

File No. 150483

Committee Item No. 12  
Board Item No. \_\_\_\_\_

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee Date June 3, 2015

Board of Supervisors Meeting Date \_\_\_\_\_

**Cmte Board**

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement                           |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

**OTHER (Use back side if additional space is needed)**

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Recreation and Park Commission Resolution</u> |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |

Completed by: Linda Wong Date May 29, 2015  
Completed by: Linda Wong Date \_\_\_\_\_

1 [Host Site Agreement - 2020 PGA Championship - PGA Tournament Corporation, Inc. -  
2 Minimum Site Fee of Not Less Than \$2,000,000]

3 **Resolution approving and authorizing the execution of a Host Site Agreement with PGA**  
4 **Tournament Corporation, Inc. for the use of TPC Harding Park Golf Course for the 2020**  
5 **PGA Championship for a site fee of not less than \$2,000,000.**

6  
7 WHEREAS, The City and County of San Francisco (City) owns, and the Recreation  
8 and Park Department (Department) maintains, a municipal golf course open to the public  
9 known as TPC Harding Park Golf Course; and

10 WHEREAS, On July 2, 2014, in a news conference held at City Hall, the PGA of  
11 America announced their desire to present the 2020 PGA Championship in San Francisco at  
12 TPC Harding Park Golf Course; and

13 WHEREAS, This would be only the fifth time in the history of the PGA Championship  
14 that it would held California; and

15 WHEREAS, TPC Harding Park Golf Course would be only the third golf course open to  
16 the public to ever host the PGA Championship; and

17 WHEREAS, PGA of America has granted PGA Tournament Corporation, Inc. the  
18 exclusive right to conduct the 2020 PGA Championship and to manage the business and  
19 affairs thereof; and

20 WHEREAS, Department staff negotiated an agreement with the PGA Tournament  
21 Corporation, Inc. for the presentation of this one-time event at TPC Harding Park Golf Course,  
22 a copy of which agreement is on file with the Clerk of the Board of Supervisors under File No.  
23 150483 (Host Site Agreement); and

24 WHEREAS, The financial terms of the Host Site Agreement call for the payment to City  
25 of the greater of a base fee of \$2,000,000 or 9% of the Gross Revenues from the event; and

1           WHEREAS, The PGA Tournament Corporation, Inc. estimates the Gross Revenues  
2 from the event, as defined in the Host Site Agreement, could reach \$33,000,000; and

3           WHEREAS, Gross Revenues shall be comprised of ticket sales, hospitality site sales  
4 and on-course merchandise sales; and

5           WHEREAS, At its meeting on April 16, 2015, the Recreation and Park Commission,  
6 through its Resolution No. 1504-008, which is on file with the Clerk of the Board of  
7 Supervisors in File No. 150483, recommended that the Board of Supervisors approve the  
8 Host Site Agreement between the City and the PGA Tournament Corporation, Inc.; now,  
9 therefore, be it

10           RESOLVED, That the Board of Supervisors hereby approves the Host Site Agreement  
11 and authorizes the General Manager of the Recreation and Park Department (General  
12 Manager) to execute the Host Site Agreement on behalf of the City in substantially the form  
13 presented to this Board; and, be it

14           FURTHER RESOLVED, That for the reasons set forth in this resolution, the Board  
15 finds that competitively bidding an agreement to host the 2020 PGA Championship is  
16 impractical or infeasible; and, be it

17           FURTHER RESOLVED, That the Board of Supervisors authorizes the General  
18 Manager to enter into any additions, amendments or other modifications to the Host Site  
19 Agreement that the General Manager determines are in the best interests of the City, do not  
20 materially decrease the revenue to the City contemplated in the Agreement or otherwise  
21 materially increase the obligations or liabilities of the City, and are necessary or advisable to  
22 complete the transactions contemplated in the Agreement and to effectuate the purpose and  
23 intent of this resolution; and, be it

1           FURTHER RESOLVED, That within thirty (30) days of the Host Site Amendment being  
2 fully executed by all parties, the General Manager shall provide the final Host Site Agreement  
3 to the Clerk of the Board for inclusion into the official file.

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

<b>Item 12</b> <b>File 15-0483</b>	<b>Department:</b> Recreation and Parks Department (RPD)
<b>EXECUTIVE SUMMARY</b>	
<b>Legislative Objectives</b>	
<ul style="list-style-type: none"> <li>• The proposed resolution would approve a Host Site Agreement between the Recreation and Park Department (RPD) and the PGA Tournament Corporation, Inc. to (i) authorize the PGA Tournament Corporation, Inc. to host the 2020 PGA Championship at the TPC Harding Park Golf Course; and (ii) require PGA Tournament Corporation, Inc. to pay RPD a site fee consisting of the greater of a base fee of \$2,000,000 or 9 percent of gross revenues from the 2020 PGA Championship event.</li> </ul>	
<b>Key Points</b>	
<ul style="list-style-type: none"> <li>• The PGA Tournament Corporation, Inc. would pay RPD the greater of \$2,000,000 or 9 percent of gross revenues from (i) ticket sales, (ii) corporate hospitality sales, and (iii) all on-site sales of PGA Championship merchandise.</li> <li>• RPD would pay for course maintenance and preparation costs and assist with the recruitment of volunteers, the provision of meeting rooms, office space, storage space, and local marketing and sales support. RPD would also provide access to their existing golf cart fleet as necessary.</li> <li>• The Host Site Agreement specifies three “black out” years, including 2018, 2019, and 2020, during which no other professional golf tournaments can be held at the TPC Harding Park Golf Course.</li> <li>• The proposed resolution would find that competitively bidding this agreement to host the 2020 PGA Championship is impractical or infeasible.</li> </ul>	
<b>Fiscal Impact</b>	
<ul style="list-style-type: none"> <li>• The PGA Tournament Corporation, Inc. projects gross revenues of up to \$33,000,000 for the 2020 PGA Championship that are eligible for RPD site fee payments.</li> <li>• RPD projects expenditures of \$1,585,000 in preparation costs for the 2020 PGA Championship. Based on revenue projections completed by PGA Tournament Corporation, Inc., RPD would receive estimated net earnings ranging from approximately \$415,000 to \$1,385,000 from this Host Site Agreement.</li> <li>• PGA Tournament Corporation, Inc. will pre-pay RPD site fees of \$200,000 each year during 2017, 2018, and 2019, or a total of \$600,000, to be used for agronomic expenses associated with course preparations for the 2020 PGA Championship. These pre-paid site fees would be credited against the total site fee to be paid by the PGA Tournament Corporation to RPD.</li> </ul>	
<b>Recommendation</b>	
<ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul>	

**MANDATE STATEMENT / BACKGROUND****Mandate Statement**

City Charter Section 9.118(a) states that contracts entered into by a department, board or commission that will generate revenue in excess of \$1 million or any modification of that contract is subject to Board of Supervisors approval.

**BACKGROUND**

The Tournament Players Club (TPC) Harding Park Golf Course is owned by the City and County of San Francisco and maintained by the Recreation and Park Department (RPD). It consists of the Harding Park Golf Course, Fleming Golf Course, and clubhouse facilities located at 1 Harding Park Road.

RPD has recently held a number of Professional Golf Association (PGA) of America TOUR events at the TPC Harding Park Golf Course. On July 2, 2014, the PGA announced that the TPC Harding Park Golf Course was selected as the site for the 2020 PGA Championship. The PGA Championship is one of four major golf tournaments held in the world and will be larger in scope and format than previous events held at the TPC Harding Park Golf Course. PGA of America has granted PGA Tournament Corporation, Inc., a wholly owned subsidiary of PGA TOUR Golf Course Properties, Inc., the exclusive right to conduct and manage all business affairs for the 2020 PGA Championship.

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would approve a Host Site Agreement between the Recreation and Park Department (RPD) and the PGA Tournament Corporation, Inc. to (i) authorize the PGA Tournament Corporation, Inc. to host the 2020 PGA Championship at the TPC Harding Park Golf Course; and (ii) require PGA Tournament Corporation, Inc. to pay RPD a site fee consisting of the greater of a base fee of \$2,000,000 or 9 percent of gross revenues from the 2020 PGA Championship event. In addition, the proposed resolution would find that competitively bidding this agreement to host the 2020 PGA Championship is impractical or infeasible.

*PGA Tournament Corporation, Inc. Obligations under Host Site Agreement*

Under this agreement, PGA Tournament Corporation, Inc. would employ a Tournament Director and necessary support staff up to two years prior to the 2020 event and submit detailed set-up and transportation plans for the event for RPD approval. PGA Tournament Corporation, Inc. would indemnify and hold RPD harmless against damages. The site fee paid to RPD would be based on gross revenues from (i) ticket sales, (ii) corporate hospitality sales, and (iii) all on-site sales of PGA Championship merchandise. Revenues generated by any other activities during the 2020 PGA Championship would not be considered gross revenues such as PGA Championship

television and radio rights fees, merchandise sold off-site and any other sources of revenues, as per the terms of the Host Site Agreement.

According to Mr. Tom Hart, a Property Manager of the Recreation and Park Department, the terms of the proposed Host Site Agreement is similar to past RPD agreements with the PGA, which have always excluded RPD sharing in revenues gained by the PGA from television and radio rights fees, among other revenue sources. In addition, Mr. Hart notes that previous RPD agreements with the PGA have included thresholds of PGA gross revenues, such that RPD would only receive earnings if PGA gross revenues from the event exceeded a certain amount. In contrast to these previous PGA agreements, the proposed Host Site Agreement for the 2020 PGA Championship is financially better for the City as it allows RPD to earn a minimum of \$2,000,000, regardless of how profitable the event may be.

#### *RPD Obligations under Host Site Agreement*

RPD would provide members of the PGA Tournament Corporation, Inc. with access to the TPC Harding Golf Course and facilities ahead of and during the 2020 PGA Championship. RPD would also manage and operate the clubhouse operations during PGA Championship Week at no cost to PGA Tournament Corporation, Inc., with the exception of food and beverages. The PGA Championship is typically held in August but the specific dates of the 2020 event have not yet been decided.

RPD would also pay for course maintenance and preparation costs to ensure that the TPC Harding Park Golf Course is in premium condition for the 2020 PGA Championship.<sup>1</sup> RPD would also be responsible for various other provisions, including recruitment of volunteers, providing meeting rooms, office space, storage space, and local marketing and sales support as reasonably requested by the PGA Tournament Corporation, Inc. RPD would also provide access to their existing golf cart fleet as necessary. The Host Site Agreement also specifies three "black out" years, including 2018, 2019, and 2020, during which no other professional golf tournaments can be held at the TPC Harding Park Golf Course.

Similar to previous PGA master tour events, RPD does not anticipate prohibiting public access to the TPC Harding Park Golf Course for more than two weeks to accommodate preparations for the 2020 PGA Championship.

The Host Site Agreement will be effective following the signature of both parties and will extend through December 31, 2020 or upon mutual completion of the obligations of both Parties.

---

<sup>1</sup> In August 2010, RPD entered into an agreement for a term of nine years and 3 months with the Tournament Players Club of California, Inc. to provide management and supervisory services for all golf and clubhouse operations at TPC Harding Park Golf Course, excluding course maintenance which RPD staff provides. Such agreement was previously approved by the Board of Supervisors.

**FISCAL IMPACT**

Under the proposed agreement, the PGA Tournament Corporation, Inc. would pay RPD the greater of \$2,000,000 or 9 percent of gross revenues, as defined by the Host Site Agreement. Based on revenue projections completed by PGA Tournament Corporation, Inc., RPD would receive estimated net earnings ranging from approximately \$415,000 to \$1,385,000 as shown in Table 1 below.

**Table 1. Estimated RPD Expenditures and Revenues**

RPD Projected Expenditures	
Item Description	Total Amount
Potential Lost Daily Revenue	\$625,000
Overtime Salaries and Fringe Benefits	566,400
Professional Services	81,600
Materials and Supplies:	
Agronomy	288,000
Integrated Pest Management (IPM) Consulting services	12,000
Championship Expenditures	12,000
<b>Total</b>	<b>\$1,585,000</b>
RPD Estimated Earnings	
<b>Minimum Gross Earnings to RPD</b>	\$2,000,000
Total Est. Expenditures	1,585,000
Difference (Net Earnings)	\$415,000
<b>Percentage of Gross Revenues<sup>1</sup> to RPD (9%)</b>	\$2,970,000
Total Est. Expenditures	1,585,000
Difference (Net Earnings)	\$1,385,000

Source: Recreation and Park Department Staff.

1/ PGA Tournament Corporation, Inc. projects gross revenues up to \$33,000,000 for the 2020 PGA Tournament. Percentage revenues in Table 1 are calculated as 9 percent of estimated gross revenues of \$33,000,000.

The PGA Tournament Corporation, Inc. will pre-pay RPD site fees of \$200,000 each year during 2017, 2018, and 2019, or a total of \$600,000, to be used for agronomic expenses associated with course preparations for the 2020 PGA Championship, such as additional maintenance costs to maintain and improve the overall condition of TPC Harding Park Golf Course. These pre-paid site fees would be credited against the total site fee to be paid by the PGA Tournament Corporation to RPD.

**RECOMMENDATION**

Approve the proposed resolution.





RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

MAY - 8 AM 11:48

Edwin M. Lee, Mayor  
Philip A. Ginsburg, General Manager

*BT*

May 7, 2015

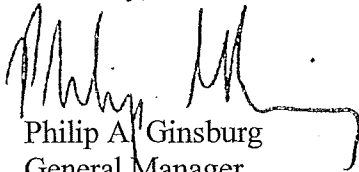
Angela Calvillo  
Clerk of the Board  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 224  
San Francisco, CA 94102-4689

Ms. Calvillo:

Please find enclosed the original of a resolution for consideration by the Board of Supervisors concerning a Site Agreement between the City and PGA TOURNAMENT CORPORATION, INC. for the hosting of the 2020 PGA Championship at TPC Harding Park Golf Course. Enclosed also is a copy of Resolution No. 1504-008 confirming action taken by the Recreation and Park Commission on April 16, 2015, a copy of the proposed Site Agreement and form SFEC-126 for both the Board of Supervisors and the Mayor.

Should you require additional information please contact Tom Hart of my staff. Tom can be reached at 415.831.2773 or [tom.hart@sfgov.org](mailto:tom.hart@sfgov.org).

