

## PUBLIC FACILITY USE AGREEMENT

This *Public Facility Use Agreement*, hereinafter the "Agreement", is made and entered into as of the \_\_\_\_\_ day of August, 2012 (hereinafter, the effective date) by and between ADELANTO, CALIFORNIA, a consolidated government under the laws of the State of California, hereinafter "City," and MAIN STREET CALIFORNIA, LLC d/b/a the High Desert Mavericks baseball team, a California limited liability company, hereinafter "Team." This Agreement immediately nullifies, replaces and otherwise supersedes the Prior Lease (defined below) and any and all other agreements between City and Team (and their respective predecessors-in-interest), whether oral or written.

### RECITALS

**WHEREAS**, the City's predecessor-in-interest and Team's predecessor-in-interest entered into that certain Adelanto Sports Stadium Lease dated October 22, 1990 (the "Underlying Lease") and that certain Settlement Agreement and Release of all Claims dated March 9, 1999 ("Settlement Agreement"), the City and Team's predecessor-in-interest entered into that certain Amendment to Adelanto Sports Stadium Lease dated June 23, 2010 ("First Amendment"), City entered into that certain Acknowledgement, Consent, and Agreement of City of Adelanto, California dated November 8, 2010 ("Consent"), and the Team's predecessor-in-interest and Team entered into that certain Lease Assignment and Assumption Agreement dated November 19, 2010 ("Assignment"). The Underlying Lease, Settlement Agreement, First Amendment, Consent, and Assignment are referred to collectively as the "Prior Lease" hereinafter.

**WHEREAS**, the City, acting by and through its *City Council*, and Team have agreed to terminate the Prior Lease as of the Effective Date of this Agreement.

**WHEREAS**, The Parties agree that all rent and other sums payable, and all obligations to be performed by either party prior to this Agreement, have been paid and/or satisfactorily performed. The Parties also agree that there are no disputes between them affecting this Agreement.

**WHEREAS**, the residents of the City of Adelanto and all residents of the High Desert have supported and enjoyed the Team since its inception such that the Team has become an integral part of the City and the region.

**WHEREAS**, The Parties desire a new lease agreement that is mutually beneficial and keeps Team in Adelanto, California.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each Party, the Parties agree as follows:

1. **DEFINITIONS.** As used in the Agreement, the following words and terms shall have the following meanings, notwithstanding any other definitions to the contrary whatsoever:

- A. "Party" or "Parties" shall mean the City and the Team, either individually or collectively.
- B. "California League" or "League" shall mean the California League of Professional Baseball Clubs, Inc., a California corporation, a full season Class A professional baseball league, of which the Team is a member. The California League, in turn, is a member of the NAPBL.
- C. "High Desert Mavericks" or "Team" shall mean Main Street California LLC, a California limited liability company, which is a member of the California League.
- D. "NAPBL" means the National Association of Professional Baseball Leagues, Inc., a Florida not-for-profit corporation, which is governing body of Minor League Baseball.
- E. "Facility" shall mean the baseball stadium located at 12000 Stadium Way in Adelanto, County of San Bernardino, California 92301, and the parking lots adjacent to the Facility, at which the Team shall play its home games.
- F. "Facility Parking Lots" shall mean those paved areas used for parking vehicles during events and baseball games occurring at the Facility.
- G. "Conference Room" shall mean the building attached to the baseball stadium overlooking left field.
- H. "Outdoor Patio Area" shall mean the flat area below the Conference Room currently hosting a plastic drink rail and plastic tables and chairs overlooking left field.
- I. "Playing Field" means the baseball playing field, including the infield, outfield, warning track, and fencing located within the Facility.
- J. "Batting Cage Area" shall mean the area adjacent to the Conference Room above the Playing Field which includes the batting cage, netting, and an L-Screen.
- K. "Suites" shall mean the private rooms adjacent to the Press Box.
- L. "Home Game" shall mean any California League game scheduled to be played or played by the Team at the Facility during any regular baseball season (to include any California League playoff and All-Star games).
- M. "City Events" shall mean those events and activities contracted for by the City. These shall include, but shall not be limited to, Little League games, Chamber of Commerce-sponsored events, City-sponsored events, and other meetings, gatherings, or events that serve a community-enhancing purpose.

