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08/05/2013

CITY OF GLENDALE, ARIZONA

**CONSENT, NONDISTURBANCE
AND RECOGNITION
AGREEMENT AND
ESTOPPEL CERTIFICATE**

(Agreement C-8555)

(PLEASE DO NOT REMOVE ~ THIS IS PART OF THE OFFICIAL DOCUMENT)

WHEN RECORDED MAIL TO:) 1375731985868-14-6-3--
) hoyp
Baker & McKenzie LLP)
2300 Trammell Crow Center)
2001 Ross Avenue)
Dallas, Texas 75201)
Attn: Kevin Maher, Esq.)
)

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Space above for Recorder's Use

STEWART TITLE & TRUST OF PHOENIX

**CONSENT, NONDISTURBANCE AND RECOGNITION AGREEMENT
AND ESTOPPEL CERTIFICATE**

This Consent, Nondisturbance and Recognition Agreement and Estoppel Certificate (this "**Agreement**") is dated as of August 5, 2013 ("**Effective Date**"), and is made by and among the CITY OF GLENDALE, ARIZONA, a municipal corporation organized and existing under the laws of the State of Arizona ("**City**"), ICEARIZONA MANAGER CO LP, a Delaware limited partnership (formerly IceArizona Manager Co., LLC) ("**Arena Manager**"), ICEARIZONA HOCKEY CO LP, a Delaware limited partnership (formerly IceArizona Hockey Co., LLC) ("**Team Owner**"), and FORTRESS CREDIT CO LLC, a Delaware limited liability company, as Administrative Agent ("**Administrative Agent**"). Arena Manager and Team Owner may be referred to collectively in this Agreement as "**IceArizona.**" City, Administrative Agent, Arena Manager and Team Owner may be referred to individually in this Agreement as a "**Party,**" or collectively as the "**Parties.**"

RECITALS

A. City, Arena Manager, and Team Owner are parties to that certain Professional Management Services and Arena Lease Agreement dated as of July 8, 2013 (as the same may from time to time be extended, amended, restated, supplemented or otherwise modified, the "**Lease**"), which Lease was recorded in the Official Records of Maricopa County, Arizona, on August 5, 2013, as instrument no, 2013- 0710703.

B. In addition, City, Arena Manager, and Team Owner are parties to that certain Non-Relocation Agreement dated as of July 8, 2013 (the "**Non-Relocation Agreement**"). The Lease requires Arena Manager and Team Owner to observe all the terms and conditions of the Non-Relocation Agreement.

C. Pursuant to the Lease, (i) City has leased or subleased to Arena Manager, and Arena Manager has leased from City, certain real property in Maricopa County, Arizona (the "**Premises**"), being a portion of a larger parcel more particularly described in the Lease (the "**Property**") and (ii) Arena Manager has subleased to Team Owner, and Team Owner has subleased from Arena Manager, certain portions of the Premises

D. Pursuant to that certain Credit Agreement, dated as of August 5, 2013 (as amended, restated or otherwise modified from time to time, the "**Loan Agreement**"), among IceArizona AcquisitionCo LP ("**Borrower**"), Administrative Agent and the lenders party thereto

from time to time (collectively, the "*Lenders*"), the Lenders agreed to make a loan (as amended, the "*Loan*") and Arena Manager and Team Owner have guaranteed such Loan.

E. Pursuant to that certain Leasehold Deed of Trust, Assignment and Security Agreement of even date herewith (the "*Leasehold Deed of Trust*"), made by Arena Manager and Team Owner as grantor, to Stewart Title Guaranty Company, as trustee, for the benefit of Lender, as beneficiary, IceArizona is granting a lien to Lender on all of IceArizona's leasehold right, title and interest in the Premises granted by or arising under the Lease (the "*Tenant's Estate*"). The Leasehold Deed of Trust is to be recorded substantially concurrently herewith in the Official Records of Maricopa County, Arizona

F. It is the intent of City and IceArizona by way of this Agreement to provide certain rights to Administrative Agent (and any successor-in-interest to Administrative Agent, whether by designation, assignment, refinancing or otherwise) with respect to the Lease that it might not otherwise have as the beneficiary of the Leasehold Deed of Trust. Accordingly, this Agreement shall be interpreted as providing additional protections for the benefit of Administrative Agent and its permitted assigns and the other parties hereto, but only to the extent expressly set forth in this Agreement. Except to the extent set forth herein, this Agreement shall not modify or alter the rights of the City under the Lease or Non-Relocation Agreement.

