

SECOND AMENDMENT TO GROUND LEASE
(STADIUM SITE)

THIS SECOND AMENDMENT TO GROUND LEASE (this “**Second Amendment**”) is dated for reference purposes only as of _____, 2024, by and between the City of Santa Clara, California, a California municipal corporation (the “**City**”), as ground lessor, and the Santa Clara Stadium Authority, a joint exercise of powers entity, created through Government Code Section 6500 *et seq.* (“**Lessee**”), as ground lessee.

RECITALS

A. City and Lessee are parties to that certain Ground Lease (Stadium Site) dated as of March 28, 2012 (the “**Original Ground Lease**”), as amended by that certain First Amendment to Ground Lease (Stadium Site) dated as of June 19, 2013 (collectively, the “**Existing Ground Lease**”), pursuant to which City leases to Lessee certain premises generally located at the southwest corner of Tasman Boulevard and Centennial Drive in Santa Clara, California as more particularly described in Exhibit A, attached to the Existing Lease (the “**Stadium Site**”).

B. Lessee and Forty Niners SC Stadium Company LLC, a Delaware limited liability company (“**Stadium Tenant**”), are parties to that certain Amended and Restated Stadium Lease Agreement dated as of June 19, 2013 (the “**Existing Stadium Lease**”), pursuant to which Lessee leases to StadCo the Stadium Site and other improvements more particularly described therein. Concurrently herewith, the Existing Stadium Lease is being amended in accordance with the terms and conditions set forth in that certain First Amendment to Amended and Restated Stadium Lease Agreement dated as of even date herewith, by and between Lessee and Stadium Tenant (the “**Stadium Lease First Amendment**”).

C. The City and Lessee are parties to that certain Settlement Agreement and Mutual Release (Buffet and PSC Arbitration), dated May 23, 2024, pursuant to which City and Lessee are entering into this Second Amendment for the purposes of implementing certain terms of that Settlement Agreement.

D. Accordingly, the City and Lessee now desire to make certain amendments to the Existing Ground Lease, subject to, and on the basis of, the terms, covenants and conditions hereinafter set forth. The Existing Ground Lease, as amended by this Second Amendment, is sometimes referred to herein as the “**Ground Lease**.”

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the agreements of City and Lessee herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Lessee hereby agree as follows:

1. Use of Defined Terms; Recitals; Effective Date.

1.1 Definitions; Recitals. All capitalized terms used and not defined herein shall have the defined meanings ascribed to them in the Existing Ground Lease or other agreements

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as specifically cited herein. The provisions of the Recitals above are fully incorporated herein by this reference.

1.2 Effective Date. Unless otherwise specifically provided herein, all provisions of this Second Amendment shall be effective as of the last date of the last signature herein, provided that the National Football League’s (NFL) and Stadium Lenders’ consent of this Second Amendment has been received (“**Effective Date**”).

2. Performance-Based Rent Credits Definition. Effective as of the commencement of Lease Year 11 (*i.e.*, April 1, 2024 – March 31, 2025; and, for clarity. Such Lease Year and other Lease Years shall sometimes hereinafter be referred to in this Second Amendment and in the modified provisions of the Existing Ground Lease set forth herein as, for example, “Lease Year 24/25”), Section 1.94 of the Existing Ground Lease is hereby deleted and replaced in its entirety with the following:

“1.94 “Performance Based Rent Credits” means, for any Lease Year, the sum of the following:

(a) Fifty percent (50%) of the Fixed Ground Rent (including the increase in Fixed Ground Rent specified in this Lease in the event that a Second Team plays and hosts NFL Home Games in the Stadium) payable for such Lease Year, plus

(b) The Credited Public Safety Costs (as defined in the Stadium Lease) for such Lease Year, provided that, if the Credited Public Safety Costs for such Lease Year exceed twenty-five percent (25%) of the Net Income from Non-NFL Events for such Lease Year, the amount of Credited Public Safety Costs exceeding twenty-five percent (25%) of the Net Income from Non-NFL Events for such Lease Year shall not be included in the calculation of Performance Based Rent Credits for such Lease Year and instead shall constitute a Permitted Credits Carry-forward (as defined below) applicable to subsequent Lease Years, plus

€ Following the Tax Allocation Termination Date, the amount of the Received PIT, plus

(d) The amount of any credit for Disproportionate Taxes for such Lease Year, as provided in Section 4.7; pl€(e) Any Permitted Credits Carry-forward (as defined below) applicable to such Lease Year.”