- N. "Operating Repairs" and "Maintenance" shall mean those repairs and that maintenance work which are necessary to maintain, improve, replace or restore the Facility or equipment into good working order, or to add to its useful life.
- O. "Structural Elements" shall mean each of the following: (i) the roof; (ii) the Facility's foundation and its ceilings, walls and floors; (iii) all paved surfaces; (iv) all pipes, wires, cables and optics; (v) the Playing Field; (vi) the outfield fence; and (vii) such elements of the Facility that are commonly understood by an architect with experience designing professional baseball stadia to be structural elements.
- P. "Professional Baseball Facility Standards" shall mean the baseball facility standards set forth in Rule 59 (and Schedule 59) of the Major League rules, which are incorporated by reference in the Professional Baseball Agreement, and the Official Professional Baseball Playing Rules, as amended and in effect at the time.
- Q. "Term" shall mean that period commencing as of the Effective Date of this Agreement and expiring September 30, 2015, unless earlier terminated or extended as provided hereunder.
- R. "Season" shall mean the professional baseball games and exhibitions (including exhibition, preseason, regular season, all-star, playoff, and postseason games) held by Team and other members of the California League, a member of National Association of Professional Baseball Leagues, Inc. ("NAPBL"), and any and all meetings, events, practices and workouts relating to such games and exhibitions.
- S. "Stadium Naming Rights Agreement" shall refer to the agreement between Stater Bros. Markets and the City of Adelanto that is dated March 8, 2006.
- T. "Effective Date" shall have the meaning set forth in Section 2.
2. TERM. The Term of this Lease shall be for three (3) years, beginning on August \_\_\_, 2012 ("Effective Date") and expiring, unless sooner terminated or extended, on September 30, 2015 ("Termination Date").
3. USE OF FACILITY. The Team shall have exclusive use of the Facility and the Facility Parking Lots during the Term of this Agreement to the exclusion of all parties, except City, which may use the Facility for City Events, high school baseball games or amateur baseball games, so long as such events or games do not conflict with a scheduled Team home game, practice, activity or event. Team shall use the Facility for scheduled Home Games (a minimum of sixty-six (66)) plus any home play-off and championship games to be scheduled during the Season, commencing in April of each year and ending approximately mid-September of the same year, plus the necessary days for practice, provided, however, that with a goal of promoting affiliated Minor League Baseball and the California League,

Team may play up to four (4) Home Games per Season at locations other than the Facility.

- A. CITY EVENTS. During the Term, City shall have the right, subject to the Team's exclusive rights set forth above, to use the Facility for hosting City Events; provided, however, that the scheduling of City Events shall be subject to Team's approval, which shall not be unreasonably withheld, conditioned or delayed, and subject to the following: The City shall use its best efforts to provide at least thirty (30) days' written advance notice to Team of its intention to schedule a City Event at the Facility. Such notice shall include all dates required to use the Facility and the scope of such use. In the event that the City is not able to provide thirty (30) days written notice, the Team shall have the authority to waive this notification clause and approve the event. Any such request for a City Event shall include all dates for setup, holding the Event, tearing down the Event, and all other uses of the Facility. The Team shall have four (4) business days within which to notify the City if any such date or dates conflicts with dates required for a Home Game or a Team event. Once a City Event has been scheduled, Team shall allocate space in the ticket booth on an as-needed basis to accommodate the needs of City or its designee to sell tickets to its event.

Should City sponsor a high school, college or other amateur baseball event or any other City Event at the Facility, which utilizes the Playing Field, City shall be responsible for ensuring the Playing Field is returned to the condition it was in immediately prior to the City Event. In the event that the Playing Field is not returned to the condition it was in immediately prior to the City Event, City shall be responsible for promptly reimbursing Team for any expenses, both labor and materials, required to bring the Playing Field back to the condition it was in immediately prior to the City Event.

Notwithstanding anything to the contrary, City shall not permit any other professional baseball use of the Facility, at any time, during the Term of this Agreement, without the prior written permission of the Team.

#### 4. CLEANUP, MAINTENANCE AND REPAIRS.

- A. CITY RESPONSIBILITIES. City shall be responsible for the timely maintenance, repair and replacement of any and all Structural Elements of the Facility, with the one exception that the maintenance of the Playing Field shall be the responsibility of Team, unless a preponderance of any damage to the Playing Field requiring repair or replacement is a direct result of the negligence of the maintenance efforts of Team or persons employed by Team. City shall also be responsible for the prompt completion of any and all repairs to (or replacement of) any and all equipment or fixtures within the Facility costing three thousand five hundred dollars (\$3,500) or more per occurrence. Such repairs or replacement shall include, without limitation, walk-in coolers and freezers, appliances and equipment, the elevator, the HVAC, public address system and sound system, lighting of concourse and Playing Field,

backstop netting, plumbing, electrical systems, fencing, cleaning and repair of roofs and downspouts, painting of walls and surfaces, plumbing, doors, windows (excluding those broken by California League players), batting cage area, Facility Parking Lots and underground utilities.

City shall coordinate any and all Operating Repairs and Maintenance projects with the Team to ensure minimum interruption to the Team's activities.

City shall be responsible for Maintenance and cleanup of the Facility and Playing Field for all City Events.

City shall only be responsible for Maintenance of additional equipment added to the Facility by Team if City has agreed to do so in writing.