Sincerely,

  
Philip A. Ginsburg  
General Manager





Edwin M. Lee, Mayor  
Philip A. Ginsburg, General Manager

## 2020 PGA CHAMPIONSHIP HOST SITE AGREEMENT

THIS 2020 PGA CHAMPIONSHIP HOST SITE AGREEMENT (this "Agreement"), dated only for reference as of April 2, 2015, is between THE CITY AND COUNTY OF SAN FRANCISCO ("City), and PGA TOURNAMENT CORPORATION, INC., a Florida non-profit Corporation ("PTC").

### RECITALS

A. PTC is an affiliate of The Professional Golfers' Association of America ("Association") and Association has licensed PTC the right to use the "PGA Championship" name and trademark in connection with the golf tournament called the "PGA Championship".

B. Association has granted PTC, solely and exclusively, the right to conduct the 2020 PGA Championship and to manage the business and affairs thereof.

C. City owns the land and improvements commonly known as the Harding Park Golf Course, consisting of the Harding Park Golf Course and Fleming Golf Course together with the clubhouse and all furniture, fixtures and equipment located thereon, located at 1 Harding Park Road, in San Francisco, California. The Harding Park Golf Course and Fleming Golf Course, together the golf course facilities and clubhouse facilities (the "Clubhouse"), are referred to herein as the "Course." The Course is under the jurisdiction of City's Recreation and Park Commission (the "Commission") and is operated by City's Recreation and Park Department (the "Department").

D. City and Tournament Players Club of California, Inc., a California corporation ("Manager"), entered into a Management Agreement for Harding Park Golf Course Clubhouse and Golf Operations, dated August 10, 2010 (as amended from time to time, the "Management Agreement"), pursuant to which, among other matters, City contracted with Manager to provide management and supervisory services for all clubhouse and golf operations at the Course, excluding course maintenance, and the parties agreed that the Course could be referred to as TPC San Francisco at Harding Park or such other name approved by the Commission. The Course is presently referred to and marketed by Manager as TPC Harding Park.

E. City and San Francisco First Tee, a California nonprofit public benefit corporation ("First Tee), d/b/a The First Tee of San Francisco, are parties to that certain Ground Lease, dated August 7, 2003 (as amended from time to time, the "First Tee Lease"), pursuant to which First Tee presently leases from City certain classroom space on the first floor of the Clubhouse, certain office space on the second floor of the Clubhouse, certain storage space in the basement of the Clubhouse, and a practice area on the grounds of the Course.

F. City and PGA TOUR, Inc., a Maryland corporation (“TOUR”), are parties to (i) that certain Master Tournament Agreement, dated April 19, 2002 (as amended from time to time, the “Master Tournament Agreement”), providing for the conduct of a certain number of events at the Course, and the payment by TOUR of certain fees in connection therewith and pursuant to which, among other matters, City and TOUR agree that the parties will consult regarding certain matters of golf course maintenance, and (ii) that certain Multiple Championships Tournament Facilities Agreement, dated as of January 20, 2005 (as amended from time to time, the “Facilities Agreement”), pursuant to which, among other matters, the parties agree to certain matters regarding the operation and use of the Course.

G. City and PTC presently desires to provide that PTC shall have the exclusive use of certain portions of the Course in connection with the PGA Championship during the week of the 2020 PGA Championship and have certain rights to portions of the Course for other periods of time, and that PTC shall make certain payments to City in connection therewith, all on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties do hereby **AGREE** AS follows:

#### ARTICLE I INTERPRETIVE PROVISIONS

1.01 **Certain Definitions.** In addition to the definitions set forth above, the following terms have the definitions hereinafter indicated whenever used in this Agreement with initial capital letters:

**Adjacent Permitted Properties:** Means those areas, if any, outside boundaries of the Course under the jurisdiction of the Commission that are be made available to PTC in connection with the 2020 PGA Championship under the terms of one or more separate permits, which may include the area known as Sunset Circle, the rentable portions of the Lake Merced Boathouse, and the land around the Lake Merced Boathouse between Skyline Boulevard and the Harding Park gate.

**Agreement:** This Agreement and all exhibits attached hereto, as the same may be amended and in effect from time to time.

**Association:** The Professional Golfers' Association of America, a Florida corporation organized under the not-for-profit statutes.

**Bankruptcy:** Either (i) the initiation by a referenced Person of a proceeding, or initiation of any proceeding against a referenced Person which has not been vacated, discharged or bonded within thirty (30) days of initiation, under a federal, state or local bankruptcy or insolvency law, (ii) an assignment by a referenced Person for the benefit of creditors, or (iii) the agreement by a referenced Person to appointment of a receiver or trustee for all or a substantial part of such Person’s property, or court appointment of such receiver or trustee which is not suspended or terminated within sixty (60) days after appointment.

**Clubhouse:** Means the clubhouse located on the Course Property.

**Course:** Has the meaning set forth in Recital C.

**Course Property:** Means all of the Harding Park Golf Course and Fleming Golf Course buildings (with the exception of the maintenance building), land and Clubhouse Facilities.

**Clubhouse Facilities:** Means the amenities located within the Clubhouse inclusive of but not limited to the locker room facilities, bag storage area, meeting rooms, dining areas, First Tee classroom and other mutually determined amenities.

**Course Likeness:** The names, likeness and pictures of the exterior of the Course's Clubhouse and signature holes on the Course.

**Course Logo:** The Harding Park logo set forth on Exhibit B.

**Course Marks:** Course name, Course Logo and Course Likeness.

**Dual Logo Merchandise:** Merchandise offered for sale by PTC to corporate hospitality purchasers containing the PGA Championship Logo and the corporate hospitality purchaser's trademark.

**General Manager:** The General Manager of the San Francisco Recreation and Park Department.

**Gross Revenues:** All PGA Championship related revenues (net of sales and admission tax) received during the Term (as hereinafter defined) for the 2020 PGA Championship by PTC and its agents and representatives from ticket sales (excluding handling fees and volunteer fees), corporate hospitality sales of chalets, tables, clubhouse rooms, skyboxes, viewing suites and/or any other type of corporate product that may be developed and sold to corporate clients on site at the PGA Championship (excluding corporate food and beverage sales), and all on-site sales of PGA Championship merchandise sold by PTC or others during Championship Week.

The parties acknowledge and agree that any item not addressed above, including but not limited to the following items, shall not be deemed to be Gross Revenues:

- (i) PGA Championship television and radio rights fees and all ancillary rights fees inclusive of but not limited to film, video, CD ROM, internet and any other over the airways communications (even if yet to be determined e.g., cell phone, direct TV etc.) received by Association consistent with the provisions set forth in Section 3 of the License Agreement;
- (ii) All PGA Championship related merchandise sales sold on Course Property or Adjacent Permitted Properties by City or its agents (provided such are approved by PTC) during the Term;
- (iii) Any other revenues received by Association or its affiliates attributable to PGA Championship related activities of any description conducted by PTC individually, its affiliates or Association outside of the Course Property and Adjacent Permitted Properties such as a post PGA Championship highlight video or "The PGA Golf Experience" (except as provided in subsection (a) above);
- (iv) PGA Championship related merchandise sales received by PTC, its affiliates, agents or representatives for sales outside of the Course Property and Adjacent Permitted Properties including Regional Territory Merchandising;

- (v) Any licensing "Official" Agreements (such as Official Car Agreements, Official Patron, Official Scoring System Agreements, etc.) entered into by affiliates of PTC or PTC;
- (vi) Any off the Course Property and Adjacent Permitted Properties ventures entered into by PTC or its affiliates;
- (vii) All PGA member, spouse, guest and immediate family members, player, rules officials, dignitaries and VIPs and/or Allied Association, as determined by PTC, credentials which PGA offers to such parties free of charge;
- (viii) All contractually obligated credentials that PTC has committed to with its sponsors, licensees and/or Patrons (a licensing partner level);
- (ix) All PGA Championship related merchandise sales from the date of execution of the Agreement until the conclusion of the PGA Championship consistent with Section 5.01 and all PGA Championship related merchandise sales sold by the PTC on the Course Property or Adjacent Permitted Properties during the PGA Championship Merchandise Sales Period consistent with the provisions set forth in Article V;
- (x) All PGA Championship related on-course concession commissions and corporate hospitality food and beverage sales commissions, food and beverage upgrades and décor package upgrades commissions;
- (xi) All revenues from the publication of the Program/Journal Magazine, Pairing Sheet and Course Guide provided PGA receives a share of net profit per the terms of the agreement with the applicable publisher; and
- (xii) Goods and services in exchange for trade hospitality and tickets for operational/marketing services, defined as tickets or hospitality used in exchange for goods and/or services that PTC would otherwise be responsible for paying for and which ultimately reduces PTC's operating expenses.

**Insolvency:** The inability to meet financial obligations when such obligations are due.

**License Agreement:** The Merchandise License and Definition of Television, Internet, CD ROM and Radio Rights component of this Agreement in Article V setting forth the parties' mutual rights and limitations relative to the use of the PGA Championship trademark, the sale and distribution of PGA Championship Merchandise and radio and television rights related to the PGA Championship.

**Notice:** A writing containing the information required by this Agreement, to be communicated to a Person and personally delivered to such Person or sent by registered or certified mail, postage prepaid, return receipt requested, or by nationally recognized overnight courier service to such Person at the last known address of such Person, the date of personal delivery, registry or of the certification receipt, as the case may be, being deemed the date of such Notice.

**Patrons:** PTC's major corporate partners who support the PGA of America, including but not limited to spectator activation opportunities for spectators, corporate hospitality purchases at major spectator

events, television and media advertising spends and support of other selected member programs and/or benefits such as "Play Golf America" support, player development programs, etc.

**Person:** Any individual, corporation, or other entity.

**PGA Championship:** An annual "major" professional golf tournament comprised of a field of approximately 156 golf professionals contested in stroke play format. For purposes of this Agreement, the term "PGA Championship" shall be construed to include the official competition, including any play-off or postponement, as well as the practice rounds, clinic (if held) and presentation ceremony, and other activities which take place in connection therewith, unless and to the extent that these components are hereinafter referred to individually. The PGA Championship, for purposes of this Agreement, will be played at the Course, in July or August, 2020 at specific dates to be determined by Association.

**PGA Championship Logo:** A registered trademark owned, designed, and developed by Association.

**PGA Championship Merchandise:** Merchandise, other than Dual Logo Merchandise, containing the PGA Championship Logo.

**PGA Championship Merchandise Sales Period:** The period commencing one-week prior to the Monday of the PGA Championship Week through the day following the conclusion of the PGA Championship.

**PGA Championship Week:** The ten (10) day period from the Saturday preceding the PGA Championship through the Monday following the PGA Championship.

**Regional Territory:** An area that includes all counties in any state within a 75 mile radius of the Course.

**Term:** The Term of this Agreement shall commence as of the Effective Date, as defined in Section 8.15 below, and expire upon the latter of December 31, 2020 or upon the Parties' mutual completion of their respective obligations as set forth herein.

**Trademarks:** The Trademarks listed in Exhibit A to this Agreement.

1.02 **Rules of Construction.** The following rules of construction shall apply to this Agreement:

(A) All section headings in this Agreement are for the convenience of reference only and are not intended to qualify the meaning of any section.

(B) All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa, as the context may require.

(C) Each provision of this Agreement shall be considered severable from the rest, and if any provision of this Agreement or its application to any Person or circumstances shall be held invalid and contrary to any existing or future law or unenforceable to any extent, the remainder of this Agreement and the application of any other provision to any Person or circumstances shall not be affected thereby

and shall be interpreted and enforced to the greatest extent permitted by law so as to give effect to the original intent of the parties hereto.

**ARTICLE II**  
**MANAGEMENT CONSIDERATIONS**

2.01 **Management of PGA Championship Business.** Each of City and PTC shall have the rights and responsibilities with respect to the PGA Championship which are allocated to it pursuant to this Agreement. Except as otherwise expressly provided or limited by the provisions of this Agreement, PTC shall have full discretion to manage the business and affairs of the PGA Championship. PTC shall devote to the management of the business and affairs of the PGA Championship such time as PTC, in its reasonable discretion, shall deem to be reasonably required for the operation thereof. Except as otherwise expressly set forth in this Agreement, City shall not have the authority, right, or power to bind PTC, or to manage or control the business and affairs of the PGA Championship, including but not limited to, rights to revenues. Such management shall in every respect be the full and complete responsibility of PTC. PTC shall meet, discuss, and consult with City or City's designee on all material issues related to the PGA Championship and with respect to the employment of local suppliers and similar issues, with all final decisions being made by PTC, in its sole discretion. Similarly, City shall not have the authority to spend monies that PTC controls without prior approval from PTC.

City acknowledges that PTC will employ a Tournament Director, and necessary support staff, as such shall be determined by PTC, who will be stationed at Course starting approximately two (2) – three (3) years prior to the start of the event. The Tournament Director and such additional staff shall be employees or contractors of PTC, not of City, all salary, fringe benefits, travel expenses, bonuses and any other associated personnel expenses such individuals shall be borne entirely by PTC, and PTC shall be responsible for the conduct of such individuals. The Tournament Director will report to the Chief Championships Officer and will see that all policies and procedures established in accordance with this Agreement by Association and/or PTC are carried out. Except as otherwise provided herein, the parties acknowledge that the Tournament Director shall be vested with the authority to make and implement decisions with respect to all such policies and procedures. The Tournament Director and Department staff shall use good faith efforts to regularly consult and cooperate to maximize the benefit of the services of the Tournament Director, however PTC acknowledges that all personnel and administrative matters with regard to Department staff, and all issues and questions regarding the implementation of this Agreement by the Department shall be directed by the Department in its sole discretion. PTC further acknowledges that the Department operates under strict budgetary constraints and processes, and the Department's annual budget is subject to the City's annual approval and appropriation process, including the approval by the City's Board of Supervisors in its sole discretion.

PTC agrees to inform City of all material decisions relative to the operation of the PGA Championship. PTC will meet, discuss, and consult with City on a regular basis concerning all material matters involving the PGA Championship during the Term, with all final decisions being made by PTC, in its sole discretion.

2.02 **PTC Submittal and City Approval of PTC Plans:**

(A) **Site and Operating Plans.**

The site and operating plan design shall require the Department's written approval prior to implementation. The PTC and the General Manager or his or her designee will each designate a Project Manager who will serve as each party's principal authority for all site and operating plans, site issues, and decisions during



set-up and breakdown. PTC will consult with City's Project Manager throughout site and operating plan design and development.

