StadCo and Manager shall be the "Final Effective Date" of this Settlement Agreement.

i. Within five (5) business days after the Final Effective Date, counsel for StadCo, Manager and SCSA will execute, file and serve a joint dismissal with prejudice of the Buffet Arbitration (with JAMS), with each Party to bear its own costs and fees.

j. The Parties hereby confirm that the City is not a party to the Stadium Lease, Management Agreement, and Stadium Operations Agreement, and the Settlement Agreement terms and obligations pertaining to the City are limited to those terms and obligations whereby the City has an underlying contractual right or obligation within the agreements described above.

7. **CONDITIONAL MUTUAL RELEASE TERMS.** The following release terms are subject to and on condition of the Final Effective Date:

a. Subject to and on condition of the Final Effective Date, SCSA and the City fully and forever release StadCo, Manager, and their respective present and former agents, members, employees, employers, officers, directors, shareholders, direct and indirect parents, related or affiliated corporations and business entities, partners, joint venturers, heirs, administrators, executors, representatives, predecessors, successors, transferees, licensees, assigns, insurers, sureties, and attorneys, and all those claiming by, through, under or in concert with any of them, either in their representative or individual capacities (collectively the "Forty Niners Releasees") from any and all actual or potential claims, duties, obligations, or causes of action arising from or relating to the Stadium Lease, the Management Agreement, the Ground Lease, the Revolving Credit Agreement, the Disposition and Development Agreement, and any other agreements or obligations arising from or related to the development, management, or operation of the Stadium, arising or accruing at any time prior to the Interim Effective Date, whether presently known or unknown, suspected or unsuspected, that the releasing party may possess, including but not limited to all claims and causes of action that have been or could have been asserted in the PSC Arbitration and the Buffet Arbitration.

b. Subject to and on condition of the Final Effective Date, StadCo and Manager fully and forever release SCSA and the City, and their present and former agents, members, employees, employers, officers, directors, shareholders, direct and indirect parents, related or affiliated corporations and business entities, partners, joint venturers, heirs, administrators, executors, representatives, predecessors, successors, transferees, licensees, assigns, insurers, sureties, and attorneys, and all those claiming by, through, under or in concert with any of them, either in their representative or individual capacities (the "SCSA/City Releasees," and collectively with the Forty Niners Releasees, the "Releasees") from any and all actual or potential claims, duties, obligations, or causes of action arising from or relating to the Stadium Lease, the Management Agreement, the Ground Lease, the Revolving Credit Agreement, the

Disposition and Development Agreement, and any other agreements or obligations arising from or related to the development, management, or operation of the Stadium, arising or accruing at any time prior to the Interim Effective Date, whether presently known or unknown, suspected or unsuspected, that the releasing party may possess, including but not limited to all claims and causes of action that have been or could have been asserted in the PSC Arbitration and the Buffet Arbitration.

c. **WAIVER OF CALIFORNIA CIVIL CODE SECTION 1542:** This Settlement Agreement is intended to be a full and unconditional settlement and compromise of all claims released in Sections 7(a) and 7(b) of this Settlement Agreement. StadCo, Manager, SCSA, and the City expressly agree that, to the extent this Settlement Agreement is interpreted, enforced, governed or applied under California law, they expressly waive and relinquish any and all rights conferred upon them by California Civil Code Section 1542 and expressly consent that this release shall be given full force and effect according to its express terms and provisions, including those relating to unknown and unsuspected claims, demands, and causes of action, if any, as well as those relating to any claims hereinabove specified. California Code Section 1542 provides:

“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

Having been so apprised, the Parties nevertheless hereby voluntarily: (a) elect to and do waive the rights described in California Civil Code Section 1542; (b) elect to accept and to assume all risks for claims that now exist in their favor that are released under this Settlement Agreement, including without limitation all claims not known or not expected at the time of the execution of this Settlement Agreement; and (c) elect to accept and to assume the risk of the facts turning out to be different, and agree that the instant settlement shall be in all respects effective and not subject to termination, rescission or modification by reason of any such change in facts.