- B. TEAM RESPONSIBILITIES. Team shall be responsible for all Operating Repairs and Maintenance of the Playing Field and the Facility costing less than three thousand five hundred dollars (\$3,500) per occurrence. Team shall also be responsible for cleanup after all events other than City Events. Team shall also be responsible for all parking attendants, ushers and security during Home Games and all events except City Events. Additionally, Team shall be responsible for replacing all windows broken by California League players.

Team shall return the Facility and non-Team equipment to City at the end of the Term in the same approximate condition as presented, normal wear and tear expected. Team shall repair any material damage (excluding ordinary wear and tear) to any furniture, fixtures, appliances, lockers or other appurtenances of the Facility resulting from any act of the Team or reimburse City for the actual cost incurred for such repairs.

- C. PLAYING FIELD MAINTENANCE. Team shall maintain the Playing Field at its own expense including but not limited to, the following:
1. Dragging, raking and edging non-turf areas;
  2. Chalking boundary lines;
  3. Installing bases;
  4. Placing tarps on all specific areas as necessary;
  5. Maintaining all sprinkler heads and hose bibs;
  6. Fertilizing, mowing and watering the grass; and
  7. Painting and maintaining the infield and outfield.

City acknowledges that the Playing Field is a Structural Element of the Facility, and as such it is responsible for its clay, sod, sand and warning track materials, fencing, and irrigation system, as well as ensuring that the Playing Field is properly leveled.

The Playing Field must, at all times, remain in compliance with all NAPBL rules and the Professional Baseball Facility Standards. The Team and City shall jointly complete an annual audit each December which evaluates the condition of the Playing Field, identifies any areas of non-compliance with NAPBL rules, and

establishes a work plan and time line to rectify the deficiencies prior to each upcoming Season.

- D. FACILITY CLEANUP. Team shall keep the Facility premises (including without limitation, the offices, concession areas, locker rooms, suites, dugouts, restrooms and other areas of the Facility) reasonably clean and neat. All refuse shall be removed and placed in appropriate refuse containers at a central location on or about the Facility as designated by City. Removal of all refuse from such designated location shall be the responsibility of City. City shall ensure that refuse removal is made as often as required to prevent excessive accumulation or sanitation hazards.
5. FORCE MAJEURE. In the event of a hurricane, tornado or other catastrophic event, City shall use best efforts to repair all damage to the Facility as soon as possible. To the extent the Team's insurance policy or policies covers any such damage, City shall have a right to receive any reimbursement received from the insurance company for the costs of the repairs for such damage. If a Force Majeure event results in Team not being able to play twenty-five (25) or more home baseball games at the Facility, then obligations of the Team to make payments, as herein provided, shall be suspended for the duration of such event and Team shall have the opportunity to terminate this Agreement.
6. PARKING. City shall provide Team access to the Facility Parking Lots for use by the Team and its fans without any cost or expense to Team, with the number of parking spots currently available not to be reduced. City shall complete a seal, slurry and restriping of the Facility Parking Lots prior to April 3, 2013 and shall be responsible for maintaining the Facility Parking Lots. Team shall have the right to charge for parking, and establish parking rates, with all revenues received (minus expenses incurred for collecting the charges, such as parking lot attendants) to be shared equally with City, with each Party receiving fifty percent (50%) of such revenue. Any coupons or vouchers given by Team to fans for food, beverage or merchandise in exchange for parking revenues shall be considered as an expense incurred under this Agreement, though such an expense shall have a value of fifty percent (50%) of the face value of the coupon or voucher (e.g. a \$2.00 coupon shall be considered as a \$1.00 expense).

Team shall also have the right to sell sponsorships to all or various parts of the Facility Parking Lots and retain any such revenue.

Team shall cooperate with City regarding the use of Facility Parking Lots and shall permit the Facility Parking Lots to be used to accommodate temporary vehicular parking during other activities held at the Facility. Team shall not charge for parking during City Events.

- A. CITY PARKING. City hereby retains for itself, at no cost to City, the use of six (6) parking spaces, which the City shall mark "Reserved," in the reserved portion of the Parking Area in front of the Facility. City's exclusive right to use these six (6) reserved parking spaces shall remain in effect at any time,

including but not limited to any Home Game or Team event. City shall have sole discretion to determine how it will use the six (6) reserved parking spaces.

7. CONFERENCE ROOM. Team shall be the sole year-round manager of the Conference Room. City may, based on availability, schedule with Team as many events as it desires for City-sponsored functions at no charge, so long as the room remains unrented. Team shall be responsible for marketing the Conference Room and shall have the right to sell Naming Rights to the Conference Room. All revenues brought in for events held at the Conference Room, less expenses incurred, including the proceeds of any sale of Naming Rights to the Conference Room, shall be divided evenly between City and Team on an annual basis.
  
8. SUITES.
  - A. CITY SUITE. City hereby retains its exclusive right to use its current Suite for any Home Game or Team Event at the Facility. Team shall not charge the City for its admission to Facility or for use of such Suite. City shall be responsible for maintaining and decorating its Suite.
  