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

1. Definitions. The following terms shall have the following meanings for purposes of this Agreement:

(a) "*Purchaser*" shall mean any permitted transferee, including Administrative Agent, of the interest of Arena Manager or Team Owner as a result of any Transfer of the Tenant's Estate (as defined herein) and also includes any and all permitted successors and assigns of such permitted transferee.

(b) "*Transfer of the Tenant's Estate*" shall mean any transfer of IceArizona's Tenant's Estate by foreclosure, trustee's sale or other action or proceeding for the enforcement of the Leasehold Deed of Trust or by deed or assignment in lieu thereof, in each case, to the extent the same complies with the requirements of Section 22.2.1 of the Lease.

(c) Any other term used in this Agreement which is not otherwise defined, shall have the meaning given or attributed to it in the Lease.

2. City's Consent to Leasehold Deed of Trust as Collateral for Repayment of Loan; Acknowledgments by Administrative Agent. Pursuant to Section 22.1.1 and Section 22.2.1 of the Lease, City hereby consents to the lien of the Leasehold Deed of Trust upon IceArizona's Tenant's Estate arising from IceArizona's execution, acknowledgment and delivery of the Leasehold Deed of Trust to Administrative Agent as security for IceArizona's payment and performance obligations arising in connection with the Loan. The Tenant's Estate may be assigned without City's further consent to Administrative Agent, or to any other person or entity, pursuant to a foreclosure of, or trustee's sale under the Leasehold Deed of Trust, or pursuant to an assignment of IceArizona's Tenant's Estate in lieu of foreclosure, provided that any such assignment fully complies with Section 22.2.1 of the Lease. City acknowledges and agrees that Administrative Agent is an intended third party beneficiary of the Lease. Notwithstanding the foregoing, Administrative Agent acknowledges and agrees that, other than the lien of the Leasehold Deed of Trust encumbering Tenant's Estate, Administrative Agent is acquiring no rights under the Leasehold Deed of Trust or this Agreement (i) in or to the City's right, title or interest in and to

the Property or any improvements located on such Property, (ii) to encumber the City's right, title or interest in and to the Property or any improvements located on such Property, or any other property owned by City, (iii) in or to any proceeds payable in connection with any casualty to the Property or any improvements on the Property, or in connection with any condemnation of the Property or any improvements on the Property, all of which proceeds are expressly reserved to City pursuant to the Lease, except, in each such case, any such proceeds to which IceArizona may be entitled that are not otherwise payable to the City in accordance with the Lease, (iv) in any accounts that are described in the Lease (or any Related Agreement as defined in the Lease) to the extent that the same are pledged to City, held or owned jointly with City, or are otherwise assigned to or held for the benefit of City, other than with respect to amounts in excess of the Deficit Amount being held in escrow under the Supplemental Surcharge Escrow Account, or (v) to sever IceArizona's obligations under the Lease from IceArizona's obligations under the Non-Relocation Agreement

3. Lease Controls. As between City and Administrative Agent, except to the extent modified or supplemented by this Agreement, all rights of Administrative Agent under the Deed of Trust are and shall continue to be subject to the Lease, as the same may hereafter be modified, amended, restated or replaced in accordance with Section 10(a) of this Agreement.

4. Request for Notices. Administrative Agent shall be deemed to have requested, and City hereby agrees to provide to Administrative Agent, notice under the Lease for all notices that are either required to be given to Arena Manager or Team Owner under the terms of the Lease or which are specifically authorized to be given under the Lease in order for a party to pursue its rights. Any such notices may be delivered by City to Administrative Agent (and shall be deemed effective) in accordance with Section 20 of this Agreement. Administrative Agent shall be deemed a "Team Owner Assignee" and "Arena Manager Assignee" (as such terms are defined in the Lease), and this Agreement shall constitute a "Notice of Arena Manager Assignment" and "Notice of Team Owner Assignment" (as such terms are defined in the Lease) This includes, without limitation, any notice of default, notice to terminate and any other notice under the Lease which is required to implement any term of the Lease or to make any election provided in the Lease. City and IceArizona shall deliver or mail to Administrative Agent, at the address set forth on the signature page hereto, a duplicate and concurrent copy of any such notice. Administrative Agent shall not be required to make any further request for notice