The PTC shall submit to the City a detailed layout of set-up plans no later than 180 days prior to the event for the City's approval. The plan will specifically address and/or include the following:

- Location of all hospitality tents, food and beverage booths, portable toilets, dumpsters, and any and all other structures.
- Set-up and breakdown times and dates. Set-up and breakdown dates shall be staggered to minimize the amount of time that the premises are closed to the public.
- A plan for the clean-up of the entire site.

Parking off of roadways and on lawn areas is prohibited, except as included in an operating and site plan approved by the Department.

All structures must meet ADA specifications and a plan addressing compliance with Disabilities Act requirements.

Structures, decorations, equipment may not be attached to Department property or vegetation without the Department's approval.

The General Manager may require reasonable modifications to the proposed site and operating plans.

**(B) Transportation and Parking Plans; Security.**

PTC shall submit to the City a detailed Transportation Management Plan addressing traffic flow for arrival and exit, including confirmation of specific MUNI, Department of Parking and Traffic and San Francisco Police Department resources necessary to support the plan, no later than 60 days prior to the event for the City's approval.

PTC shall submit to the City a detailed Security Plan, including any request for Park Patrol presence, no later than 60 days prior to the event.

Reasonable and customary San Francisco Police Officers and Park Patrol officers needed for the event will be at the cost of the PTC, provided, as outlined in Section 3.01(xvii), Department staff agrees to assist PTC in developing Championship related solutions to help PTC minimize the costs, subject to the acknowledgements set forth in Section 2.02(C) below.-

PTC shall provide security from the first day of the Course closure prior to Tournament Week through the last day of Tournament Week.

**(C) City Acting in Priority Capacity.** PTC understands and agrees that City is entering into this Agreement in its capacity as a property owner with a proprietary interest in the Course Property and not as a regulatory agency with police powers. Nothing herein shall limit in any way PTC's obligation to obtain any required regulatory approvals from City departments, boards or commissions or other governmental regulatory authorities or limit in any way City's exercise of its police powers.

2.03 **Liability for Acts and Omissions:**

(A) PTC shall indemnify and hold harmless the City against any damages or loss incurred by the PGA Championship or the City by reason of PTC's negligence or willful misconduct with respect to the PGA Championship.

(B) PTC shall be responsible for the actions of and shall indemnify and hold harmless the City against any claims by third parties attributable to actions, omissions to act, negligence, or other misconduct by PTC, Association, or any employees, agents, vendors subcontractors, or volunteers of PTC or Association or others that provide services or products of any nature or description for the PGA Championship. PTC shall indemnify and hold harmless the City against any such damage, loss, or claim (including reasonable attorney's fees incurred by the City in response to such damage, loss, or claim) arising out of third party claims except to the extent such claims arise out of gross negligence or misconduct of the City.

**ARTICLE III  
CITY OBLIGATIONS; PTC OBLIGATIONS**

3.01 **City Obligations.** City agrees to perform the following obligations at no cost to PTC (unless otherwise specifically identified otherwise):

(i) Provide the use of the Course Property, as such use shall be determined by PTC, beginning no later than Monday preceding the PGA Championship Week through and including the day following the completion of the PGA Championship (14 days total). Access to the golf course shall be under the control of PTC during the PGA Championship Week. PTC agrees to consult with Course regarding the allocation of space available in the Clubhouse for PTC's exclusive use. City agrees to cause Manager to provide any food and beverage (and set-up) services in the Clubhouse in connection with such functions at Manager's prevailing and customary function rates (i.e., as charged to the public) with any gratuities included in such rates. The parties acknowledge that the Clubhouse will be set-up in distinctly separate areas, will be made available for such set-up starting the Thursday preceding the PGA Championship Week, and will include, but shall not be limited to, the following exclusive areas:

- a) PGA Hospitality Area - which will be used for PGA sponsors and guests.
- b) PGA Meeting Area - for the exclusive use of Association Officers and agents.
- c) Player Dining Area - for the exclusive use of contestants.
- d) Player Family Dining Area - for the exclusive use of the contestants' families and guests.
- e) PGA Hospitality Area

Final determination of such allocation of Clubhouse space will be determined by PTC, after consulting with City. PTC's use of other Course facilities for purposes of the PGA Championship shall be by mutual agreement between City and PTC and shall not be unreasonable to either party. If space does not permit in the Clubhouse, a choice and convenient location will be reserved for the exclusive use of City. City acknowledges and agrees that all food and beverage requirements outside of the Clubhouse shall be provided by a PTC selected third party vendor.

(ii) City shall make good faith efforts to provide local marketing and sales support and assistance as reasonably requested by PTC, e.g., establishment of a "Marketing Committee." City shall strive to

serve as a liaison between the PGA Championship and the local business community and assisting in the direct sale of hospitality (tables, chalets, viewing suites, sky boxes and any other corporate product) and assisting in advanced ticket sales. Notwithstanding anything to the contrary in this Agreement, it is understood that such support, assistance, and obligations are limited to Department staff and other soliciting volunteer help.

(iii) City shall work with PTC to help recruit all necessary volunteers for the PGA Championship.

(iv) City, at its own expense agrees to maintain and adequately prepare the Course in championship condition for the PGA Championship. City acknowledges that such expenses may include, but not be limited to, the following expenses incidental to hosting the PGA Championship: overseeding, leveling of PGA Championship tees and re-sodding areas on the Course if required to restore the Course to championship condition, and increased labor costs required to get the Course ready for the PGA Championship, etc.

PTC shall determine, in its sole discretion, the playing conditions of the Course and all practice facilities, including speed, firmness, grass height of playing surfaces and other matters affecting play. PTC shall select all teeing areas and hole locations on the Course and will determine the width and contour of fairways and the extent and height of the cut of "rough" areas.

The parties acknowledge that City will be solely financially responsible for any major capital improvements made in connection with the Course or any portion of the Course premises with the exception of major capital improvements specifically requested by PTC directly attributable to the Course requirements for the PGA Championship. Any such improvement requested by the PTC shall be subject to the agreement and consent of the City, and the financial obligations of each Party with respect to any such improvements requested by the PTC will be agreed to in writing between the Parties. City and PTC shall consult with each other on all matters related to the maintenance, conditioning and/or reconditioning of the Course, and City shall carry out the commercially reasonable requests of PTC in that regard. City acknowledges that such request may include limiting guest play and/or cart usage subsequent to three (3) weeks prior to the start of PGA Championship Week to ready the Course to PGA Championship condition as reasonably determined by PTC. If conditions are not up to PGA Championship standards prior to the event, as reasonably determined by PTC, in its sole discretion, then PTC will have the right to request the Course be closed from up to two (2) full weeks prior to the PGA Championship Week and the City will agree to such request.

City shall be responsible for the services of the personnel, the material and the equipment required hereunder at its sole cost. City acknowledges PTC will have total control and discretion over the Course set-up, length and conditioning during PGA Championship Week inclusive of, but not limited, to green speed, mowing heights and watering.

PTC acknowledges that the Department operates under strict budgetary constraints and processes, and the Department's annual budget is subject to the City's annual approval and appropriation process, including the approval by the City's Board of Supervisors in its sole discretion.

(v) At no cost to PTC, other than the cost of any food and beverage requested by PTC, City shall from time to time at PTC's written request provide suitable meeting room space to PTC to hold business meetings in relation to the PGA Championship, which space, where possible and as often as possible, shall be at the Course Property. PTC shall schedule such meetings sufficiently in advance to

minimize inconvenience to City and the Course. Food and beverage costs shall be charged at the same rate as charged to public guests including any gratuity charged in such rates.

(vi) City shall provide a locked and secured club storage area at the Course for all contestants during PGA Championship Week.

(vii) City shall provide all necessary golf cars from City's fleet as are required by PTC in order to organize and administer the PGA Championship as reasonably determined by PTC. Any necessary golf cars required in addition to City's fleet shall be provided by PTC at PTC's own expense. Maintenance and repair to City's golf car fleet during the period of its use by PTC shall continue to be the responsibility of City, however, PTC agrees to cover damage costs to golf cars excluding ordinary wear and tear which may occur during the PGA Championship.

(viii) City agrees to provide, if available, suitable and secure office facilities for the exclusive use of the tournament and merchandising staff members (also employed individually by PTC) and any visiting staff commencing two (2) years prior to the 2020 PGA Championship. If an existing Course building is provided for such purpose, no "rent" will be charged to PTC for such space. If temporary structures are required, the parties will discuss mutually agreeable options and locations for such office space. PTC's use of any such office space shall be subject to such terms and conditions as City may reasonably impose, and PTC's waivers, indemnification of City, and insurance requirements shall apply during the term of any such use or occupancy.

(ix) City shall provide a practice range, at the Course, to PTC during PGA Championship Week. City shall also provide the requisite practice range personnel and machinery. Suspension of play from the designated portion of the PGA Championship practice tee shall be from six weeks prior to the commencement of the PGA Championship.

(x) City agrees to allow the setup and dismantling of necessary facilities at the Course and Course Property, including but not limited to tents, bleachers, TV towers, trailers, etc. and other facilities necessary in connection with the PGA Championship commencing at least twelve (12) weeks prior to PGA Championship Week and nine (9) weeks thereafter (PTC will make reasonable efforts to have the dismantle complete twenty-eight days after the PGA Championship). PTC agrees to use best efforts to schedule such setup and dismantling in a way that minimizes inconvenience and disruption of the Course's normal activities. All affected areas will be restored to pre-tournament condition, reasonable wear and tear excepted, and carryoffs accomplished as soon as possible following completion of the PGA Championship.

(xi) City agrees that Department staff shall use reasonable efforts to cooperate in all respects regarding the obtaining of (and/or use of Course's existing) appropriate licenses and permits necessary for the PGA Championship and the food and beverage services contemplated herein, subject to the provisions of Section 2.02(C) above. PTC acknowledges that City does not hold an alcoholic beverage license.

(xii) City acknowledges and agrees that Association's and/or Association's subsidiaries' licensees and/or Official products will be provided and/or served/used in all hospitality areas, official functions, on-course concession stands, and all Championship related areas on and exclusive basis per the applicable product/service category. PTC shall cause Association and/or Association's subsidiaries to provide the City with a listing of its licensee and official products.

(xiii) City agrees to provide the Course and facilities (A) for up to five (5) days, during the year prior to the Championship, for use by PTC at no charge and no green fees or cart fees during the Term, such uses may include, but shall not be limited to, individual corporate hospitality purchasers for group play and for advertising purchasers group play, media days to accommodate press conferences for the PGA Championship on dates to be mutually agreed; and (B) for the Monday following the PGA Championship for a Media/sponsor golf outing, providing the Championship itself has not been extended to this Monday due to weather or other delay at no charge and no green fees or cart fees during the Term. In addition, City agrees to provide PTC and its sales committee access during the Term for corporate sales/clients to play the golf course at no charge and no green fees or cart fees during the Term for up to fifty (50) foursomes during the Term. Any such tee times to be agreed to by City so as not to interfere with member outings, busy playing times or other corporate outings that the Course may host.

(xiv) City agrees to manage and operate the Clubhouse operations for PGA Championship Week at no cost to PGA other than for food and beverage (and food and beverage set-up) in the Clubhouse. City agrees that such food and beverage (and set-up) costs shall be charged as customarily charged to the public including any gratuity charges in such rates. All revenues derived from such food and beverage operation, in the Clubhouse, during PGA Championship Week shall belong to the City, and all expenses incurred in such operation during PGA Championship Week will be paid for by the City. City acknowledges that PTC shall have the right to review the prices charged to PGA hospitality, players, player families and guests and clubhouse ticketed guests for food, beverage and all other set-up charges/related items in connection with PGA Championship related functions to ensure such prices are commensurate with prevailing and customary local rates.

(xv) In a manner mutually agreed to by City and PTC, City shall arrange for no advertising or displays of any kind for commercial purposes in the Clubhouse, on the Course or the grounds of the Course Property or Adjacent Permitted Properties during PGA Championship Week, and no items shall be distributed or offered to the players on the course during such period without prior written approval of PTC. (City agrees to accomplish this on or a before a mutually agreeable date prior to the start of PGA Championship Week.) Additionally, during PGA Championship Week City shall not allow or permit any commercial announcement or other mention by any agent of or party under the control of City of any advertiser or supplier, or the products or services of any advertiser or supplier without the express prior written consent of PTC. PTC will not permit any advertising or displays of any kind for commercial purposes in the Clubhouse, and any advertising on the grounds permitted by the PTC shall be consistent, in extent and scope, with advertising on the grounds at the 2019 PGA Championship. This paragraph shall not be construed to eliminate the use of corporate logos to identify the corporate tents on the grounds. Notwithstanding the above, PTC acknowledges that City has installed donor recognition signage at the Course for sponsors who have contributed to course renovations including the Clubhouse renovation. Such signage shall be permitted to remain on site, but may be covered, at PTC's expense, if PTC elects to cover such recognition signage. In the event that City solicits additional sponsors for course improvements, any donor recognition signage shall likewise be permitted to remain on site during the event, but may be covered, at PTC's expense, if PTC elects to cover such recognition signage.

(xvi) City agrees to allow PTC and a PGA Championship television broadcaster to purchase a hospitality tent each at "cost" for use during the PGA Championship by PTC and the applicable

broadcast companies and their guests. Such purchase will not be included in the gross revenue calculation.

(xvii) City agrees to use diligent good-faith efforts to assist PTC in developing a plan to reduce the expense to PTC for operating the Championship, including, but not limited to, assisting in obtaining the best available prices for each of (1) traffic and law enforcement support, (2) EMS, (3) acquisition of licenses and permits as well as (3) health and safety cooperation, subject to the provisions of Section 2.02(C) above.

(xviii) Department staff shall use good faith efforts to inform PTC promptly of any issues or problems relating to labor unions that may have an impact on the Course or the 2020 PGA Championship promptly after the Department becomes aware of such issue or problem, and shall use reasonable efforts to provide for PTC representatives to be included in meetings with labor union representatives related to or having a material impact on the PGA Championship, where appropriate.

(xix) City agrees not to host any other Professional Golf Tour spectator event in the two years prior to or the year of the 2020 PGA Championship (i.e. 2018, 2019 and 2020).

(xx) Provide access to the Course Property to authorized vendors providing services to PTC for the PGA Championship at such times, for such periods, and in such manner as may be reasonably requested by PTC. PTC will determine the locations of all staging compounds for the vendors. City agrees to provide the PTC determined areas in a clean, debris free state at such times as needed by PTC. In the event that union activities make it necessary for vendors to remain on the Course Property for the entire period, or part of the period of time required to fulfill their obligations to PTC, City shall allow such vendors to remain on the Course Property as needed and shall assist PTC in providing amenities to the vendors, provided that City shall not be obligated to incur any costs in providing such assistance.