  - B. TEAM SUITE. Beginning after the 2012 Season and prior to the 2013 Season, City shall, at its expense, modify the Press Box to design and build a Team Suite to be the same size and in a similar location to the City Suite. City shall be responsible for painting and carpeting the Team Suite; Team shall be responsible for all furnishings. Team shall be the sole beneficiary of all revenues derived from the rental of this Team Suite.
  
9. CONCESSIONS. Team shall be the sole and exclusive vendor of food, drink, and novelty items for all Home Games, City Events, activities and events held at the Facility for the Term of this Agreement regardless of whether any such activity or event is conducted, sponsored or otherwise held by Team or City. Team shall be the sole beneficiary of all revenues derived from the operation of concessions and merchandise. Team may grant concession rights to a third party or third parties (i.e., concessionaires) as it deems appropriate for the conduct of its business at the Facility.
 

Team agrees to conduct concession sales in a clean, professional, and businesslike manner similar to operations in other Minor League stadiums and agrees to comply with all local, state and federal laws and regulations. Team (or its designee) shall maintain valid and appropriate licenses to sell beer, wine, liquor and other alcoholic beverages at all home games of the Team, and at all other activities and events held at the Facility, and City shall make every reasonable effort to facilitate the granting of such licenses. Notwithstanding anything to the contrary contained in this Agreement, neither City nor any third party shall be allowed to sell any souvenirs or novelties anywhere on the premises of the Facility during the Term of the Agreement.
  
10. SIGNAGE & ELECTRONIC GAME PRESENTATION.

- A. ADVERTISING SIGNS. Team shall have the sole and exclusive right to erect advertisement signs and banners on the premises of the Facility and retain all revenue from the sale of such signs or advertising. This right shall include the ability to sell advertising space at the Facility and to place advertising signs on the outfield fence and at other locations within and around the Facility, both inside and outside, and to retain all monies collected from such sales.

Notwithstanding anything to the contrary contained in the foregoing, the type, size, and location of all advertisements shall be in keeping with the professional character of the Facility, Team and City.

City hereby agrees not to sell, transfer, rent, surrender or give to any third party any advertising space in or on the Facility other than what has already been specifically delineated in the Stadium Naming Rights Agreement.

- B. SCOREBOARD. The Scoreboard is the property of the City. Team agrees to maintain Scoreboard for the duration of the Agreement. Upon termination or expiration of this Agreement, City shall reimburse Team for any improvements made to the Scoreboard, excluding routine maintenance. However, City's obligation to reimburse Team for any improvements to the Scoreboard is capped at a total maximum amount of \$25,000. City may agree to reimburse Team above this maximum amount for Scoreboard improvements, but any higher amount requires the City's written consent and shall be at the City's sole and absolute discretion. Any improvements to the Scoreboard shall become the property of the City.

City shall not be required to reimburse Team for the addition of any L.E.D. component to the Scoreboard; however, City shall have the right, but not the obligation, within sixty (60) days upon termination or expiration of this Agreement, to purchase the L.E.D. component for the fair market value thereof at the time of City's purchase. Should City choose not to purchase the L.E.D. component, Team may remove such L.E.D. component and take possession thereof.

- C. ADDITIONAL L.E.D. BOARDS. Should Team add any L.E.D. components to the Facility other than the Scoreboard, City shall have the right, but not the obligation, within sixty (60) days upon termination or expiration of this Agreement, to purchase the L.E.D. component(s) for the fair market value thereof at the time of City's purchase.

## 11. IMPROVEMENT OF FACILITY.

- A. TEAM STORE. Prior to the 2013 Season, City shall expand the existing Team Store for Team to sell its merchandise within the Facility. City shall eliminate the wall separating the Team Store and the storage area on one side and the wall separating the Team Store and the team offices on the other side, and shall install flooring, dry wall, windows, electricity and lighting as requested by Team to facilitate completion of an expanded Team Store.