5. Arena Manager Assignee's and Team Owner Assignee's Right to Cure Defaults. Upon execution, delivery and recordation of this Agreement, Administrative Agent, as Arena Manager Assignee and Team Owner Assignee, shall have the right, but not the obligation to cure any Arena Manager Default and Team Owner Default, whether then existing or thereafter arising.

(a) City shall not exercise any remedy under the Lease or otherwise with respect to any Arena Manager Default or Team Owner Default until at least 60 days after the City has given Administrative Agent notice of the Arena Manager Default or the Team Owner Default; provided, however, that if Administrative Agent, as Arena Manager Assignee or Team Owner Assignee, commences a cure within such 60 day period, the City shall not exercise any remedy with respect to the Arena Manager Default or the Team Owner Default so long as Administrative Agent is diligently pursuing such cure and such cure is completed within the time provided in the Lease. However, and notwithstanding the foregoing, if possession of the Premises is necessary to cure any Arena Manager Default or Team Owner Default that cannot be cured by the payment of money, or the purchase of goods or services, and Administrative Agent has commenced foreclosure or other appropriate proceedings to obtain possession of the Premises, commencement of such proceedings to obtain possession of the Premises shall constitute commencement of a cure of such Arena Manager Default or Team Owner Default by Administrative Agent and diligent prosecution of such proceedings by Administrative Agent shall constitute efforts by Administrative Agent to diligently pursue such cure and shall extend the cure

period for up to (but in no event exceeding) 180 days from the notice referred to above. If Administrative Agent is prohibited from curing any Arena Manager Default or the Team Owner Default by any process, stay, or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving the Team Owner or Arena Manager, then the cure periods specified herein shall be extended for the period of such prohibition for up to (but in no event exceeding) 180 days from the notice referred to above.

(b) If Administrative Agent or any Purchaser, as an Arena Manager Assignee or a Team Owner Assignee, succeeds to the interest of the Arena Manager or Team Owner under the Lease, Administrative Agent or such Purchaser shall not be (i) bound by any amendment, modification or termination of the Lease by agreement of the Parties to the Lease (entered into after the date on which the Notice of Arena Manager Assignment or Notice of Team Owner Assignment was given) made without such Administrative Agent's written consent, or (ii) bound by, or liable for the cure of, any failure by the Arena Manager or the Team Owner to perform any obligation under the Lease that arose prior to the date on which Administrative Agent succeeded to the interest of the Arena Manager or the Team Owner under the Lease (except to the extent such obligation continues after the date on which Administrative Agent succeeded to the interest of the Arena Manager or the Team Owner under the Lease); provided, however, that the City is not obligated to approve, accept or acknowledge any assignment or transfer at the time of any existing Team Owner Default or Arena Manager Default unless and until such breach or Team Owner Default or Arena Manager Default is properly cured and all sums due to the City are paid; or the Arena Manager Assignee or the Team Owner Assignee assumes responsibility for all such payments and defaults in a form and content that is acceptable to the City in its sole discretion.

6. Nondisturbance City agrees that the enforcement of the Leasehold Deed of Trust shall not terminate the Lease or disturb any Purchaser in obtaining the rights and benefits of, and continuing as, lessee (as successor-in-interest to IceArizona) in the possession and use of the Premises pursuant to the terms of the Lease, unless such Purchaser concurrently (i) fails or refuses to accept and assume all of the obligations of Arena Manager and Team Owner under, and with respect to, the Non-Relocation Agreement, (ii) fails to cure any default under the Lease within the time provided in the Lease (or this Agreement, if applicable) susceptible to cure by such Purchaser in accordance with the terms of this Agreement. This nondisturbance shall be effective and self-operative without the execution of any further instruments upon Purchaser's succeeding to the interest of IceArizona under the Lease and assumption of all of IceArizona's obligations under the Non-Relocation Agreement in accordance with Section 22.2 1 of the Lease. Upon (i) completion of any foreclosure or trustee's sale proceedings by Administrative Agent under its Leasehold Deed of Trust (or completion of an assignment of the Lease in lieu of foreclosure), (ii) the curing of all defaults of IceArizona under the Lease and the Non-Relocation Agreement, and (iii) unconditional assumption by the Purchaser of all obligations of IceArizona under the Lease and the Non-Relocation Agreement, City will recognize the Purchaser as "Team Owner" and "Arena Manager" under the terms of the Lease and the Non-Relocation Agreement for all purposes under the Lease and for the remaining term of the Lease.