(xxi) Provided space is available, provide an area or areas in the clubhouse, if reasonably available, or such other locations as mutually agreed upon by PTC and City, beginning in April, 2020, through the conclusion of the PGA Championship, for Association-conducted training sessions and volunteer uniform distribution, provided however that City shall not be required to pay any cost or incur any expense in connection with procuring any space or facility located off of Course grounds;

(xxii) City agrees to provide Championship contestants with access to the Course and facilities for practice rounds starting no later than one (1) month prior to the Championship Week. Such access shall be at no charge and no green fees or cart fees during the Term.

(xxii) City agrees to support, as mutually determined by the parties, the PGA REACH community relations initiative (Recreation, Education, Awareness, Community and Health) in a manner that will help leave a legacy within the City's community/city/state from programs developed and/or promoted through the PGA Championship.

The Department will support and spend reasonable time to assist the Association and the Northern California PGA Section in finalizing the PGA outreach initiatives in connection with the 2020 PGA Championship (the "Outreach Program"). The final Outreach Program will be focused on accomplishing the overall goal of "Improving Lives Through Golf," and specific goals relating to family wellness, education, and golf related economic development.

Any and all associated costs are the responsibility of the Outreach Program, and will be handled as a separate program distinct from the Championship.

3.02 **Limitation on City's Obligation Regarding Access to Course Property.** Notwithstanding anything to the contrary in this Agreement, City shall not be obligated to provide the following areas for PTC's use: The maintenance building on the Course Property, certain offices within the Clubhouse used by Manager or any successor manager and offices and storage areas within the Clubhouse leased to First Tee or any other third party, as generally shown on the diagram attached hereto as Attachment 2, or areas within the Lake Merced Boathouse designated for the exclusive use of any third party. City shall use reasonable good faith efforts to cause Manager or any other third party with rights to occupy or use portions of the Course Property to exercise those rights in a manner that does not interfere with PTC's conduct of the 2020 PGA Championship.

3.03 **PTC Restoration Obligations; Arbitration of Disputes Regarding Restoration; City Right to Make Repairs.** PTC will pay for the restoration costs to the golf course and facilities and any Adjacent Permitted Property, normal wear and tear excepted. Following the conclusion of the 2020 PGA Championship, the Parties agree to promptly review the conditions of the Course and related facilities to mutually agree upon the areas that PTC shall reasonably restore and to mutually agree upon the manner in which PTC (or a PTC determined third party) shall perform such restoration.

If the Parties, after meeting and conferring for a period of ten (10) days following the conclusion of the 2020 PGA Championship (or such longer period as may be agreed to by the Parties) (the "Consultation Period"), are unable to agree on the areas that require restoration or on the manner in which such restoration shall be performed either City or PTC can initiate arbitration within sixty (60) days following the meet and confer period.

To initiate arbitration under this provision, the party requesting such arbitration shall submit the matter to a single qualified arbitrator at Judicial Arbitration and Mediation Services, Inc. ("JAMS") in the San Francisco area in accordance with the applicable rules of JAMS, and simultaneously send a copy of such submission to the other party (the "Arbitration Notice"). The Arbitration Notice must include a summary of the dispute and the reasons why the requesting party is not willing to agree to the last proposal of the other party. The Parties will cooperate with JAMS and with one another in selecting an arbitrator with appropriate expertise in the matter from a JAMS panel of neutrals, and in scheduling the arbitration proceedings as quickly as feasible. If the Parties are not able to agree upon the arbitrator, then each will select one arbitrator, and the two selected arbitrators shall select a third arbitrator. The third arbitrator selected shall resolve such dispute in accordance with the laws of the State of California pursuant to the JAMS Streamlined Arbitration Rules and Procedures.

The Parties shall bear their own fees and costs during the arbitration proceedings provided that fees may be awarded to the prevailing party if the arbitrator finds that the request was frivolous or that the arbitration action was otherwise instituted or litigated in bad faith. Each Party shall initially bear one-half of the costs assessed by JAMS, provided the losing party in arbitration shall pay the arbitrator's fees and related costs of arbitration. The Parties shall use good faith efforts to conclude the arbitration within thirty (30) days after selection of the arbitrator, and the arbitrator shall be requested to render a written decision consistent with, based upon, and subject to, the requirements of this Agreement within ten (10) days after the final submission by the Parties to the arbitrator. Judgment upon the arbiter's decision may be entered in any court of competent jurisdiction.

If City reasonably believes that PTC has failed to perform any of its obligations under this Agreement to restore the Course Property and Adjacent Permitted Properties, if applicable, or repair damage, then without waiting

for the conclusion of any arbitration proceedings, City may, at City's sole election, remedy such failure for PTC's account and at PTC's expense (except to the extent that it is ultimately determined that PTC is not responsible for such restoration or damage) by providing PTC with three (3) days' prior written notice of City's intention to cure such default given at any time after the expiration of the Consultation Period described above (except that in the event of an emergency, as determined by City, City may cure such default prior to the expiration of the Consultation Period and no such prior notice shall be required). Such action by City shall not be construed as a waiver of any rights or remedies of City under this Agreement, and nothing herein shall imply any duty of City to do any act that PTC is obligated to perform. Except to the extent that it is ultimately determined that PTC is not responsible for such restoration or damage PTC shall pay to City upon demand, all costs, damages, expenses or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such default. PTC obligations under this Section shall survive the termination of this Agreement.

#### ARTICLE IV FINANCIAL CONSIDERATIONS

4.01 **Site Fee.** PTC shall pay City a site fee (the "Site Fee") equal to the greater of (i) \$2 million (the "Base Site Fee"), or (ii) nine percent (9 %) of all Gross Revenues as herein defined. City shall have no responsibility for the event's profit or loss. The Site Fee shall be payable as follows. PTC shall pre-pay to City a portion of the Site Fee in the amount of \$200,000 per year in each of January 2017, January 2018 and January 2019 (the "Advance Payments"), which Advance Payments shall be used to cover additional maintenance costs necessary to maintain and improve the overall conditioning of the Course Property for the 2020 PGA Championship. At PTC's request, City shall provide PTC with reasonable evidence that such Advance Payments will be used for such purpose or to reimburse City for costs incurred for such purpose. The total amount of Advance Payments made shall be credited against the total Site Fee provided for herein. Within sixty (60) days after the conclusion of PGA Championship Week (the "Site Fee Due Date") PTC shall pay City the remaining unpaid balance of the Site Fee. If for any reason PGA has not prepared the Final Gross Revenue Statement (as defined in Section 4.04 below) by the Site Fee Due Date, then on the Site Fee Due Date PTC shall pay City an amount equal to (A) the Base Site Fee less (B) the total amount of Advance Payments made hereunder, and as soon as the Final Gross Revenue Statement is available PTC shall pay City the difference, if any, between nine percent (9%) of Gross Revenue and the Base Fee previously paid by PTC.

4.02 **Revenue Budget.** Approximately eighteen (18) months prior to the commencement of the PGA Championship, PTC shall develop the PGA Championship Revenue budget and business plan ("Revenue Budget"). In developing the Revenue Budget, PTC agrees to endeavor to produce the highest quality event and maximize Gross Revenues provided that such endeavor does not sacrifice the PTC's principles in conducting major golf championships.

4.03 **Accounting, Financial Statements, Cash Receipts and Disbursements.** All Gross Revenues shall be deposited in bank accounts controlled by PTC. All operating expenses (which shall not include any expenses to be incurred or paid by City pursuant to this Agreement) will be paid out of a consolidated checking account controlled by an affiliate of PTC. City shall not be required to provide funds for any expense related to the PGA Championship other than those outlined in this Agreement (i.e. for the care and maintenance of the golf course as stated in 3.01 (iv) above and the operating of the Clubhouse and other Course facilities as stated in Section 3.01(xiv)). PTC will prepare and maintain financial records and statements of all Gross Revenues, in accordance with generally accepted accounting principles and practices and the terms of this Agreement.



4.04 **Sales Reports; Audits.** Starting in January, 2019 PTC shall provide to City monthly reports of all Gross Revenues within thirty (30) days after the close of each month. Within ninety (90) days after the conclusion of the PGA Championship, PTC shall prepare and deliver to City a statement certified as correct by a senior representative of PTC and otherwise in a form mutually agreed to by City and PTC, showing the total Gross Revenues, as required to determine the amount of the Site Fee (the "Final Gross Revenue Statement"). PTC agrees to make its books and records available to City, or to any City auditor, or to any auditor or representative designated by City, for the purpose of examining such books and records to determine the accuracy of PTC's statement(s) of Gross Revenues. Such books and records shall be kept for four (4) years and shall be made available in San Francisco to City's representative for the purpose of auditing or re-auditing these accounts; except that, if an audit is made within such four-year period and City claims that errors or omissions have occurred, the books and records shall be retained and made available until those matters are resolved. If an audit reveals that PTC has understated the Gross Revenues and as a result thereof has underpaid the Site Fee, PTC shall pay City, promptly upon demand, the difference between the amount PTC paid as a Site Fee and the amount it should have paid to City. City shall bear the cost of such audit unless PTC understates the Gross Revenues by three percent (3%) or more, in which event the cost of the audit shall be borne by PTC.

4.05 **Commercial Revenues.** Except as expressly provided in this Agreement, City shall not knowingly, directly or indirectly, exploit, or authorize the exploitation for commercial purposes by third-parties, of the PGA Championship, persons competing in the PGA Championship, or the Course Property, as it relates to the PGA Championship, or any elements, names, events or incidents of or connected to the PGA Championship except in accordance with prior written approval from PTC. The term "exploit" and "exploitation" as used in this Section shall include, but not be limited to, any activity or other matter which produces, directly or indirectly, or is intended to produce revenue or any other consideration or advantage in any form. Notwithstanding the foregoing restrictions, and so long as PTC's Marks are not used without the express permission of PTC, City shall be entitled to promote the Course, Course Facilities and Clubhouse for historical, commemorative and educational purposes.

City shall not knowingly directly or indirectly authorize, without prior written authorization of PTC, manufacturers, distributors, suppliers or any other person or entity; the privilege of having their products sold or their names, trademarks, logos and/or any other identifying mark, name or slogan seen or heard during the PGA Championship, including but not limited to, by those people attending the PGA Championship and those people viewing, or listening to any broadcast of, the PGA Championship.

4.06 **Interest.** If any sum is not paid by PTC on (i) the due date, if City provides an invoice or reminder of the required payment no earlier than sixty (60) days prior to such due date, or (ii) within five (5) days of written notice from City that such sum was not paid when due, if City did not provide the notice described in the foregoing item (i), such unpaid amount shall bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate an individual is permitted to charge under Law.

4.07. **Charitable Contribution to Local Charity.** In order to support local San Francisco charities, PTC shall review its annual contribution to the First Tee program and adjust such contribution in 2020 to direct a portion of such contribution towards the local First Tee Chapter of Harding Park instead of to the National body. If no such donation is made by PTC in 2020, PTC will look for ways (financial or otherwise) to support the local First Tee chapter at Harding Park in and around the 2020 PGA Championship.

**ARTICLE V**  
**MERCHANDISE LICENSE**  
**AND**  
**DEFINITION OF TELEVISION, INTERNET, CD ROM AND RADIO RIGHTS**

5.01 **License for Merchandise Activities.** In accordance with PTC's ownership of the PGA Championship Logo and the Trademarks, and subject to the terms of this Agreement, PTC shall have the exclusive right to permit the sale and display of articles of apparel and other merchandise bearing any: (a) name or logo of PTC and/or the PGA Championship; and/or (b) elements, names, events or incidents of the PGA Championship, as well as the non-exclusive right to use the Course's, as applicable, name, logo and facilities, including but not necessarily limited to, images thereof, and the Course design. PTC may assign such commercial rights and any obligations related thereto to any individual or entity, provided that PTC shall use its best efforts to ensure that such individual or entity maintains the highest standards of ethics, quality and responsibility with respect to the use of such rights, as exemplified by the standards utilized by PTC in connection with the licensing of its own trademarks and servicemarks and/or commercial rights. City agrees to cooperate with all such individuals and/or entities for the purpose of ensuring the success of the PGA Championship.

Commencing January 1, 2018 and expiring on December 31, 2020, PTC grants City and Manager the non-exclusive right and license to use the Trademarks solely in connection with (i) the advertisement and promotion of the PGA Championship; and (ii) the sale of PGA Championship related merchandise identified with the PGA Championship Logo, provided that such sales are made and delivered upon the premises of Course. All such merchandise must be sourced from Association affiliates or vendors previously approved by Association in writing. City agrees that no PGA Championship Logo merchandise shall be redistributed, transhipped or sold off of the course's premises during or subsequent to the Term. All uses of the Trademarks must receive the prior written approval of PTC. All uses of the Trademarks shall conform to Association's quality control standards. City acknowledges that Association reserves the right to modify the Trademark. PGA Championship-related merchandise guidelines are set forth below. City is not permitted to conduct internet sales of the 2020 PGA Championship Merchandise or any Dual Logo Merchandise sales.

(A) **National Merchandising.** City acknowledges that PTC will own individually and control and manage all aspects of the licensing and marketing of PGA Championship related merchandise outside of the Course's premises. Such merchandise will be sold nationally through retail locations, and the PTC will assume all financial risk individually and retain all profits individually.

(B) **Course Property Merchandising Except During the PGA Championship Merchandise Sales Period.** City will own individually and control all aspects of the purchasing, marketing and sale of PGA Championship Merchandise on the Course Property at all times City is licensed by PTC to sell PGA Championship Merchandise except during the PGA Championship Merchandise Sales Period. City is not permitted to sell Dual Logo Merchandise to any party. All Dual Logo Merchandise sales must be directed to the PGA Championship merchandise sales staff. PGA Championship Merchandise may be sold, and delivery must be taken, only on the Course Property. At City's request, PTC will consult with and advise City on product selection, purchasing and marketing. City shall assume all financial risk individually. City and PTC agree that City shall retain all profits individually associated with the purchase and sale of PGA Championship Merchandise as outlined in this subparagraph (B) of Section 5.01, provided City will pay PTC a ten percent (10%) royalty on all sales of PGA Championship Merchandise sold by City in accordance with this subparagraph (B) of Section 5.01. City also agrees to cause PGA Championship Merchandise vendors to execute a Goods Production

and Distribution Conditions Agreement in the form set forth in Exhibit C if such vendor is not already contractually licensed by PTC.