3. Permitted Credits Carry-forward. Effective as of the commencement of Lease Year 24/25, the reference to “the next five (5) succeeding Lease Years” in Section 1.95 of the Original Ground Lease is hereby deleted and replaced with “the next ten (10) succeeding Lease Years”.

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4. City of Santa Clara Senior and Youth Program Fee. Effective as of the commencement of Lease Year 24/25, Section 8.2 of the Original Ground Lease is hereby deleted and replaced in its entirety with the following:

“8.2 City of Santa Clara Senior and Youth Program Fee. Effective as of the commencement of Lease Year 24/25 and continuing through Lease Year 33/34, Lessee agrees to charge (or require StadCo or its Subtenants to charge) a fee of forty cents (\$0.40) on each Ticket for each NFL Game held in the Stadium (the “**City of Santa Clara Senior and Youth Program Fee**”), and to pay the annual proceeds collected, up to a maximum of Three Hundred Thousand Dollars (\$300,000) per Lease Year, to City as Additional Rent. Effective as of the commencement of Lease Year 34/35 and every ten (10) Lease Years thereafter, (a) the City of Santa Clara Senior and Youth Program Fee shall be increased by five cents (\$0.05) and (b) the maximum amount of the City of Santa Clara Senior and Youth Program Fee per Lease Year shall be increased by an additional Fifty Thousand Dollars (\$50,000.00). City agrees to use the funds received from the City of Santa Clara Senior and Youth Program Fee to fund City programs for parks and recreation and libraries, including, without limitation, senior activities and the Youth Championship Team Fund. To the extent Lessee receives in excess of the maximum amount of the City of Santa Clara Senior and Youth Program Fee applicable to any Lease Year from such fees, the excess will be refunded to StadCo, unless the Stadium Lease provides otherwise.”

5. Discretionary Fund. Effective as of the commencement of Lease Year 24/25, Sections 8.4 and 8.5 of the Original Ground Lease are hereby deleted and replaced in its entirety with the following; provided, however, that the increase in the Non-NFL Ticket Surcharge described in the following provision shall be implemented only for Non-NFL Events booked following the Effective Date of this Second Amendment (and, for purposes of the foregoing, “booked” means the time at which economic terms are agreed upon and accepted by the Stadium Manager and the promoter, and any other parties whose consent is needed to book the Non-NFL Event, regardless of whether a contract has been executed or not):

“8.4 Discretionary Fund. As additional consideration for City to enter into this Lease, Lessee shall impose, and will require the promoter or sponsor of any Non-NFL Events to collect on its behalf, a surcharge of Eight Dollars (\$8.00) per Ticket to all Non-NFL Events for which Tickets are sold or otherwise offered to the general public (the “**Non-NFL Ticket Surcharge**”); and, for Lease Year 28/29 and every four (4) Lease Years thereafter, the “Non-NFL Ticket Surcharge” shall increase by One Dollar (\$1.00) per Ticket. For every Lease Year, (a) the “**Base Non-NFL Ticket Surcharge Proceeds**” shall equal Four Dollars (\$4.00) per Ticket to all Non-NFL Events in such Lease Year for which Tickets are sold or otherwise offered to the general public; and (b) the “**Additional Non-NFL Ticket Surcharge Proceeds**” shall equal the amount by which the proceeds of the Non-NFL Event Ticket Surcharge in such Lease Year exceeds the Base Non-NFL Ticket Surcharge Proceeds. The Base Non-NFL Ticket Surcharge Proceeds and the Additional Non-NFL Ticket Surcharge Proceeds applicable to any Lease Year are,