- B. BATTING CAGE AREA. Prior to the 2013 Season, City shall, at its expense, replace the Batting Cage, L-Screen and the artificial turf found in the Batting Cage Area. City shall also construct an L-shaped wall at least six feet tall, whose design, height and material shall be mutually-agreed upon in writing by the Parties, around the outside of the Batting Cage area adjacent to the Facility Parking Lots to protect players from wind and sand while practicing hitting.
- C. TEAM OFFICES & CLUBHOUSES. Prior to the 2013 Season, City agrees to repaint and replace the carpet and flooring in the Team Offices, Team Store and both home and visitors clubhouses. Team and City shall mutually agree upon the colors and materials used in so doing.
- D. LANDSCAPING & PEST CONTROL. City shall be responsible for all landscaping inside and outside the Facility. City shall also be responsible for extermination work at the Facility on an as-needed basis but no fewer than two times per calendar year.
- E. FACILITY APPEARANCE. Team shall have the right, at its own expense, to make any non-structural improvements to and decorations of the exterior and or interior of the Facility, as shall be reasonably necessary or appropriate, in Team's judgment, for the Team's conduct of its business; provided, however, that Team complies with all permitting requirements.
- F. CAPITAL IMPROVEMENTS & OWNERSHIP. Team shall have the right, at its own expense, to make any desired capital improvements to the Facility that it deems appropriate, so long as said improvements enhance either the fan experience at the Facility or improve the Facility for the players or staff. Team acknowledges that any permanent improvements made, with the exception of the addition of any L.E.D. boards or signs (which shall remain property of the Team), immediately become the property of the City, notwithstanding the fact that the same may have been acquired, purchased, installed or placed in the Facility by the Team.
12. RENT. Team shall pay one dollar (1.00) per year as rent to City (the "Rent"). The Rent shall be due on the first (1<sup>st</sup>) day of April of each year during the Term.
13. UTILITIES. City shall provide and be responsible for all utility services to the Team at the Facility, which includes without limitation all electricity, twice weekly garbage pickup and trash removal, water, storm water, sewer, natural gas and irrigation water; provided, however, Team shall be responsible for placing all garbage and trash in a container or containers (for which the Team shall be responsible for maintaining) located outside the Facility and for obtaining and paying for all telephone, television and Internet services furnished to the Facility for Team's exclusive use.

14. TICKET SALES. Team shall be entitled to charge and retain all ticket, admission, participation, and other fees collected relating to the Team's home games and other events and activities sponsored or conducted by Team at the Facility during the Term of this Agreement. Team shall be responsible for all costs and expenses related to any and all such ticket, admission, participation sales and promotional costs, including the cost of ticket sellers, ticket takers, advance local promotion, advertising sales, and distribution of tickets, to all Team home games, events and activities held at the Facility.
15. WARRANTS AND REPRESENTATIONS. City warrants and represents that no other amounts are due and owing, or will be due and owing, for the rights granted to Team under this Agreement.
16. SPECIAL NIGHTS. The Team shall provide the following promotional opportunities on an annual basis:
  - A. FAN APPRECIATION NIGHT. The Team agrees to provide a "Fan Appreciation Night" to the residents of Adelanto, California. The Fan Appreciation Night shall be held on a game night of the Team's choosing and Team's obligation under this paragraph shall be satisfied by the delivery of up to three thousand (3,000) general admission tickets to the City Parks and Recreation Department to be distributed free of charge to residents of City.
  - B. CITY EMPLOYEE APPRECIATION NIGHT. The Team agrees to provide a City Employee Appreciation Night to the employees of the City of Adelanto, California. The City Employee Appreciation Night shall be scheduled in coordination with the City on a date of mutual convenience. Team will provide this event at an agreed-upon fixed cost, which may be applied as a credit against capital improvements made by Team in partnership with the City upon written notice by Team to the City Manager.
  - C. ADELANTO SCHOOL CELEBRATIONS. Team agrees to provide one dollar (\$1.00) tickets to students at each school within the Adelanto Elementary School District at least once each year. Additionally, Team will inaugurate a "Book Buddies" program designed to encourage reading among youngsters and giving those who successfully complete the program (completion to be determined by students' teachers) a free ticket, free meal and the opportunity to parade onto the Playing Field before a Team Home Game.
17. SECURITY. Team shall pay for and provide all security within the Facility and shall provide all security outside the Facility and in the parking areas for all home games, events or activities of Team held at the Facility. City shall pay for and provide all security within the Facility and shall provide all security outside the Facility and in the Facility Parking Lots for all City Events.
18. TEAM'S PERSONNEL. Team shall hire and be responsible for all personnel employed to conduct its business. Such personnel shall include, but are not limited to, ushers, ticket takers, concession workers, first-aid attendants, and other related

personnel. Team shall not discriminate in its hiring and agrees to use its best efforts to encourage job applications from city residents.