(C) Merchandising During the PGA Championship Merchandise Sales Period. PTC will manage all aspects of the purchasing, marketing and sale of PGA Championship related merchandise on Course's premises during the PGA Championship Merchandise Sales Period. All expenses incurred in the purchase, marketing and sale of merchandise actually sold on Course's premises during such period shall be at PTC's expense. Revenues derived from such on site sales and net profits derived from any such sales in the Regional Territory, shall be retained by PTC and are not to be included in the Gross Revenue calculation as set forth in the Gross Revenues definition Section 1.01. City may not sell any merchandise during the PGA Championship Merchandise Sales Period, either on site or elsewhere, including any sales of Course or Championship logo items. City acknowledges that PTC shall have final decision-making responsibility for excess inventory distribution and all revenues and expenses associated with the purchase and sale of excess inventory shall belong to PTC individually.

(D) Regional Territory Merchandising. PTC may, at PTC's discretion, conduct a merchandising program within the Regional Territory (or similar program) controlled and managed by PTC. PTC may plan to sell PGA Championship Logo Merchandise in the Regional Territory prior to, during, and after the PGA Championship Week ("Regional Territory Merchandising"). PTC will assume all financial obligations of all such Regional Territory Merchandising sales programs. Any net profit derived from such Regional Territory Merchandising sales programs shall be retained solely by PTC and are not be included in the Gross Revenue calculation.

(E) Reservation of Rights for Corporate Hospitality Merchandise Purchases. The parties agree that PTC shall have the exclusive right to contact corporate hospitality purchasers for PGA Championship and Dual Logo Merchandise sales. Revenues derived from such sales shall be retained solely by PTC and are not to be included in the Gross Revenue calculation as set forth in the Gross Revenues definition Section 1.01. City acknowledges that, except as otherwise provided herein, PTC shall have all other rights to sell merchandise identified with the PGA Championship Logo, including the national and/or international sale and distribution of such merchandise outside of the Course Property and that all such additional sales will not be included in the Gross Revenue definition of Section 1.01.

(F) Acknowledgment. City agrees that it is not acquiring any interests or rights in the Trademarks apart from the rights set forth in this Agreement. City agrees that it shall take no action which could diminish Association's interest in the Trademarks including the registration or attempted registration thereof anywhere in the world. City further agrees not to place any name, logo or any other form of printed identification on PGA Championship Logo Merchandise. Any such proposed usage of the Course's logo in conjunction with the PGA Championship logo must be submitted by City to PTC and approved by PTC prior to such use.

(G) Reservation of Rights. City acknowledges that Association owns all right, title and interest in and to the Trademarks in any form or embodiment thereof and also owns the goodwill associated with the Trademarks. All Trademark rights due to the use of the Trademarks by City shall inure to the benefit of the Association. City agrees not to do or suffer to be done any act or thing that will in any way adversely affect any rights of Association in and to the Trademarks or any registration thereof, or that directly or indirectly will reduce the value of the Trademarks or detract from their reputation. City shall cause to appear on all advertising and promotional material and all other uses of the Trademarks

such legends, markings and notices as may reasonably be necessary in order to give appropriate notice of any copyright, trademark, trade name or other rights therein or pertaining thereto. City will not, during the Term hereof, challenge the ownership by Association of, or the validity of, any trademark, application for trademark registration or any other rights of Association herein, regarding the Trademarks set forth in Exhibit A anywhere in the world.

5.02 **Course License and Likeness Rights.** City hereby grants PTC the non-exclusive royalty free right and license to use the words “TPC Harding Park” (to the extent City has the right to so grant such right and license) or “Harding Park Golf Course” solely in connection with the PGA Championship Logo during the Term. Course also grants to PTC, the non-exclusive right during the Term to use and, upon prior written notice to City and approval by City to permit others designated by PTC to use the Course Likeness solely (a) for the purpose of advertising, publicizing and promoting the PGA Championship in print media, television and radio broadcasts, motion pictures and video recordings, or (b) in connection with the sale of merchandise that includes the PGA Championship Logo, such merchandise to include but not be limited to posters, paintings, prints, etc. To the extent the consent of Manger or others is required for use of the words “TPC Harding Park, PTC shall be solely responsible for obtaining such consents.

A. **Reservation of Rights.** PTC acknowledges that City owns all right, title and interest in and to the Course Marks in any form or embodiment thereof and also owns the goodwill associated with the Course Marks. All Course Mark rights due to the use of the Course Marks by PTC shall inure to the benefit of City. PTC agrees not to do or suffer to be done any act or thing that will in any way adversely affect any rights of City and to the Course Marks or any registration thereof, or that directly or indirectly will reduce the value of the Course Marks or detract from their reputation. PTC shall cause to appear on all advertising and promotional material and all other uses of the Course Marks such legends, markings and notices as may reasonably be necessary in order to give appropriate notice of any copyright, trademark, trade name or other rights therein or pertaining thereto. PTC will not, during the Term hereof, challenge the ownership by City of, or the validity of, any trademark, application for trademark registration or any other rights of City therein, regarding the Course Marks anywhere in the world. PTC acknowledges that City reserves the right to modify the Course Marks, provided that City agrees, if such modification occurs after PTC has established the logo for the 2020 PGA Championship, PTC will not be required to make any applicable adjustments to the 2020 PGA Championship Logo that would be applicable due to the City’s modification to the Course Marks. City shall give PTC reasonable prior notice of any change in the Course Marks.

5.03 **Television, Internet, CD ROM and Radio Rights and non-television media platforms whether now in existence or hereafter created.** All rights for television, internet, CD-ROM, radio (including both terrestrial radio broadcasts and satellite radio broadcasts) and any other non-television or other media platforms, throughout the world, whether now in existence or hereafter created, including but not limited to broadcasting, telecasting, rebroadcasting, re-telecasting, production and exhibition in any form or manner, of motion pictures, video recordings, any electronic transmissions, inclusive of, but not limited to, computer network transmissions, cellular phone or internet transmissions, satellite transmissions, and all other ancillary rights in the PGA Championship and practice covered by this License Agreement, including any such rights of each player which have been assigned by the players to the Association, are the property of and are expressly reserved by and to the Association. All expenses related to television, internet, CD-ROM, radio, non-television media platforms, and all other rights set forth in this paragraph, including without limitation the cost of constructing or providing all facilities and equipment used by or for the production of such broadcasts, telecasts, internet transmissions, and exhibits shall be borne solely by PTC and/or the Association.

Association shall have sole and exclusive authority to exploit such rights, anywhere on Course Property and Adjacent Permitted Properties, if applicable, or in any Course building or facility, in any manner it desires, including by granting the rights to third parties, grant the rights and receive all income from such rights, inclusive of, but not limited to, telecasting, internet transmissions, radio broadcasting and motion picture filming and video recording of the PGA Championship for the period beginning on the first day designated for practice and ending with the conclusion of the PGA Championship, including any play-off or postponement. It shall be the duty and responsibility of the Association to issue credentials (at no charge) to the representatives of the media above, which credentials shall set forth their rights and privileges.

During this period, City will not allow any equipment of any broadcasting or radio company, professional photographer, video or film maker, any "new" media producer or other person or entity seeking to commercially exploit the PGA Championship anywhere on the grounds of Course Property or adjacent property under the jurisdiction of the Commission or in any facility or structure located on the Course Property or Adjacent Permitted Properties, except with the express prior written consent of PTC, unless otherwise required by law. City will not interfere, or permit others to interfere, with the exclusive broadcasting, telecasting, webcasting, motion picture or video production or other media or commercial privileges granted to the Company (defined as the party or parties selected by PTC and/or Association to exploit the 2020 PGA Championship as provided for herein). Such Company shall be permitted to locate cables and equipment for power transmission in and about the grounds of the Course Property and, if applicable, the Adjacent Permitted Properties, erect temporary facilities, and make such other provisions as may be necessary to provide for radio, television and Internet broadcasting and production of videos and motion pictures or any other form of reproduction, representation or commercial exploitation of the PGA Championship, except that City shall approve in advance the location or installation of any such facilities or any related activity that both deviates from the operating plan and may negatively impact the environment or affect public health, safety or welfare.

PTC shall cause Association to repair or cause the broadcasting network to repair any damage to the Course Property and Adjacent Permitted Properties occasioned by televising the PGA Championship. It is agreed that no modification, change, or alteration to the Course's Property or any portion thereof shall be made by PTC, the Association, any agent of PTC or the Association, or any person granted telecasting, internet, broadcasting, filming, or recording rights, including without limitation any alteration of any building or any cutting of any trees or limbs, without prior consent of the City which will not be unreasonably withheld.

Association shall have the right, in conjunction with the television network, to impose a blackout of the live telecast of the PGA Championship within a seventy-five (75) mile radius of the site of the PGA Championship.

City authorizes PTC/Association and/or its affiliates to use, and grant the right to use to others, the Course Marks in any broadcast, telecast, internet transmission, film or videotape of the PGA Championship and waives any right to compensation or consideration in connection with said activities.

With respect to the Internet:

A. City and PTC acknowledge and agree that PTC shall have the sole and exclusive right to develop a site or other preserve on the Internet for the purpose of promoting and commemorating the PGA Championship (the "PGA Championship Website"). Such PGA Championship Website shall be the "official" website of the PGA Championship and PTC shall promote it as such. PTC shall develop the PGA Championship

Website and make all decisions relating thereto, in its sole discretion. In the event the PGA Championship Website generates revenues, all such revenues shall belong exclusively to PTC.

B. In connection with such PGA Championship Website, City agrees to provide PTC, at its request, with information, pictures, video etc. about the Course and the Course Property, including but not limited to, a hole by hole description of the Course, photographs or images of each hole, including computer generated images, images of the Course and information regarding the Course and its history, to the extent City has such information, photographs and/or images, video, etc. available. To the extent necessary, City will give PTC and/or any third party assisting PTC, access to the Course and its materials for the purpose of selecting which Course materials, if any, are suitable for the PGA Championship Website. In addition, City agrees to give PTC and any third party requested by PTC who is assisting PTC with the PGA Championship Website and/or obtaining content for the PGA Championship Website, access to the Course's grounds for the purpose of taking photographs, video etc. to be used on the PGA Championship Website. Such access shall be provided free of charge and all materials resulting therefrom shall be the exclusive property of PTC or the relevant third party, provided that if the third party is to retain rights in the work product generated, PTC and City shall discuss what limitations, if any, shall be placed on the exploitation of such rights by the relevant third party. PTC shall give City reasonable notice of any time it requires access to Course grounds for the reasons described herein and City and PTC shall mutually agree on a convenient time for such access.

C. City shall have the right to promote the PGA Championship on an existing website devoted to the Course and on the City's own website (for purposes hereof referred to as "Course and City websites"). In the event the Course does not currently maintain a website, but elects to do so for the purpose of promoting the Course in the future, City may promote the PGA Championship on such site. Under no circumstances, however, may any such website contain a mark of PTC in its domain name. In the event City has currently registered or is considered the owner of any domain name that includes marks of PTC, variations of Association marks or marks which are confusingly similar to Association marks, City shall take all necessary action to assign such domain names to PTC and shall stop any and all uses of such domain names as of the date of this Agreement.

D. With respect to content on any Course or City site promoting the PGA Championship, such content shall be focused on information regarding the fact of the PGA Championship being conducted at the Course, as well as information pertinent to activities relating to the PGA Championship that City is carrying out in connection with this Agreement. City acknowledges and agrees that in no event may any PGA Championship related merchandise be shown or sold through its website (including the Course or City site), such right belonging exclusively to PTC.

E. In the event City elects to include information about the PGA Championship on the Course and/or City website, City shall put together a proposal outlining the relevant content to be included, for approval by PTC. Once any such proposal is approved, City shall develop the relevant webpages and submit each proposed page to PTC for approval. City shall make all changes to the webpages requested by PTC and shall not put any page or material relating to the PGA Championship up on the Internet without the approval of PTC. Should City desire to make changes to the PGA Championship related content after it has been approved, or add additional PGA Championship related content to the City or Course websites, it shall submit all such changes to PTC for approval prior to inclusion of such changes on the website.

F. In the event that the PGA Championship Website and a City and/or Course website are up and running at the same time, each website shall contain a link to the other to permit users to have ease of access to both websites. PTC and City shall mutually agree upon the design and location of such links.

**ARTICLE VI  
TERMINATION PROVISIONS**

6.01 **Termination of Agreement.** This Agreement shall remain in effect during the Term unless terminated at an earlier time for any one of the following reasons:

(A) The sale, exchange, distribution or other disposition of all or substantially all of the Course's assets;

(B) City fails to meet the following material conditions as determined by PTC, in its sole discretion. PTC must provide the City Notice of any such breach. If such breach occurs before March 1, 2019, the City will have the right to cure any such deficiency within ninety (90) days from its receipt of Notice of such breach. If such breach occurs on or after March 1, 2019, the City will have the right to cure any such deficiency within ten (10) days from its receipt of Notice of such breach:

(i) A properly conditioned and maintained Course, at Course's premises;

(ii) Adequate Clubhouse facilities, including dining and locker room facilities as they existed upon execution of this Agreement (subject to normal wear and tear and improvements);

(iii) An Association member as the Resident Golf Professional; and

(iv) Compliance with Association's policy that City has demonstrably open Course access policies and practices prohibiting discrimination on the basis of race, creed, color, national origin or gender.

(C) The Bankruptcy of either party;

(D) At any time during the Term, in the event City does not maintain the controlling interest of the golf course and Clubhouse facilities at Course, PTC shall have the right to terminate this Agreement upon Notice to City. City agrees to provide PTC notice of any substantial change in the controlling interest of the golf course and facilities. City represents that it controls the golf course and Clubhouse facilities at the Course and that it shall not sell or otherwise transfer control of the Course during the Term of this Agreement without PTC's consent. Notwithstanding the foregoing, City may at its sole option amend the Management Agreement, enter into a new management agreement for the Course, extend the First Tee Lease or enter into a new lease with First Tee or others for portions of the Clubhouse and for use of a driving range on the Course, and enter into a lease or management agreement for all or portions of the Lake Merced Boathouse, provided that any such amendment or new agreement shall require City and the applicable third party to comply with the applicable elements of this Agreement, including, but not limited to, any rights PTC may have to the applicable space and provided that City shall require the contracting party to reasonably cooperate with PTC regarding PTC's use of the applicable space and facilities pursuant to this Agreement. If City enters into a new

management agreement with a third party other than Manager during the term of this Agreement, City shall provide PTC with written notice of such management agreement and the name and qualifications of such new manager. If PTC's reasonably believes such new manager is not qualified to perform the functions required for City to perform its obligations under this Agreement, or is not properly performing such functions, then PTC may provide City with written notice of PTC's concerns regarding the manager's qualifications or performance. The General Manager shall promptly review and consider in good faith the concerns expressed by PTC, and City shall confer with TPC to determine if City and PTC, working in good faith, can identify mutually acceptable measures for City to implement to provide PTC with satisfactory assurance that City's obligations under this Agreement will be met.