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collectively, herein referred to as the “**Non-NFL Ticket Surcharge Proceeds**”. Notwithstanding the foregoing, Lessee and StadCo have agreed in the Stadium Lease First Amendment that the Stadium Manager shall be permitted to increase the Non-NFL Ticket Surcharge for one or more Non-NFL Events if the Stadium Manager determines, pursuant to the authority granted to it in Article 3 of the Initial Stadium Management Agreement (as defined in the Stadium Lease), that increasing the Non-NFL Ticket Surcharge will be in compliance with the standards of care set forth in Section 2.9 of the Initial Stadium Management Agreement. Additional proceeds generated by the Stadium Manager’s increasing the Non-NFL Event Ticket Surcharge beyond the amounts set forth above shall constitute Additional Non-NFL Ticket Surcharge Proceeds for purposes hereof.

Lessee shall maintain a separate account under the control of Lessee (the “**Discretionary Fund**”) that shall be funded annually in the amount of fifty percent (50%) of the Base Non-NFL Ticket Surcharge Proceeds received by Lessee in that Lease Year. Additional Non-NFL Ticket Surcharge Proceeds shall not be deposited into the Discretionary Fund, and shall be treated in accordance with Section 6 of the Stadium Lease First Amendment. Lessee may use the Discretionary Fund to pay Discretionary Expenses. In the event that the Unallocated Amount (as defined below in this Section) of the Discretionary Fund at any time exceeds One Million Dollars (\$1,000,000), then, in consultation with the Stadium Manager, Lessee will determine if adequate provision has been made, such as through a sinking fund, for replacement of and upgrades to capital improvements contemplated under the Public Safety Plan; and, if not, Lessee will reserve funds in the Discretionary Fund for such purpose. If the remaining balance in the Discretionary Fund still exceeds One Million Dollars (\$1,000,000) after adequate provision has been made for replacement of and upgrades to capital improvements contemplated under the Public Safety Plan, then up to one-half (1/2) of such excess may be transferred in the discretion of Lessee from the Discretionary Fund to City's General Fund, in which event an equal amount to that transferred to City's General Fund will be transferred from the Discretionary Fund to Lessee's operating fund. As used herein, the “Unallocated Amount” of the Discretionary Fund means, from time to time during the Term, the portion of the Discretionary Fund, if any, that is not then allocated to pay the costs of a Scheduled Civic Event or other Discretionary Expenses included in the then approved Annual Stadium Authority Budget (as that term is defined in the Stadium Lease) or for Emergency (as that term is defined in the Stadium Lease) expenses.”

“8.5 Discretionary Fund In Event of Transfer of Lessee's Interest. If there is an assignment, termination or other transfer of Lessee's interest under this Lease and the successor of Lessee is not Controlled by City, then following such assignment, termination or other transfer of Lessee's interest, the successor Lessee shall continue to impose the Non-NFL Event Ticket Surcharge and shall pay to City an amount equal to the 50% of the Base Non-NFL Ticket Surcharge Proceeds in each Lease Year as additional Rent.”

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6. Ratification. Except as modified by this Second Amendment, all of the terms, conditions and provisions of the Existing Ground Lease shall remain in full force and effect and are hereby ratified and confirmed.

7. Counterparts. This Second Amendment may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute a binding 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 Second Amendment 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.

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IN WITNESS WHEREOF, the City and Lessee have entered into this Second Amendment to Ground Lease as of the day and year first written above.

CITY:

**CITY OF SANTA CLARA, CALIFORNIA,
a chartered California municipal corporation**

APPROVED AS TO FORM:

GLEN R. GOOGINS
City Attorney

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Telephone: (408) 615-2210

LESSEE:

**SANTA CLARA STADIUM AUTHORITY,
a joint exercise of powers entity,
created through Government Code Sections 6500 et seq.**

APPROVED AS TO FORM:

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Stadium Authority Counsel

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