7. Attornment. If any Transfer of the Property should occur, any Purchaser shall, and hereby does, attorn to City, with respect to the obligations of IceArizona under the Lease and the Non-Relocation Agreement, and Purchaser shall be bound to City under all of the terms, covenants and conditions of the Lease and the Non-Relocation Agreement for the balance of the Lease term, all with the same force and effect as if Purchaser had been the original Arena Manager and Team Owner under the Lease and Non-Relocation Agreement. In the event of any Transfer of the Property, Arena Manager and Team Owner shall not be discharged or released from their obligations under the Lease and Non-Relocation Agreement and shall remain fully liable for all payments and performance required of Arena Manager and Team Owner under the Lease and the Non-Relocation Agreements.

8. Limitation on Administrative Agent's Performance; Administrative Agent's Rights Prior to Foreclosure. Nothing in this Agreement shall be deemed or construed to be an agreement by Administrative Agent to perform any covenant of IceArizona under the Lease, unless and until Administrative Agent becomes a Purchaser and succeeds to the rights and obligations of IceArizona under the Lease. City agrees that, if Administrative Agent becomes a Purchaser, then, upon subsequent transfer of the Tenant's Estate by Administrative Agent to a new owner, Administrative Agent shall have no further liability under the Lease after said transfer with respect to obligations arising after said transfer. Prior to the time that Administrative Agent becomes a Purchaser and succeeds to the rights and obligations of IceArizona under the Lease, Administrative Agent may, but shall not be required to, pay any of the rent due under the Lease, procure and maintain any insurance, pay any taxes or other impositions, make any repairs or improvements, make any election (such as an election to extend the term or coverage of the Lease, if that were provided in the Lease), and do any other act required of, or exercise any right available to, IceArizona by the terms of the Lease in order to cure a default of IceArizona, prevent a forfeiture of the Lease, or otherwise protect its interest in the Tenant's Estate. Any such payment or act by Administrative Agent shall be as effective hereunder as if done by IceArizona, and may be done by Administrative Agent without assuming the obligations of IceArizona under the Lease and without causing a default under the Lease, and City shall accept such payment or act by or at the instance of Administrative Agent as if the same had been made by IceArizona. In this regard, Administrative Agent, pursuant to the terms of the Leasehold Deed of Trust and for purposes of protecting its interest in the Tenant's Estate, may seek a court-appointed receiver to enter into possession of the Premises, subject in all events to the City's prior rights under the Lease and the Non-Relocation Agreement. Notwithstanding payment or performance by Administrative Agent for or on behalf of IceArizona, such payment or performance shall not limit City's rights with respect to other Team Owner Defaults or Arena Manager Defaults that have not been cured by such payment or performance, subject to Administrative Agent's rights under Section 5 above.

9. Mortgagee Protection Provisions. Administrative Agent shall be deemed to be a third party beneficiary of the Lease with respect to any and all provisions of the Lease which benefit a lender (the "**Mortgagee Protection Provisions**"). This section is intended to supplement and not to limit any Mortgagee Protection Provisions in the Lease. For purposes of enforcing its rights as a third party beneficiary, the Administrative Agent shall specifically be deemed both (i) an Arena Manager Assignee, as defined in the Lease and (ii) a Team Owner Assignee, as defined in the Lease. Administrative Agent shall have an independent right to bring suit to enforce its rights under this Section 9, but any such suit or action shall be in full compliance with the terms and conditions of Section 19 of this Agreement.