(E) If the PGA Championship cannot be held at Course's premises due to an impossibility or impracticability of performance consistent with the provisions set forth in Section 8.16, City shall have the option to terminate this Agreement upon written notice to PTC which must be postmarked no later than fifteen (15) days after City's discovery of the event if the event occurs prior to January 1, 2020, or five (5) days after the City's discovery of the event if the event occurs on or subsequent to January 1, 2020, which will invoke Section 8.16.

6.02 **Opportunity to Cure.** Except as provided in Section 6.01(B), the party claiming a breach of the Agreement must provide written Notice specifically stating the nature of the breach and demanding its cure. The breaching party shall be granted thirty (30) business days from its receipt of such Notice to cure the breach to the satisfaction of the nonbreaching party.

## ARTICLE VII INSURANCE PROVISIONS

### 7.01 **Insurance.**

(a) **Required Types and Amounts of Insurance.** Without in any way limiting PTC's liability pursuant to the provisions of Section 2.03 of this Agreement, PTC must maintain in force, during the full term of this Agreement, insurance in the following amounts and coverages:

(i) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(ii) Commercial General Liability Insurance with limits not less than \$5,000,000 each occurrence and \$10,000,000 general aggregate for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(iii) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(iv) The above limits may be satisfied by a combination of primary commercial/general liability coverage and umbrella/excess liability coverage.

(b) **General Requirements.** Commercial General Liability and Commercial Automobile Liability Insurance policies, including the policies described in Section 7.01(d) below, must be endorsed to provide:



(i) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(ii) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

All policies shall be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages.

(c) Certificates of Insurance. PTC shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above and in Section 7.01(d) below. Approval of the insurance by City shall not relieve or decrease PTC's liability hereunder. The Certificates of Insurance shall be submitted to City at the initial address for City set forth in Section 8.08 herein. A current Certificate of Insurance and Additional Insured Endorsement for the coverage described above shall be submitted to City by the earlier of April 1, 2019, or the date PTC first occupies or uses any portion of the Course premises or Adjacent Permitted Properties and a current Certificate of Insurance and Additional Insured Endorsement for the coverage described in Section 7.01(d) shall be submitted to City by April 1, 2019.

(d) Insurance of Others. PTC shall ensure that any vendors any serving alcoholic beverages on the Course Property or, if applicable, Adjacent Permitted Property, during the Championship Week (other than vendors engaged by City, if any) carry commercial general liability insurance in a form and with coverage at least as broad as ISO CG 00 01, with limits not less than \$1 million each occurrence and \$2 million annual aggregate with host or liquor (as applicable) liability included by endorsement or otherwise, or addressed by a separate policy with the same minimum limits of \$1 million per occurrence, \$2 million aggregate.

## ARTICLE VIII MISCELLANEOUS PROVISIONS

8.01 Counterparts. This Agreement may be executed in any number of counterparts, and all of these counterparts together shall constitute one and the same Agreement.

8.02 No Assignment. This Agreement and any rights herein granted are personal to the parties hereto and shall not be assigned, sublicensed, encumbered or otherwise transferred by either party unless such assignment is made to an affiliate or subsidiary of the parties without the prior written consent of the other party, and any attempt at violative assignment, sublicense, encumbrance or other transfer, whether voluntary or by operation of law, shall be void and of no force and effect.

8.03 No Waiver. Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by either party of its rights under this Agreement.

8.04 Relationship of Parties. This Agreement shall not constitute or be considered a partnership, employer-employee relationship, joint venture, or agency between the parties hereto nor by or between any of their employees or agents.

8.05 **Governing Law.** This Agreement shall be governed and construed and the legal relations shall be determined in accordance with the laws of the State of California and the City's Charter and Administrative Code.

8.06 **Binding Effect.** Subject to the provisions of this Agreement governing assignment, the Agreement shall be binding upon and inure to the benefit of the successors of the parties hereto.

8.07 **Severance.** If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable the remainder of this Agreement or application of such term or provision to any person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, or provision of this Agreement shall be valid and shall be enforced to the fullest extent provided by law.

8.08 **Notice.** Notice, as defined herein, shall be addressed to the other party at the address appearing below:

**PTC**

**PGA TOURNAMENT CORPORATION, INC.**  
100 Avenue of the Champions  
Palm Beach Gardens, Florida 33418  
Attention: Chief Executive Officer

**CITY**

**SAN FRANCISCO RECREATION AND PARK DEPARTMENT**  
501 Stanyan Street  
San Francisco, CA 94117  
Attention: Property Management Division

with a copy to:  
Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102-4682  
Attn: Real Estate/Finance Team

Either party may, by written notice to the other, change the address to which any such communications shall be sent. After notice of such change has been received, any communications shall be sent directly to such party at such changed address.

8.09 **Authority.** Each of the parties hereby represents and warrants to the other party that it has the right, power and legal authority to enter into and fully perform this Agreement in accordance with its terms and that this Agreement when executed and delivered by the parties will be a legal, valid and binding obligation enforceable against the parties in accordance with its terms.

PTC further represents and warrants that:

1. It is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida;

2. It is a wholly owned subsidiary of the PGA Corporation, which is a wholly owned subsidiary of the Association;

3. It has all the requisite corporate power and authority to enter into and fully perform the Agreement in accordance with its terms and that the Agreement when executed and delivered will be a legal, valid, and binding obligation enforceable against PTC in accordance with its terms; and

4. The Association has granted PTC, solely and exclusively, the right to conduct the 2020 PGA Championship and to manage the business and affairs thereof.

8.10 [Intentionally omitted.]

8.11 **Modification.** No modification or waiver of any provision of this Agreement shall be effective unless in writing and signed by both the Parties.

8.12 **Attachments.** All attachments to this Agreement are hereby incorporated within and made a part hereof.

8.13 **No Prior Agreements.** This Agreement shall be deemed to supersede all prior agreements between the parties in respect to the subject matter addressed in this Agreement.

8.14 **Entire Agreement.** This Agreement embodies the whole agreement of the parties and there are no promises, terms, conditions, or obligations other than those herein contained.

8.15 **Effective Date.** This Agreement shall become effective on the date the Parties duly execute and deliver this Agreement following approval by the Commission and City's Board of Supervisors and the Mayor, in their respective sole and absolute discretion.

8.16 **Excuse of Performance.** The performance of this Agreement by either party is subject to acts of God, War, government regulation or advisory, disasters, fire, infestation, disease, accidents or other casualty, strikes or threat of strikes (exception: Neither party may terminate this Agreement for instances involving their respective employees or agents), civil disorder, acts and/or threats of terrorism, or curtailment of transportation services or facilities, or similar cause beyond the control of either party making it, illegal, impossible or impracticable to hold the golf tournament or provide the golf course and related facilities. Either party may terminate or suspend its obligations under this Agreement with no liability or obligation to the other party if such obligations are delayed or prevented by any of the above events to the extent such events are beyond the reasonable control of the party whose reasonable performance is prevented.

The parties hereto executed this Agreement to be effective as of the Effective Date.

**PGA TOURNAMENT CORPORATION, INC.**

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

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

**CITY:**

**CITY AND COUNTY OF SAN FRANCISCO,**  
a municipal corporation

By: \_\_\_\_\_  
PHILIP A. GINSBURG, General Manager  
Recreation and Park Department

**APPROVED BY:**  
**RECREATION AND PARK COMMISSION**  
**PURSUANT TO RESOLUTION NO. \_\_\_\_\_ DATED: \_\_\_\_\_**

\_\_\_\_\_  
Margaret McArthur, Commission Liaison

**APPROVED AS TO FORM:**

**DENNIS J. HERRERA, City Attorney**

By: \_\_\_\_\_  
Deputy City Attorney

List of Exhibits and Attachments:

Attachment 1 – City Requirements

Attachment 2 – Depiction of Unavailable Clubhouse Areas

Exhibit A - Trademarks

Exhibit B - Harding Park logo

Exhibit C - Goods Production and Distribution Conditions Agreement

# ATTACHMENT 1

## ATTACHMENT 1 City Requirements

The Agreement shall be subject to the terms and conditions of this Attachment 1. In the event of any conflict between the body of the Agreement and the terms of this Attachment, the terms of this Attachment shall control.

### 1. INTERPRETATION

As used herein, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors and representatives of such party, and the term "Invitees" when used with respect to PTC shall include the clients, customers, invitees, guests, licensees, assignees or sublicensees of PTC. All approvals, consents or other determinations permitted or required by City hereunder shall be made by or through the General Manager of the Department unless otherwise provided in the Agreement, subject to applicable law.

### 2. COMPLIANCE WITH LAWS

PTC shall, at its expense, conduct and cause to be conducted all activities on the Course Property allowed hereunder in a safe and prudent manner and in compliance with all laws, regulations, codes, ordinances and orders of any governmental or other regulatory entity (including without limitation the Americans with Disabilities Act), whether presently in effect or subsequently adopted and whether or not in the contemplation of the parties. PTC shall, at its sole expense, procure and maintain in force at all times during its use of the Course Property any and all business and other licenses or approvals necessary to conduct the activities allowed hereunder.

### 3. SUPERVISION OF MINORS

(a) Records Request. If any person applies for employment or for a volunteer position with PTC, or any sublicensee or subcontractor, in which such applicant would have supervisory or disciplinary power over a minor or any person under such applicant's care on the Course Premises, then PTC, and any subtenant or subcontractors providing services at the Course Premises, shall request from the California Department of Justice records of all convictions or any arrest pending adjudication of such applicant involving the offenses listed in Welfare and Institution Code Section 15660(a), in accordance with the procedures established in California Penal Code Section 11105.3.

(b) Restriction on Hires for Recreational Sites. If PTC, or any sublicensee or subcontractor, is providing services under this Agreement at a City park, playground, recreational center or beach (separately and collectively, "Recreational Site"), PTC shall not hire, and shall prevent its subcontractors from hiring, any person for employment or a volunteer position to provide supervisory or disciplinary power over a minor or any person under his or her care at such Recreational Site if that person has been convicted of any offense listed in Welfare and Institution Code Section 15660(a).

(c) Notice Required for Sites Other Than Recreational Sites. If PTC, or any of its sublicensee or subcontractors, hires an employee or volunteer to provide services to minors at any location owned by City other than a Recreational Site, and that employee or volunteer has been convicted of an offense specified in Penal Code Section 11105.3(c), then PTC shall comply, and cause its subtenants and subcontractors to comply, with Penal Code Section 11105.3(c) and provide written notice to the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer not less than ten (10) days prior to the day the employee or volunteer begins his or her duties or tasks. PTC shall provide, or cause its sublicensees or subcontractors to provide, City with a copy of any such notice at the same time that it provides notice to any parent or guardian, to the extent permitted by law.

(d) General Requirements. PTC shall expressly require any of its subcontractors with supervisory or disciplinary power over a minor to comply with this Section of the Agreement as a condition of its contract with the subcontractor. PTC acknowledges and agrees that failure by PTC or any of its subcontractors to comply with any provision of this Section of this Agreement shall constitute an event of default. PTC further acknowledges and agrees that such event of default shall be grounds for the City to terminate the Agreement, partially or in its entirety, to recover from PTC any amounts paid under this Agreement, and to withhold any future payments, if any, to PTC. The remedies provided in this Section shall not limit any other remedy available to the City hereunder, or in equity or law for an event of default, and each remedy may be exercised individually or in combination with any other available remedy. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

#### **4. PREVAILING WAGES FOR THEATRICAL WORKERS**

Pursuant to San Francisco Administrative Code Section 21C-4 and Section 21.C-7, unless excepted, Contracts, Leases, Franchises, Permits, and Agreements awarded, let, issued or granted by the City and County of San Francisco for the use of property owned by the City and County of San Francisco shall require any Individual engaged in theatrical or technical services related to the presentation of a Show to be paid not less than the Prevailing Rate of Wages. Individuals engaged in theatrical and technical services include, without limitation, those engaged in rigging, sound, projection, theatrical lighting, videos, computers, draping, carpentry, special effects, and motion picture services. Capitalized terms in this Section that are not defined in this Agreement shall have the meanings provided in Section 21.C-4 and Section 21.C-7.

PTC agrees to comply with and be fully bound by, and to require its Subcontractors to comply with and be fully bound by, the provisions of Section 21.C-4 and Section 21.C-7, including, without limitation, the payment of any penalties for noncompliance and other remedies available to the City. The provisions of Section 21.C-4 and Section 21.C-7 are hereby incorporated by reference and made a part of this agreement. PTC shall cooperate fully with the Labor Standards Enforcement Officer and any other City official or employee, or any of their respective agents, in the administration and enforcement of the requirements of Section 21.C-4 and Section 21.C-7, including, without limitation, any investigation of noncompliance by PTC or its Subcontractors. PTC agrees that the City may inspect and/or audit any workplace or job site involved in or related to the performance of this agreement, including, without limitation, interviewing PTC's and any Subcontractor's employees and having immediate access to employee time sheets, payroll records, and paychecks for inspection.

PTC may obtain a copy of the current Prevailing Rate of Wages from City, including its Office of Labor Standards Enforcement. PTC acknowledges that the City's Board of Supervisors may amend such Prevailing Rate of Wages and agrees that PTC and any Subcontractors shall be bound by and shall fully comply with any such amendments by the Board of Supervisors. This Section is a material provision of this Agreement.

#### **5. FOOD SERVICE WASTE REDUCTION**

PTC agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this agreement as though fully set forth. This provision is a material term of this agreement. By entering into this agreement, PTC agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, PTC agrees that the sum of one hundred dollars (\$100.00) liquidated damages for the first breach, two hundred dollars (\$200.00) liquidated damages for the second breach in the same year, and five hundred dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this



Agreement was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of contractor's failure to comply with this provision.

## **6. NO SMOKING IN CITY PARKS**

PTC agrees to comply with Section 1009.81 of the San Francisco Health Code, which provides: "Smoking is prohibited on any unenclosed area of property in the City and County of San Francisco that is open to the public and under the jurisdiction of the Recreation and Park Commission or any other City department if the property is a park, square, garden, sport or playing field, pier, or other property used for recreational purposes, or a farmers' market."