19. FIREWORKS. In a manner consistent with the requirements of the San Bernardino County Fire Department, the Team shall be permitted to use fireworks displays and laser shows at the Facility. City shall provide Team with all requirements and procedures of the County Fire Department for utilizing fireworks at the facility.
20. ADHERENCE TO CITY & STATE LAW AND FACILITY STANDARDS.
  - A. TEAM. Team agrees to abide by all applicable municipal, county, state and federal laws, ordinances, rules and regulations and to obtain all necessary and proper licenses, permits and authorizations for the conduct of its business at the Facility.
  - B. CITY. City shall be responsible for all improvements to the Facility required to ensure compliance with City, County and State fire prevention codes and all other applicable laws and codes. City shall also be responsible for ensuring that the Facility remains in compliance with any and all NAPBL rules and the Professional Baseball Facility Standards.
21. TAXES AND LICENSES. Team shall pay all lawful taxes, assessments, licenses, and charges on its business operations or sale of alcoholic beverages or other merchandise, as well as on all merchandise, fixtures, appliances, equipment, and property owned by it and located at the Facility. The City shall be responsible for and shall relieve Team of any obligation for the payment of any and all property taxes, possessory interest taxes, amusement or entertainment taxes, food or beverage taxes and any other new or existing taxes imposed by any municipal entity as a result of, related to, or arising from Team's management or use of the Facility.
22. QUIET ENJOYMENT. During the Team's use and occupancy of the Facility hereunder, the Team shall have and be entitled to the quiet enjoyment with respect to the use and occupancy of the Facility, use of all assets located at the Facility as of the Effective Date, and the enjoyment of the privileges herein granted without interruption or interference by any person.
23. CONCERTS. Team shall be permitted to host concerts, conventions and other such large gatherings of people in the Facility. To avoid damage to the Playing Field and to accommodate concerts, conventions and other special uses, Team may, at its expense, construct or erect a moveable stage and temporary eating and entertainment facilities, or any such other temporary improvements as it shall deem appropriate. Should Team host a concert any time between October and March, Team shall reimburse City for electricity used during that concert.
24. ASSIGNMENT/SUBLEASE. Team may assign this Agreement to any Persons succeeding in the ownership of the Team, provided that such successor is first

approved by both the California League and the NAPBL and allows the franchise to continue as a professional, major league affiliated baseball franchise with its Home Games to be played at the Facility under the terms of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the Team may grant concession rights to a third party or third parties.

25. FACILITY INSURANCE.

- A. CITY INSURANCE. City, shall, at its own expense, procure and at all times during the Term, maintain all risk property insurance on all building structures located on the Facility. Any additions, improvements, fixtures, trade fixtures, machinery, and equipment affixed to the Facility shall be covered by such all-risk property insurance policy (of which the City's risk pooling arrangements with PERMA or similarly entities are acceptable), even though such items may be removed by Team upon the termination or expiration of this Agreement.
- B. TEAM INSURANCE. Team shall secure and maintain during the Term of this Agreement, the following insurance coverages:
1. WORKERS' COMPENSATION. "Workers" Compensation insurance covering all employees meeting statutory limits in compliance with all applicable state and federal laws.
  2. COMPREHENSIVE GENERAL LIABILITY. Coverage shall have minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence, Combine Single Limit for Bodily Injury Liability and Property Damage Liability. This Comprehensive General Liability coverage shall include Facility and Operations, Broadform Property Damage, XCU Coverage, Independent Contractors, Products and Completed Operations, and Contractual Liability. This Comprehensive General Liability coverage policy shall be endorsed to include and cover Liquor Liability.
  3. BUSINESS AUTO LIABILITY. Coverage shall have minimum limits of One Million Dollars (\$1,000,000.00) Per Occurrence, Combines Single Limit for Bodily Injury Liability and Property Damage Liability. This Business Auto Liability policy shall include and cover: Owned Vehicles, Hired and Non-Owned Vehicles, Employee Non-Ownership, and such coverage as is necessary to protect the Parties against liability for the operation of the parking area or areas and any other area or areas used for parking at the Facility.
  4. ADDITIONAL INSURED. Team shall require and cause its insurer or insurers to list City as an additional insured (and not as a named insured) on the Comprehensive General Liability, the Business Auto Liability, and the Garage Keepers Legal Liability Policies.

5. INSURANCE POLICIES/CERTIFICATES OF INSURANCE.

Current valid insurance policies meeting the requirements herein shall be maintained by the Team during the Term of this Agreement. Team shall furnish copies of all policies to the City Manager upon request.

26. INDEMNIFICATION.

A. Indemnification by City. City hereby covenants and agrees that it will indemnify, defend and hold harmless Team and its officers, duly authorized agents, players, coaches, managers or employees, from any and all claims brought for personal injury, bodily injury, sickness, disease, loss of life, property damage and any other losses, damages, charges and expenses, including but not limited to attorneys' fees, that are incurred in connection with, or arise by reason of: (1) any act, error, omission or negligence of City, its officers, employees and duly authorized agents; (2) any breach of this Agreement by City; or (3) any dispute between City and any third party, including, without limitation, any matters related to any Structural Elements of the Facility. City further agrees that the payment and settlement of any such loss, injury or damage shall devolve upon and be made by City; and City shall and will, at its own cost, defend any and all threats and suits therefore made or brought against Team, and pay all attorney's fees of attorneys which Team shall select, and expense incidents to the defense therefore, or growing out of any such threats or suits.