10. No Amendments; Termination by IceArizona.

(a) So long as the Leasehold Deed of Trust is in effect, then except with respect to termination of the Lease as a result of a Team Owner Default or Arena Manager Default as permitted herein, the Lease will not be voluntarily canceled, surrendered, terminated, amended, modified or in any manner altered, or any provisions thereof waived or deferred by IceArizona, without the prior written consent of Administrative Agent, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) The Parties agree to cooperate in executing such additional documents as may reasonably be requested by another Party as are reasonably necessary and are for the purpose of implementing this Agreement, including, without limitation, the Mortgagee Protection Provisions, and allowing Administrative Agent reasonable means to protect or preserve the lien of the Leasehold Deed of Trust on the occurrence of a Team Owner Default or Arena Manager Default.

(c) City and IceArizona covenant and agree that no termination of the Lease by IceArizona pursuant to Section 3.3 thereof shall be effective without the prior written consent of Administrative Agent to such termination.

11. Transfer of City's Interest. So long as the Leasehold Deed of Trust is in effect, City shall not transfer its fee interest in the Property unless such transfer is made subject to the Lease and this Agreement.

12. Sublease, Personalty. City hereby consents to IceArizona's grant to Administrative Agent of a security interest in the personal property owned by each of Arena Manager and Team Owners and located within the Premises and a collateral assignment of subleases, licenses and occupancy agreements by Arena Manager and Team Owner of all or any portion of the Premises and the rents, issues and profits therefrom, if any.

13 Recourse.

(a) City's recourse against Administrative Agent shall be expressly limited to Administrative Agent's interest in the Lease.

(b) No Council member, official or employee of the City will be personally liable to any Party (or any permitted successor in interest, including but not limited to any Purchaser), in connection with any obligation of City imposed by or arising out of this Agreement.

14. City's Estoppel Certificate. In connection with its execution and delivery of this Agreement, City states and confirms to Administrative Agent as follows, with such matters being to the actual knowledge of the City's City Manager, and as of the date of this Agreement

(a) True and Complete Lease. The Recitals accurately identify the Lease and all amendments, and Related Agreements pertaining to the Lease and Tenant's Estate.

(b) Fee. City is the owner of the fee simple estate of the Property (subject to all matters of record, if any) and is the lessor under the Lease. City has not assigned or otherwise transferred or assigned its interest, as lessor, under the Lease.

(c) No Default. There exist no events of Team Owner Default or Arena Manager Default or events that, with notice or the passage of time or both, would be events of default under the Lease on the part of City, Arena Manager or Team Owner. The Lease is in full force and effect as of the date of this Agreement.

(d) No Advance Payments. No rent or other sums payable to City by IceArizona under the Lease have been paid more than ninety (90) days in advance.

(e) No Prior Assignments. City has not received written notice of any prior assignment, hypothecation or pledge of IceArizona's interest in the Lease; provided, however, that City and Administrative Agent are both aware that IceArizona's interest in the Lease will also be subject to a Deed of Trust in favor of the National Hockey League ("NHL").

(f) No Pending Litigation/Violations To the actual knowledge of the City Manager, with no independent duty of investigation, City has not received written notice of any litigation or other governmental actions pending, proposed or threatened against, or in connection with, the Property or the Lease. To the actual knowledge of the City Manager, with no independent duty of investigation, City has

not sent or received any written notice that the Property, or any part thereof, is in violation of any laws, ordinances or regulations which could materially and adversely affect any of IceArizona's rights or materially and adversely increase any of IceArizona's obligations under the Lease

(g) Eminent Domain. City has no actual knowledge of any pending eminent domain proceedings respecting the Property.