## **7. PTC'S WAIVER OF CLAIMS AND INDEMNITY**

PTC covenants and agrees that City shall not be responsible for or liable to PTC for, and, to the fullest extent allowed by law, PTC hereby waives all rights against City and its Agents and releases City and its Agents from, any and all losses, including, but not limited to, incidental and consequential damages, relating to any injury, accident or death of any person or loss or damage to any property, in or about the Course Property or any other City property, from any cause whatsoever. Nothing herein shall relieve City from liability caused solely and directly by the gross negligence or willful misconduct of City or its Agents, but City shall not be liable under any circumstances for any consequential, incidental or punitive damages.

PTC, on behalf of itself and its successors and assigns, shall indemnify, defend and hold harmless ("Indemnify") City including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, and all of its and their Agents, and their respective heirs, legal representatives, successors and assigns (individually and collectively, the "Indemnified Parties"), and each of them, from and against any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, including, without limitation, direct and vicarious liability of every kind (collectively, "Claims"), incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person, including, without limitation, employees of PTC, or loss of or damage to property, howsoever or by whomsoever caused, occurring in or about the Course Property during the period of PTC's use thereof; (b) any default by PTC in the observation or performance of any of the terms, covenants or conditions of this Agreement to be observed or performed on PTC's part; (c) the use or occupancy or manner of use or occupancy of the Course Property by PTC, its Agents or Invitees or any person or entity claiming through or under any of them; (d) the condition of the Course Property, to the extent modified by PTC, its Agents or Invitees; (e) any construction or other work undertaken by PTC on the Course Property whether before or during the Term of this Agreement; or (f) any acts, omissions or negligence of PTC, its Agents or Invitees, in, on or about the Course Property, all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that such Indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement and further except only such Claims as are caused exclusively by the willful misconduct or gross negligence of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any Claim. PTC specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to PTC by City and continues at all times thereafter. PTC's obligations under this Section shall survive the termination of this Agreement.

## **8. HAZARDOUS MATERIALS**

### **8.1 Definitions**

As used herein, the following terms shall have the meanings set forth below:

(a) "Environmental Laws" shall mean any present or future federal, state, local or administrative law, rule, regulation, order or requirement relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage), or to health and safety, industrial hygiene or the environment, including, without limitation, soil, air and groundwater conditions.

(b) "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health, welfare or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

(c) "Investigate and Remediate" ("Investigation" and "Remediation") shall mean the undertaking of any activities to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Course Property or that has been, are being or threaten to be Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor or otherwise control such Hazardous Material.

(d) "Release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Course Property, or in, on, under or about any other property or into the environment.

### **8.2 No Hazardous Materials**

PTC covenants and agrees that neither PTC nor any of its Agents or Invitees shall cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Course Property, or transported to or from the Course Property, except for gasoline and other fuel products used to transport and operate vehicles and equipment provided that PTC handles such gasoline and other fuel products in compliance with all applicable Environmental Laws. PTC shall give immediate written notice to City of: (a) any action, proceeding or inquiry by any governmental authority (including, without limitation, the California State Department of Health Services, the State or any Regional Water Quality Control Board, the Bay Area Air Quality Management district or any local governmental entity) against PTC with respect to the presence or Release or suspected presence or Release of Hazardous Material on the Course Property or the migration thereof from or to other property; (b) all demands or claims made or threatened by any third party against PTC or the Course Property relating to any loss or injury resulting from any Hazardous Materials; (c) any Release of Hazardous Material on or about the Course Property has occurred that may require any Investigation or Remediation; and (d) all matters of which PTC is required to give notice pursuant to Section 25359.7 of the California Health and Safety Code.

### **8.3 PTC's Environmental Indemnity**

If PTC breaches any of its obligations contained in this Section, or, if any act or omission of PTC, its Agents or Invitees, results in any Release of Hazardous Material in, on, under or about the Course Property in violation of any applicable Environmental Laws, then, without limiting PTC's Indemnity contained in this Attachment, PTC shall, on behalf of itself and its successors and assigns, Indemnify the Indemnified Parties, and each of them, from and against all Claims (including, without limitation, damages for decrease in value of the Course Property, the loss or restriction of the use of rentable or usable space or of any amenity of the Course Property and sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees and costs) arising during or after the Term of this Agreement and relating to such Release. The foregoing Indemnity includes, without limitation, costs incurred in

connection with activities undertaken to Investigate and Remediate Hazardous Material and to restore the Course Property to its prior condition, fines and penalties assessed for the violation of any applicable Environmental Laws, and any natural resource damages. Without limiting the foregoing, if PTC or any of its Agents or Invitees, causes or permits the Release of any Hazardous Materials in, on, under or about the Course Property, PTC shall immediately and at no expense to City take any and all appropriate actions to return the Course Property affected thereby to the condition existing prior to such Release and otherwise Investigate and Remediate the Release in accordance with all Environmental Laws. PTC specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to PTC by the City and continues at all times thereafter. PTC shall afford City a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

#### **8.4 Survival of Obligation**

PTC's obligations under this Section shall survive the expiration or other termination of this Agreement.

#### **9. WAIVER OF SUBROGATION**

Notwithstanding anything to the contrary contained herein, PTC hereby waives any right of recovery against City for any loss or damage sustained PTC with respect to the Course Property or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of City, to the extent such loss or damage is covered by insurance which is required to be purchased by PTC under this Agreement or is actually covered by insurance obtained PTC. PTC agrees to cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies relating to the Course Property; provided, the failure to obtain any such endorsement shall not affect the above waiver.

#### **10. NO RELOCATION ASSISTANCE**

This Agreement creates no right in PTC to receive any relocation assistance or payment for any reason under the Relocation Assistance Act (California Government Code Section 7260 et seq.), the Uniform Relocation Assistance Act (42 U.S.C. Section 4602 et seq.) as such acts may be amended or revised or under any existing or future law upon any termination of tenancy except as provided in Section 15 (Eminent Domain) hereof.

PTC fully waives, releases and relinquishes forever any and all claims, demands, rights and causes of action that it may have against the city under any existing or future laws, for any compensation from City not otherwise provided for herein, upon any termination of tenancy hereunder.

#### **11. NON-LIABILITY OF CITY OFFICIALS, EMPLOYEES AND AGENTS**

No elective or appointive board, commission, member, officer, employee or other Agent of City shall be personally liable to PTC, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to PTC, its successors and assigns, or for any obligation of City under this Agreement.

#### **12. INTENTIONALLY OMITTED**

#### **13. MACBRIDE PRINCIPLES - NORTHERN IRELAND**

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. PTC acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

#### **14. TROPICAL HARDWOOD AND VIRGIN REDWOOD BAN**

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, PTC shall not provide any items to the construction of Communication Facility or any alterations, or otherwise in the performance of this Agreement which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event PTC fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, PTC shall be liable for liquidated damages for each violation in any amount equal to PTC's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

#### **15. PESTICIDE PROHIBITION**

PTC shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which (a) prohibit the use of certain pesticides on City property, (b) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (c) require PTC to submit to City's Department of Real Estate an integrated pest management ("IPM") plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that PTC may need to apply to the Course Property during the terms of this Agreement, (ii) describes the steps PTC will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the PTC's primary IPM contact person with the City. In addition, PTC shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

Nothing herein shall prevent PTC, through {insert name of City department overseeing the Agreement}, from seeking a determination from the Commission on the Environment that it is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 307 thereof.

#### **16. FIRST SOURCE HIRING ORDINANCE**

The City has adopted a First Source Hiring Ordinance, San Francisco Administrative Code, Chapter 83, which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions. Upon request when applicable, PTC shall enter into a First Source Hiring Agreement that meets the requirements of Section 83.9 of the First Source Hiring Ordinance.

#### **17. SUNSHINE ORDINANCE**

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

#### **18. CONFLICTS OF INTEREST**

Through its execution of this Agreement, PTC acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a

violation of said provisions, and agrees that if PTC becomes aware of any such fact during the term of this Agreement PTC shall immediately notify the City.

## **19. CHARTER PROVISIONS**

This Agreement is governed by and subject to the provisions of the Charter of the City and County of San Francisco.

## **20. PROHIBITION OF TOBACCO SALES AND ADVERTISING**

PTC acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Course Property. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (a) communicate the health hazards of cigarettes and tobacco products, or (b) encourage people not to smoke or to stop smoking.

## **21. PROHIBITION OF ALCOHOLIC BEVERAGE ADVERTISING**

PTC acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Course Property, except for those areas on the Course Property where the sale of alcoholic beverages is permitted. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (a) communicate the health hazards of alcoholic beverages, (b) encourage people not to drink alcohol or to stop drinking alcohol, or (c) provide or publicize drug or alcohol treatment or rehabilitation services.

## **22. INTENTIONALLY OMITTED**

## **23. NOTIFICATION OF LIMITATIONS ON CONTRIBUTIONS**

Through its execution of this Agreement, PTC acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. PTC acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. PTC further acknowledges that the prohibition on contributions applies to each PTC; each member of PTC's board of directors, and PTC's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in PTC; any subcontractor listed in the contract; and any committee that is sponsored or controlled by PTC. Additionally, PTC acknowledges that PTC must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. PTC further agrees to provide to City the name of each person, entity or committee described above.

#### **24. PRESERVATIVE-TREATED WOOD CONTAINING ARSENIC**

PTC may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. PTC may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude PTC from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

#### **25. ATTORNEYS' FEES**

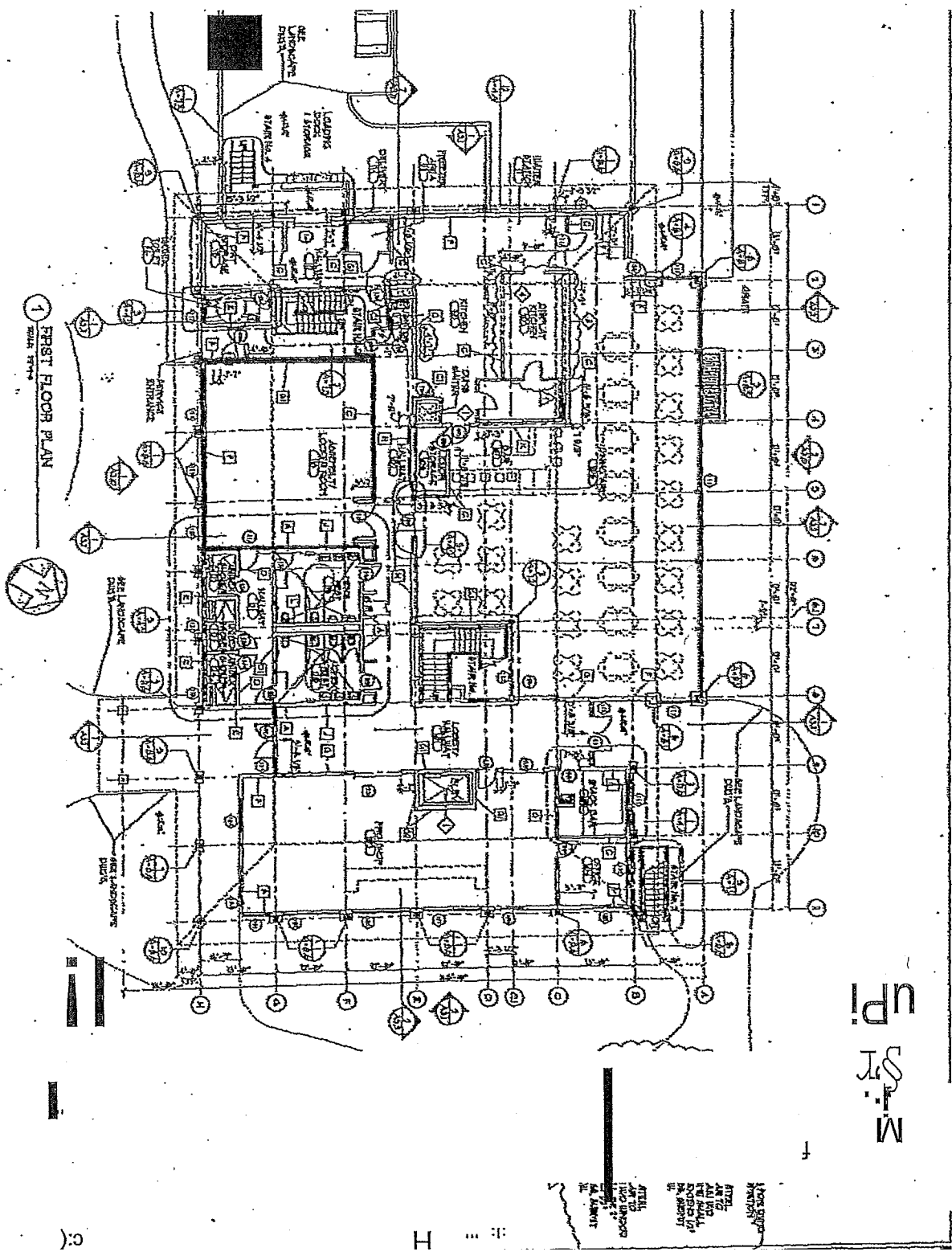
For the purposes of this Agreement, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

#### **26. SAN FRANCISCO BOTTLED WATER ORDINANCE**

Unless exempt, PTC agrees to comply fully with and be bound by all of the provisions of the San Francisco Bottled Water Ordinance, as set forth in San Francisco Environment Code Chapter 24 (prohibiting the sale or distribution of drinking water in a sealed rigid plastic bottle having a capacity of twenty-one (21) fluid ounces or less at certain events held on City property), including the administrative fines, remedies, and implementing regulations provided therein, as the same may be amended from time to time. The provisions of Chapter 24 are incorporated herein by reference and made a part of this Agreement as though fully set forth.