B. Indemnification by Team. Team hereby covenants and agrees that it will indemnify, defend and hold harmless City, its officers, employees and duly authorized agents from any and all claims brought for personal injury, bodily injury, sickness, disease, loss of life, property damage and any other losses, damages, charges and expenses, including but not limited to attorneys' fees, that are incurred in connection with, or arise by reason of: (1) any act, error, omission or negligence of Team, its officers, employees or duly authorized agents; (2) any breach of this Agreement by Team; or (3) any dispute between Team and any third party, including, without limitation, any assets owned by Team within the Facility. Team further agrees that the payment or settlement of any such loss, injury or damage shall devolve upon and be made by Team; and Team shall and will, at its own cost, defend any and all threats and suits made or brought against City, and pay all fees of City attorneys and expense incidents to the defense therefore, or growing out of any such threats or suits.

27. NAMING RIGHTS. During the Term, Team may sell the naming rights to the Playing Field and refer to the Facility by the name of its Playing Field for all of its Home Games and Team-Sponsored Events. Team shall retain any and all revenue deriving from any such sale of Naming Rights. Team shall cease using or allowing the use of any naming rights upon a Court or other final arbiter's determination that use of such naming rights violates the Stadium Naming Rights Agreement.

- A. Use of Facility Name and Logo. In any written statement, including tickets related to any game or event occurring at the Facility, City acknowledges Team will use the name and logo of the entity securing such naming rights.
- B. No Conflict with Stadium Naming Rights Agreement. Team acknowledges that City, in compliance with the Stadium Naming Rights Agreement, may, during City Events only, refer to the Facility as “Stater Bros. Stadium, Home of the Mavericks.” Such references during City Events may include, but are not limited to, advertisements, promotional activities and printed materials, including event tickets, press releases, programs, flyers and posters.

Team agrees not to sell Naming Rights to the Playing Field to any direct competitor of Stater Bros. Markets.

City agrees to use its best efforts to ensure that Stater Bros. complies with all responsibilities delineated in the Stadium Naming Rights Agreement and to cure any non-compliance with that Agreement.

- C. No Playing Field Naming Rights Conflict. City agrees that it shall not print any advertisement on tickets for any game or event that conflicts with the major or material products or services advertised or offered for sale by the owner or licensee of the Playing Field naming rights without the written permission of the purchaser of such naming rights. Nor shall City engage a sponsor of a Special Event which sells major or material products or services that conflicts with the major or material products or services advertised or offered for sale by the owner or licensee of the Playing Field naming rights without the written permission of the purchaser of such naming rights.
28. BROADCASTING, TELECASTING AND WEBCASTING. Team shall have the right to broadcast, telecast and webcast its home games, activities and events via broadcast TV, cable TV, radio, and the Internet, and Team shall bear all costs and receive and retain any and all revenues, if any, generated therefrom.
29. GENERAL PROVISIONS.
- A. The Parties agree to execute and deliver any instruments in writing necessary to carry out any agreement, term, condition or assurance in this Agreement, whenever the occasion shall arise or request for such instrument shall be made.
  - B. If any provisions of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.
  - C. The Parties at all times during the Term of this Agreement shall act and deal in good faith with each other in the performance of this Agreement and in working toward the commercial success of the Team.
  - D. This Agreement shall be construed under the laws of the State of California.

30. TERMINATION AND EXTENSION

- A. TERMINATION. This Agreement shall expire at the end of the Term. Upon expiration of this Agreement, all permanent or improvements to Structural Elements made to the Facility shall remain the property of the City.
- B. EXTENSION. Team shall have the right to extend this Agreement for an additional year upon written notice to the City each year through September, 2018. Team shall exercise this extension right by delivery of written notice thereof to City no later than August 31 of the year in which the Agreement is scheduled to terminate.

31. COMPLAINTS AND NOTICES. Any complaints by City with regard to the operation of the Facility shall be directed by the City Administrator in writing to Team. Any complaints by Team directed to City shall be made in writing to the City Administrator by an authorized officer of Team. Any formal notice required to be given hereunder shall be in writing and mailed, postage prepaid, by U.S. Certified mail, Return Receipt Requested, addressed to the Parties as follows unless a different address is later designated by either Party under this notice provision:

For Notices to the Team:

MAIN STREET CALIFORNIA, LLC  
c/o David Heller  
1300 NE 94th Street  
Miami Shores, FL 33138-2902

*With copies to:*

ROBERT HERRFELDT  
8423 South Loudon Crossing Court  
Fort Collins, CO 80528

BEN J. HAYES, PA.  
c/o Ben J. Hayes, Esq.  
6161 Dr. MLK Jr. Street North, Suite #205  
Saint Petersburg, FL 33703

For Notices to City:

Dr. James Hart  
City Manager  
11600 Air Expressway  
Adelanto, California 92301  
Telephone: (746) 260-2300

All consents, approvals, or permissions required to be obtained under this Agreement shall be in writing and may be delivered by facsimile or electronic transmission.