d. **Limitations on Mutual Releases:** Notwithstanding the foregoing, the Parties agree that the releases and waivers provided in sections 7(a), 7(b) and 7(c) above shall not apply to:

i. Any increase to Pre-Existing Credited Public Safety Costs to the extent that StadCo reimburses the City after the Interim Effective Date for Public Safety Costs for prior Lease Years, as provided in Section 3(a) above;

ii. StadCo and SCSA’s final calculation of the Pre-Existing Credited Public Safety Costs for Lease Year 23/24;

iii. Payment rights, obligations and terms in regards to Insurance Premiums for Law Enforcement Liability coverage and Accidental Death & Dismemberment (AD&D) Liability coverage, including but not limited to related claims for refunds, reimbursements, reallocations or amounts due by and between StadCo, Manager and SCSA from and after Lease Year 14/15 (except that this carve-out shall not be deemed to revive any claims that are already time-barred);

- iv. SCSA's rights to confirm and dispute SSE charges and NNE revenue and charges for Lease Year 22/23 and 23/24, including but not limited to changes based on improper allocation, calculation, lack of support, or failure to comply with the Parties' contracts or California law;
- v. Manager's calculation, documentary support, and payments of non-NFL events ticket surcharge to SCSA for Lease Year 23/24;
- vi. The FIFA World Cup 2026 events;
- vii. Indemnification and defense obligations pertaining to any third party claims; and
- viii. The rights and obligations of this Settlement Agreement.

Except for these exceptions, which shall be strictly construed, the Parties waive all rights pursuant to Section 1542.

8. **EACH PARTY TO BEAR ITS OWN FEES AND COSTS.** Each Party shall bear all of its own costs, including attorneys' fees and any other fees, incurred in connection with the Buffet Arbitration, and the PSC Arbitration, pre-litigation activities relating to those matters, and the negotiation and implementation of this Settlement Agreement. Notwithstanding this provision, in the event any action or motion is filed to enforce any of the provisions of this Settlement Agreement, including without limitation, to enforce the releases specified herein, or to interpret any provision of this Settlement Agreement, the prevailing Party in any such action or motion shall be entitled to its actual attorneys' fees and costs incurred in connection with any such action or motion, to be determined by the court and assessed as part of the costs therein.

10. **DISPUTES ARISING FROM THIS AGREEMENT.** The Parties agree that any action to interpret or enforce this Settlement Agreement will be resolved pursuant to the procedures set forth in Exhibit L to the Stadium Lease. The City's agreement to follow and be bound by the Exhibit L of the Stadium Lease dispute resolution procedures is limited solely to actions to interpret or enforce this Settlement Agreement, and this agreement by the City does not constitute any agreement to be a party to the Stadium Lease or to be bound by its Exhibit L terms in any other dispute.

11. **SEVERABILITY.** Should any provision of this Settlement Agreement be held by a court of law to be illegal, invalid or unenforceable, each of the Parties reserve the right to void the entire Settlement Agreement based on a reasonable determination that such a ruling affects or impairs a material term of this Settlement Agreement. Otherwise, if any non-material provision of this Settlement Agreement is held by a court of law to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Settlement Agreement shall not be affected or impaired thereby.

12. **INTEGRATION.** This Settlement Agreement represents the entire agreement and understanding between the Parties regarding any matters discussed herein, as well as the releases set forth herein, and supersedes any and all prior and contemporaneous discussions, representations or negotiations regarding settlement of the aforesaid claims.

13. **GOVERNING LAW.** This Settlement Agreement shall be governed by the substantive laws of the State of California, without reference to choice of law principles.

14. **VOLUNTARY EXECUTION OF AGREEMENT.** This Settlement Agreement is executed voluntarily by each of the Parties, without any duress or undue influence on the part or behalf of any other Party, and with the full understanding and intent of releasing the claims on the terms as set forth herein. Each of the Parties acknowledges that it has read and understands the terms of this Settlement Agreement, has been provided a reasonable amount of time to consider whether to enter into this Settlement Agreement, has had the opportunity to consult with legal counsel with respect to the terms of this Settlement Agreement, and understands and acknowledges the terms and consequences of this Settlement Agreement and each of the terms thereof.

15. **SUCCESSORS.** This Settlement Agreement shall be binding on, and inure to the benefit of, the successors and assigns of any of the Parties hereto and, furthermore, shall inure to the benefit of the successors and assigns of any person or entity that is an intended third-party beneficiary of this Settlement Agreement.