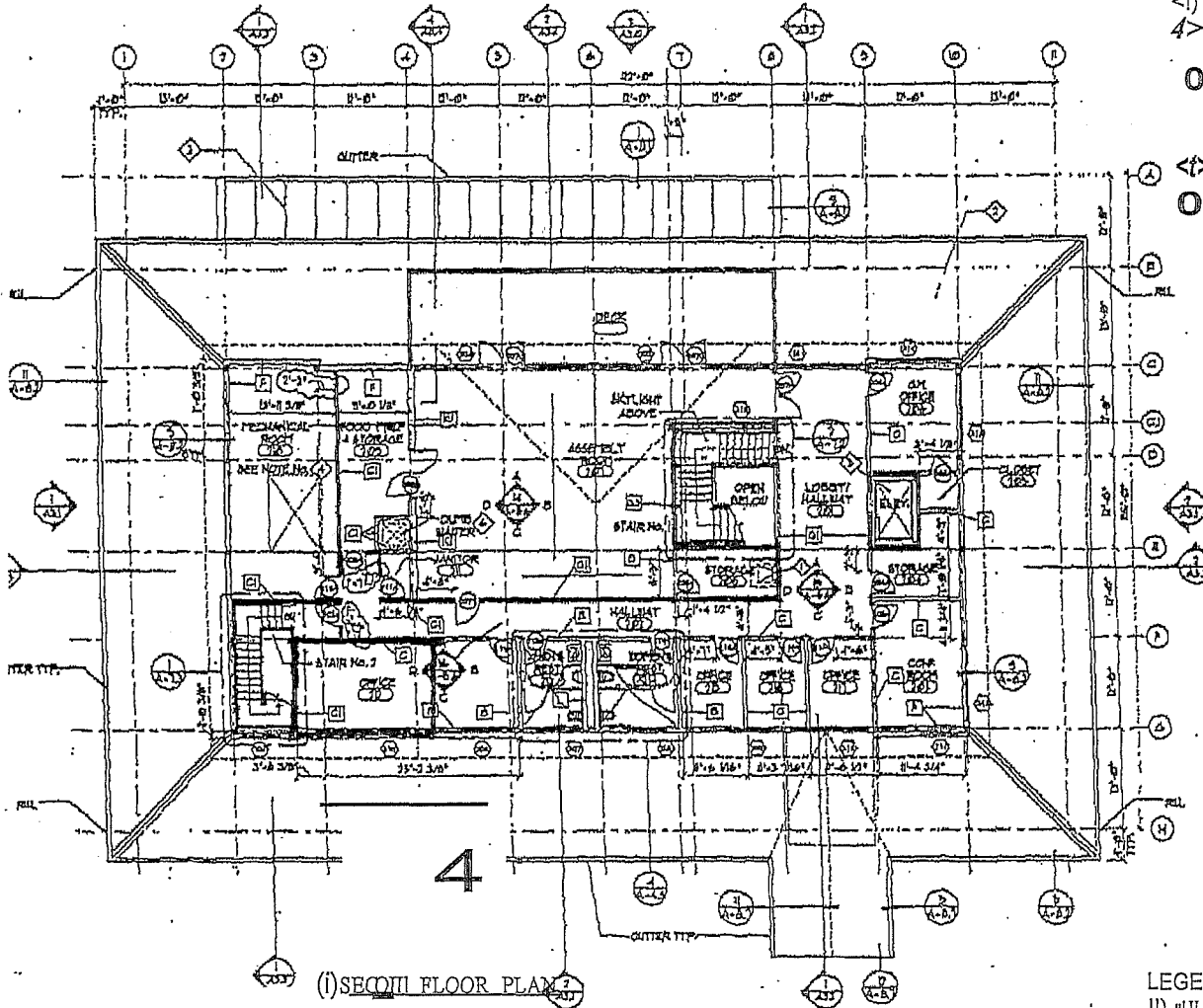
# ATTACHMENT 2

EXHIBIT A (2)



UP! M S.T.





(1) SECOND FLOOR PLAN

4 FEET NOTE:

- (1) JIO: FAC.216 &: •A•1.3
- 4 \.NIItmAL
- JL(!!'U'IGLazfb
- 0 Iloii:Ulli:UyUll.WUC
- \*\*\*\*fCiqj'Joimt.Aot
- roIIICE:III.&L1 Tmim;f0h0;U
- IIIIIIIIIIIIIIIIIIII
- MIlla"PIIICH v IC Q
- 0 IIIIKn&VT.OIIVTM
- rump: h aY4TtIII I'IGN

LEGEND  
 (1) u.U. TIT"q, GEI - A-U

HARDNG PARK  
 O.UBBUHOUSE  
 PHASE I

W/INIC:0-M-0CHTnNIE  
 N 110.40  
 INI, C: UFOPk4.II.

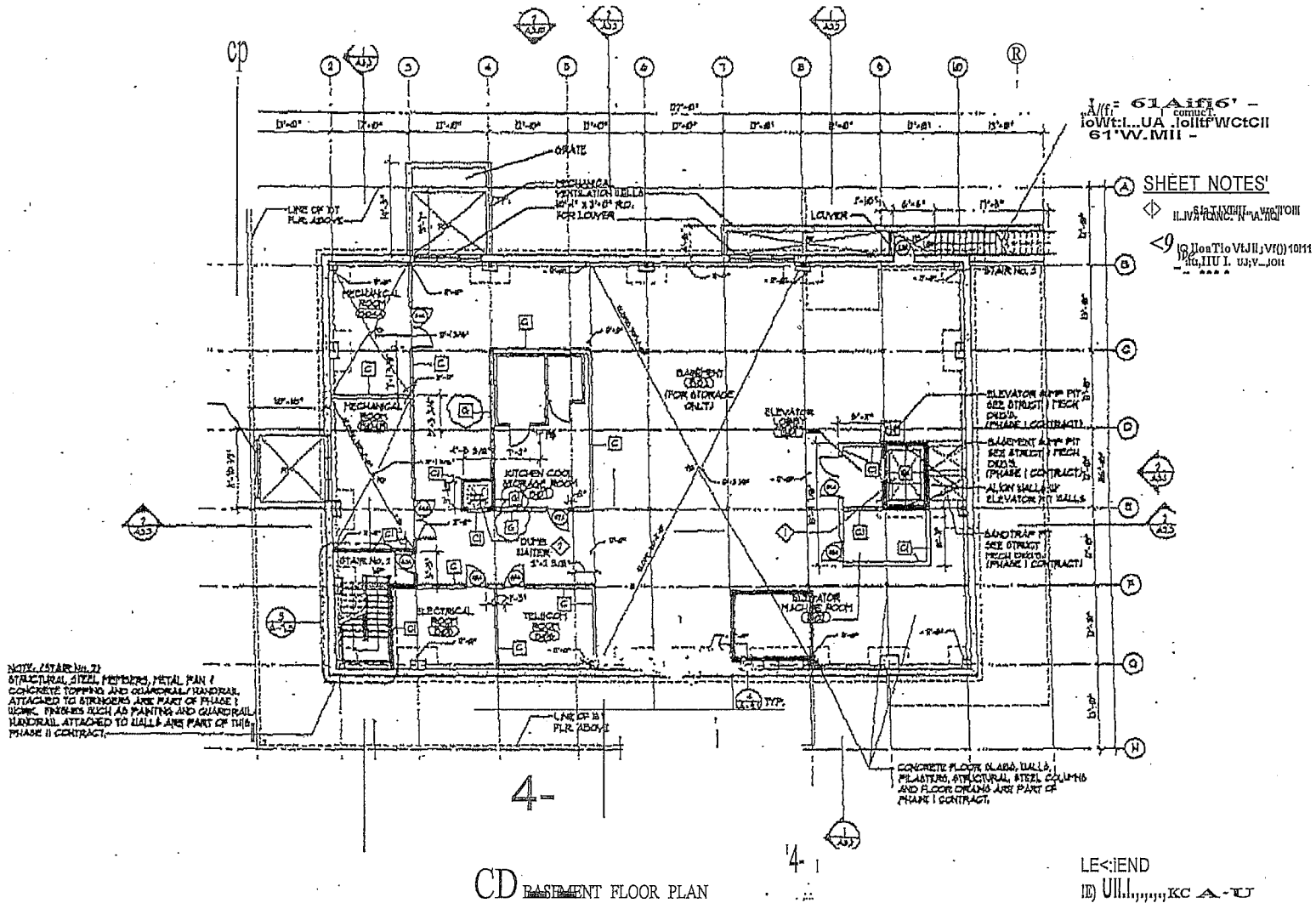
NO.	DATE	REVISIONS
1		ISSUED

DATE	BY
MAY 11, 2004	
PROJECT TITLE	
<b>SECOND FLOOR PLAN</b>	
<b>A-2.3</b>	
SHEET NO.	

Office Space

AS NOTED	JOB NO.	08751
----------	---------	-------

EXHIBIT A (4)



1" = 61' 6" -  
 1" = 61' 6" -  
 61' W. MILL -

**A SHEET NOTES'**  
 1. I.I.V.A. T.O.N.C. N. 14. 1011  
 2. I.I.V.A. T.O.N.C. N. 14. 1011  
 3. I.I.V.A. T.O.N.C. N. 14. 1011

**HARDENING PARK  
 CELLHOUSE -  
 PHASE 5 K**

MUNICIPAL GOVERNMENT  
 1111 V. O. C.  
 1111 V. O. C.

NO.	DATE	REVISIONS
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

DESIGNED BY: [Signature]  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 IN CHARGE: [Signature]  
 SCALE: AS SHOWN  
 SHEET NO.: **A2.1**  
 DATE: 08/25/05

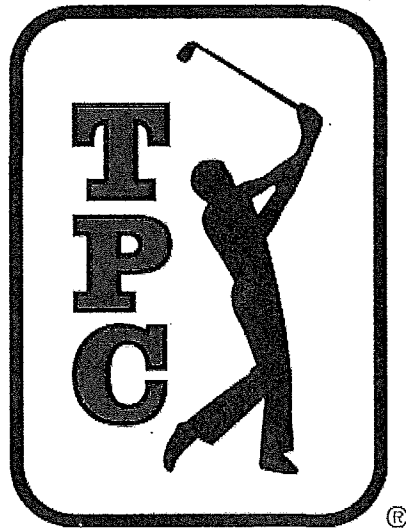
# Exhibit A

## Trademarks

[ Note: The trademark for the 2020 PGA Championship will be specifically designed for TPC Haring Park and will be incorporated in this Exhibit when completed. ]

Exhibit B

Harding Park logo



**HARDING PARK**

# Exhibit C

## 2020 PGA CHAMPIONSHIP TRADEMARK Goods Production and Distribution Conditions

THIS AGREEMENT ("Agreement") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between PGA TOURNAMENT CORPORATION, INC., a corporation organized under the laws of the State of Florida (hereinafter referred to as "PGA") and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_ (hereinafter referred to as "Manufacturer").

The 2020 PGA Championship name and logo ("the Trademarks") are federally registered trademarks owned exclusively by the PGA of America. PGA Tournament Corporation, Inc., an affiliate of the PGA of America was granted the authority to administer all aspects related to the 2020 PGA Championship licensed merchandise program. Manufacturers requested to produce goods bearing the Trademarks by either PGA or PGA's only authorized licensee which is \_\_\_\_\_ ("the Licensee") are required to abide by the following conditions:

1. **Sample Goods.** Manufacturer is hereby authorized by PGA to reproduce the Trademarks on two (2) items only as product samples ("Sample Goods") for the requested products only. Where applicable, Manufacturer is required to purchase a "PGA Championship" embroidery diskette or tape from a company authorized by PGA to reproduce the Trademarks consistent with PGA's quality control standards manual. Non-embroidery reproductions of the Trademarks shall coincide with the PMS requirements set forth in Exhibit A. Sample Goods must be sent to PGA at the address below and to the applicable licensee for approval.
2. **Approved Goods.** In the event PGA approves Sample Goods for production ("Approved Goods") the following conditions apply:
  - (i) Orders for Approved Goods may be fulfilled by Manufacturer pursuant to orders placed by PGA or the Licensees only.
  - (ii) Approved Goods may be distributed to PGA or the Licensees only. Only PGA or the Licensees are the authorized distributors for Approved Goods.
  - (iii) Approved Goods may not be produced for any purpose subsequent to December 31, 2020.
  - (iv) In the event PGA and either of the Licensees reject Approved Goods for defects ("Rejected Goods"), then such Defective Goods will be returned to the Manufacturer. The Manufacturer shall not sell, transfer, distribute or otherwise release the Defective Goods unless approved in writing by PGA.
  - (v) In the event excess Approved Goods are ordered by the Licensees and returned to Manufacturer, the Approved Goods cannot be distributed, sold or transferred by Manufacturer unless approved in writing by PGA.
  - (vi) No Sample Goods shall be retained by Manufacturer for any purpose or used by Manufacturer for product advertising.

*All rights in the Trademarks are reserved by PGA for its own exclusive use and benefit.*

3. **Royalty.** As a condition of selection as an authorized Manufacturer of 2020 PGA Championship licensed merchandise, Manufacturer is required to remit a ten percent (10%) royalty payment derived from gross sales revenues derived from sales of the licensed merchandise made payable to **PGA Tournament Corporation, Inc.** All royalty payments shall be due to PGA, on a calendar quarterly basis, on the 15th day of each month following the end of the applicable period representing the previous quarter's gross sales revenues. All royalty payments must be accompanied by an itemized sales report. PGA reserves the right to review your books at reasonable times during the term to verify the accuracy of itemized sales reports.

BEFORE PRODUCING SAMPLE GOODS, PLEASE RETURN THIS SIGNED DOCUMENT TO:

PGA Tournament Corporation, Inc.  
100 Avenue of the Champions  
Palm Beach Gardens, Florida 33418  
Attention: Senior Director of Merchandising

MANUFACTURER

PGA TOURNAMENT CORPORATION, INC.

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

Senior Director, Event Merchandising

Title: \_\_\_\_\_

Date: \_\_\_\_\_

(Company Address) \_\_\_\_\_

(Telephone Number) \_\_\_\_\_

(Company Contact Person) \_\_\_\_\_

(Fax Number) \_\_\_\_\_

**RECREATION AND PARK COMMISSION**  
**City and County of San Francisco**  
**Resolution No. 1504-008**

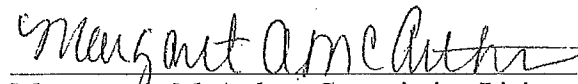
**HARDING PARK GOLF COURSE**  
**AGREEMENT WITH PGA TOURNAMENT CORPORATION, INC.**

**RESOLVED**, That this Commission does recommend that the Board of Supervisors approves an Agreement with the PGA Tournament Corporation, Inc. to present the 2020 PGA Championship at Harding Park Golf Course.

Adopted by the following vote:

Ayes	5
Noes	0
Absent	1

I hereby certify that the foregoing resolution  
was adopted at the Recreation and Park  
Commission meeting held on April 16, 2015

  
Margaret A. McArthur, Commission Liaison