15. Remission of Fees Into Designated Controlled Account. For so long as any of the Obligations, as defined in the Leasehold Deed of Trust, remain outstanding, City hereby agrees (and IceArizona hereby consents) to remit any and all payments made by the City to IceArizona pursuant to the Lease to Administrative Agent for the account of IceArizona at such account in Arizona as Administrative Agent shall from time to time designate to City in writing, it being understood and agreed by IceArizona that any such payments so made by City will be deemed made by City to IceArizona pursuant to the terms of the Lease. Nothing in this Section 15 may be construed as an obligation of the City to make payments under the Lease to Lender at any time there is a breach by the Team Owner of the obligations under the Non-Relocation Agreement or a material breach by the Arena Manager of its obligations under the Lease. Team Owner and Arena Manager agree and confirm that this direction is given to City by IceArizona pursuant to Section 12.1 3(d) and Section 12.2.3(d), respectively, of the Lease, and that City has no liability with respect to any payment made to Administrative Agent pursuant to this Section 15; and Administrative Agent shall indemnify, defend, pay and hold City harmless for, from and against any and all claims of IceArizona, or any person or entity asserting a claim for, through or as transferee, assignee or successor to IceArizona, with respect to any alleged misapplication, misappropriation or misdirection of any amounts paid by City to Administrative Agent pursuant to this Agreement.

16. Authorization. City, IceArizona and Administrative Agent each represent to the other Parties that each has the necessary power and authority to execute this Agreement and each has obtained all of the consents or approvals of all parties necessary to effectuate, and to perform in accordance with, the terms of this Agreement.

17. Termination of Agreement. This Agreement shall terminate at the earlier of (a) the termination of the Lease, or (b) when the obligations secured by the Leasehold Deed of Trust have been finally, fully and indefeasibly paid; it being understood and agreed that this Agreement shall survive any transfer or assignment of IceArizona's interest in the Lease made or done in compliance with the Lease and this Agreement.

18. Integration. This Agreement and the Lease and the Related Agreements integrate all of the terms and conditions of the Parties' agreement regarding City's consent to the Deed of Trust, attornment, nondisturbance, and the other matters contained herein. This Agreement supersedes and cancels all oral negotiations and prior and other writings with respect to such consent, attornment, non-disturbance and other matters contained herein. This Agreement may not be modified or amended except by a written agreement signed by the Parties or their respective successors-in-interest.

19. Applicable Law; Jurisdiction. This Agreement has been prepared in the State of Arizona and shall be governed in all respects by the laws of the State of Arizona, without regard to principles of conflicts of law. Any claim, action, suit or proceeding between or among the Parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively in the Superior Court of the State of Arizona in and for the County of Maricopa; and the Parties expressly disclaim any right to bring any action in a Federal forum because of diversity jurisdiction or otherwise, unless required by Applicable Law (e.g., in the case of exclusive jurisdiction in the federal courts, in which case any action shall be filed and maintained in the United States District Court for the District of Arizona). In no event

shall this Section 19 be construed as a waiver by City of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. Each of Administrative Agent, Arena Manager and Team Owner, by its execution and delivery of this Agreement, (i) consents to exclusive, personal jurisdiction and venue in the Maricopa County Superior Court (unless otherwise precluded by Applicable Law) and covenants not to seek remand, transfer or change of venue based on diversity or any other theory, and (ii) acknowledges that the foregoing provisions regarding exclusivity of jurisdiction have been bargained for and constitute material and additional consideration to the City for the City's entering into this Agreement.

20. Notices.

(a) All notices, demands, disclosures, acknowledgments, consents, approvals, statements, requests, responses and invoices to be given under this Agreement shall be in writing, signed by the Party or officer, agent or attorney of the Party giving such notice, demand, disclosure, acknowledgment, consent, approval, statement, request, response, or invoice, and shall be deemed effective (i) upon receipt if hand delivered or sent by overnight courier service; or (ii) as of the earlier of actual receipt or the second business day after mailing if sent by the United States mail, postage prepaid, certified mail, return receipt requested, in either case addressed as follows:

To the Arena Manager:	IceArizona Manager Co LP c/o IceArizona AcquisitionCo LP 5709 Val Verde Street Suite 100 Houston Texas, 77057 Attn. Avik Dey
with copy to:	Snell & Wilmer L L.P One Arizona Center Phoenix, AZ 85004-2202 Attn: Nicholas J. Wood Joyce Kline Wright
To the City:	City Manager City of Glendale 5850 West Glendale Avenue Glendale, Arizona 85301
With a copy to:	City Attorney City of Glendale 5850 West Glendale Avenue Glendale, Arizona 85301
To Administrative Agent:	Fortress Credit Co LLC 1345 Avenue of the Americas, 46th Floor New York, NY 10105 Telephone (212) 798-6100 Facsimile: (212) 798-6099