16. **NO PRESUMPTION.** Each of the Parties had an opportunity to draft, review and edit the language of this Settlement Agreement, and no presumption for or against any of the Parties arising out of drafting all or any part of this Settlement Agreement will be applied in any action or proceeding arising out of, relating to, connected to, or involving this Settlement Agreement.

17. **AUTHORITY.** Each person executing this Settlement Agreement on behalf of a Party hereby warrants that he or she has full authority to do so.

18. **NO PRIOR ASSIGNMENT.** Each of the Parties represents and warrants that it is the sole and lawful owner of all rights, title and interest in and to all released matters, claims and demands referred to herein, and further represents and warrants that there has been no assignment or other transfer of any interest in any such matters, claims or demands which it may have against the other Parties to this Settlement Agreement. In the event that any of the Parties shall have assigned or transferred, or purported to assign or to transfer, any claim or other matter, that such Party shall indemnify, defend, and hold harmless the other Parties from and against any loss, cost, claim or expense (including, but not limited to, all costs related to the defense of any action, including reasonable attorneys' fees) based upon, arising out of, or occurring as a result of any such claim, assignment, or transfer.

19. **COMPROMISE.** This Settlement Agreement, and the documents executed pursuant to it, are the result of a compromise between and among the Parties and shall never at any time or for any purpose be considered an admission of liability, fault or responsibility of any of the Parties to the other with respect to any of the claims or defenses that the Parties have, or could have, asserted against each other in the claims being resolved in this litigation. It is expressly acknowledged and understood by the Parties that all Parties continue to deny all liability, fault or responsibility for the matters being settled by this Settlement Agreement.

20. **MODIFICATION AND WAIVER.** No amendment, modification or waiver of the provisions of this Settlement Agreement shall be valid and enforceable unless such amendment, modification or waiver is in writing and signed by all the Parties.

21. **COUNTERPARTS.** This Settlement Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute a binding settlement agreement on the part of each of the undersigned. A facsimile or scanned (.pdf or .tiff file or equivalent) execution, including digital and electronic signatures, shall be deemed good and valid acceptance of this Settlement Agreement and shall be reasonably relied upon by all Parties. Photocopies, PDFs, or faxed copies of original signature pages shall have the same force and effect as original signature pages.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of the last date set forth below, which constitutes the Interim Effective Date.

Dated: May 23, 2024

CITY OF SANTA CLARA

DocuSigned by:
Jovan Grogan
By: _____
5EAD88DED5C343A...
JÖVAN D. GROGAN
City Manager for City of Santa Clara

Dated: May 23, 2024

SANTA CLARA STADIUM AUTHORITY

DocuSigned by:
Jovan Grogan
By: _____
5EAD88DED5C343A...
JÖVAN D. GROGAN
Santa Clara Stadium Authority Executive Director

Dated: May 23, 2024

**FORTY NINERS SC STADIUM COMPANY LLC,
a Delaware limited liability company**

By: _____
DocuSigned by:
[Signature]
62D365E0EB4D487...
BRENT SCHOEB
Chief Revenue and Marketing Officer

Dated: May 23, 2024

**FORTY NINERS STADIUM MANAGEMENT
COMPANY LLC,
a Delaware limited liability company**

DocuSigned by:
Francine Melendez Hughes
By: _____
D00025EBC0A74A3...
FRANCINE HUGHES
Executive Vice President & General Manager

APPROVAL AS TO FORM:

Dated: May 23, 2024

COBLENTZ PATCH DUFFY & BASS LLP

DocuSigned by:
Charmaine Yu
By: EE85630D4CB74A5
CHARMAINE YU
Attorneys for FORTY NINERS SC STADIUM COMPANY
LLC and FORTY NINERS STADIUM MANAGEMENT
COMPANY LLC

Dated: May 23, 2024

HANSON BRIDGETT LLP

DocuSigned by:
Mohammad Walizadeh
By: AE7F3A2A707749F...
MOHAMMAD WALIZADEH
Attorneys for CITY OF SANTA CLARA and the SANTA
CLARA STADIUM AUTHORITY

Dated: May 23, 2024

DocuSigned by:
Glen Googins
By: D59467991D5F421...
GLEN R. GOOGINS
Santa Clara Stadium Authority Counsel and City Attorney