32. COMMITMENT TO EQUAL OPPORTUNITY EMPLOYMENT AND CONTRACTING PRACTICES. Team shall abide by all federal, state and local equal opportunity employment and contracting practices.
33. TIME IS OF THE ESSENCE. In all matters concerning or affecting this Agreement, time is of the essence.
34. NO INDEPENDENT BASEBALL. Neither Team nor City shall hold any meetings, formally or informally, directly or indirectly, and shall not negotiate with or initiate inquiries or proposals from, any individual or entity of any kind involved or proposing to become involved, with any independent professional or semi-professional baseball league or venture while this Agreement is in effect. Team or City shall promptly advise the other Party of any substantive inquiry or proposal received by it or any of its owners, employees, attorneys, accountants, consultants, elected or unelected officials, agents, or other representatives, and copy the other Party on any and all correspondence regarding any such contact.
35. ARBITRATION. The Parties shall endeavor to resolve any dispute arising out of or relating to this Agreement by good faith negotiations. Should any controversy, claim, or question of interpretation in dispute between the Parties arising out of or relating to this Agreement, or the breach, termination or validity thereof, remain unresolved forty-five (45) days after initiation of good faith negotiations by either Party, then the matter in dispute shall be subject to arbitration in accordance with the CPR Rules for Non-Administered Arbitration then currently in effect by one arbitrator. Unless the Parties agree otherwise, the arbitrator shall be selected from the CPR Panels of Distinguished Neutrals and the arbitration shall occur within San Bernardino County, California, and shall be governed by California law.

The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16, and judgment upon the award rendered by the arbitrator (the "Award") shall be final and binding and not be subject to further appeal. Subject to the foregoing time period, either Party (the "Claimant") may initiate such arbitration by delivery of written notice (the "Claim") to the other Party (the "Respondent"), which shall provide a brief description of each claim relating to the dispute and include the name and contact information of Claimant's selected arbitrator. The Respondent shall respond to Claimant in writing (the "Response") by delivery of same within ten (10) days following its receipt of the Claim, which Response shall provide a brief description of Respondent's defense to each such claim described in the Claim, any counter claims of the Respondent. Within ten (10) days of Claimant's receipt of the Response, the Claimant and Respondent shall request a list of three (3) potential, independent, neutral arbitrators, who are each experienced in arbitrating lease disputes, from the CPR Institute for Dispute Resolution (formerly known as the Center for Public Resources) or from such other mutually agreeable neutral organization. Within ten (10) days after receiving the list of potential arbitrators, the Claimant and Respondent shall choose one single arbitrator as follows: the Claimant shall strike one name from the list, the Respondent shall strike one name from the list, and the remaining named individual shall be the



arbitrator. The arbitrator shall have the authority to order or grant any remedy or relief that a court of the State of California could order or grant, including, specific performance of any obligation created under this Agreement, the issuance of injunctive or other provisional relief, or the imposition of sanctions for abuse or frustration of purpose. The Award shall be in writing and, if requested by the Parties, specify the factual and the legal basis for the Award.

It is the intent of the Parties that any arbitration brought hereunder shall be concluded as quickly as reasonably practicable. Rules and procedures regarding expedited arbitration proceedings shall be applicable.

A. FEES AND COSTS. In the event of any arbitration, the prevailing Party shall be entitled to recover its costs and expenses related thereto from the other Party. The arbitrator shall include as part of the Award the name of the prevailing Party and the total amount of costs and expenses incurred by the prevailing Party in the arbitration of the dispute. Such costs and expenses incurred by the prevailing Party shall include all costs and expenses arising out of or related to the dispute, including the cost and expense associated with the initiation of the arbitration proceeding, the selection of the arbitrator, the reasonable fees and costs of attorneys and experts, and any other costs and expenses incurred as a result of the arbitration of the dispute.

B. NO MODIFICATION. The Parties agree that no arbitrator shall have the power to add to, subtract from, or modify the terms of this Agreement.

36. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties and, as of the Effective Date, supersedes, amends, nullifies and replaces in its entirety any and all prior understandings or agreements by or between the Parties and their predecessors, written or oral, to the extent any relate to the management and maintenance of the Facility, in whole or in part. There are no oral understandings, terms or conditions not contained in this Agreement and neither Party has relied on any representation, express or implied, not contained in this Agreement. All prior terms, understandings, or conditions are deemed to merge in this Agreement, and this Agreement can only be changed or supplemented by an agreement in writing and signed by the Parties. No term, covenant, condition, or breach of this Agreement shall be deemed to have been waived unless such waiver is expressed in writing and executed by the Party waiving same. Paragraph headings are for convenience only and shall not be considered for any purpose, including the interpretation of this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be Executed in several counterparts, each of which shall constitute an original and all of which, taken together, shall constitute a single instrument, by the appropriate officials and the necessary seals to be affixed thereto on the \_\_\_\_\_ day of August, 2012.

ADELANTO, CALIFORNIA

MAIN STREET CALIFORNIA, LLC

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

Cari Thomas  
Mayor  
City of Adelanto, CA

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

David Heller  
Managing Member  
Main Street Baseball, LLC