To the Team Owner: IceArizona Hockey Co LP
c/o IceArizona AcquisitionCo LP
5709 Val Verde Street
Suite 100
Houston Texas, 77057
Attn: Avik Dey

with copy to: Snell & Wilmer L.L.P.
One Arizona Center
Phoenix, AZ 85004-2202
Attn: Nicholas J. Wood
Joyce Kline Wright

(b) Any Party to this Agreement may from time to time, by notice given to the other Parties pursuant to the terms of this Section 20, change the address to which notices, demands, disclosures, acknowledgments, consents, approvals, statements, requests, responses and invoices to such Party are to be sent or designate one or more additional Persons to whom notices, demands, disclosures, acknowledgments, consents, approvals, statements, requests, responses and invoices are to be sent. A Party giving a notice, demand, disclosure, acknowledgment, consent, approval, statement, request, response or invoice under this Agreement shall, contemporaneously with the giving of the same, give a copy of such notice, demand, disclosure, acknowledgment, consent, approval, statement, request, response or invoice to each Party to this Agreement that is not a named recipient thereof.

21. Conflicts of Interest. No member, official or employee of City may have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement that is prohibited by law. All Parties hereto acknowledge that this Agreement is subject to cancellation pursuant to the provisions of A.R.S. §38-511. IceArizona hereby agrees that it shall not take any action that would create a right of cancellation of this Agreement pursuant to A.R.S. §38-511.

22. Attorneys' Fees. In the event of any controversy, claim or dispute between or among the Parties arising from or relating to this Agreement, the prevailing Party or Parties shall be entitled to recover reasonable costs, expenses, court costs, expert witness fees, litigation-related expenses and attorneys' fees. For all purposes of this Agreement and any other documents relating to this Agreement, the terms "attorneys' fees" or "counsel fees" shall be deemed to include paralegals and legal assistants' fees, and wherever provision is made herein or therein for the payment of attorneys' or counsel fees or expenses, such provision shall include such fees and expenses (and any applicable sales taxes thereon) incurred in any and all mediations, arbitrations, judicial, bankruptcy, reorganization, administrative or other proceedings, including appellate proceedings, whether such fees or expenses arise before proceedings are commenced or after entry of a final judgment.

23. Reliance This Agreement and the representations and agreements made herein are given with the understanding that this Agreement constitutes (a) a material inducement for Administrative Agent in making the Loan to IceArizona and that Administrative Agent shall rely hereon in making the Loan to IceArizona and (b) a material inducement for the City in consenting to, executing and delivering this Agreement. This Agreement and the representations and agreements made herein shall inure to the benefit of Administrative Agent and the City and their successors and assigns; and shall be binding on Administrative Agent and the City and their legal representatives, successors and assigns. In the event that there is a conflict between the terms of the Lease and the terms of this Agreement, the terms of the Lease shall control.

24. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together constitutes one and the same instrument.

[Signatures appear on following pages.]

IN WITNESS WHEREOF, this Agreement has been executed by the Parties to be effective as of the Effective Date set forth in the first grammatical paragraph of this Agreement.

CITY:

CITY OF GLENDALE,
an Arizona municipal corporation

By: 
Name: Brenda S. Fischer
Title: City Manager

ATTEST:


Pam Hanna, City Clerk

APPROVED AS TO FORM:


Nicholas DiPiazza, Acting City Attorney

ADMINISTRATIVE AGENT:

FORTRESS CREDIT CO LLC,
a Delaware limited liability company,
as Administrative Agent

By: _____
Name: Constantine M. Dakolias
Title: President

ACKNOWLEDGEMENT

STATE OF NEW YORK)
)ss.
COUNTY OF NEW YORK)

On August 1, 2013, before me personally appeared Constantine M. Dakolias, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity as President of Fortress Credit Co LLC, and that by his signature on the instrument the person executed the instrument.

WITNESS my hand and official seal.

Signature _____
(NOTARY SEAL)

THOMAS SANTORA
Notary Public, State of New York
Qualified in New York County
No 01SA6191079
My Commission Expires Aug. 4, 2016