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**Management Agreement**

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**by and between**

**CITY OF YORK, PENNSYLVANIA**

**(as Client)**

**and**

**YORK ICE ARENA, LLC**

**(as Manager)**

**August 1, 2020**

## MANAGEMENT AGREEMENT

THIS Management Agreement (this “**Agreement**”) is made for reference purposes as of the 1st day of August, 2020, by and between THE CITY OF YORK, PENNSYLVANIA, a Third Class City, body politic and corporate of the Commonwealth of Pennsylvania (hereinafter called “**Client**” or “**City**”) and YORK ICE ARENA, LLC, a Delaware limited liability company (hereinafter called “**Manager**”).

### AGREEMENT

WITNESSETH: That the City for and in consideration of the covenants and agreements herein contained, does hereby enter into a management agreement with Manager to manage and operate the property being known as the York Ice Skating Arena Facility located at 941 Vander Avenue, York, Pennsylvania 17403, and being more particularly described in Exhibit “A”, attached hereto and made a part hereof, along with the rights of access thereto and to the parking facilities more particularly described in said Exhibit “A” (hereinafter collectively referred to as the “**Premises**”).

City and Manager do hereby covenant to each other, their successors, legal representatives and assigns, as follows:

1. Term

Manager shall operate and manage the Premises and have the right to use all assets, personal property and equipment currently used to operate the Premises on and during the period commencing upon August 1, 2020 (the “**Commencement Date**”) and ending on July 31, 2030 (the “**Initial Term**”). The City and Manager shall have the right to extend the term hereof for two (2) additional period of ten (10) years each (each an “**Extension Term**” and together, the “**Extension Terms**”, with the Initial Term and the Extension Terms being jointly referred to as the “**Term**”). Each Extension Term shall automatically take effect unless either City or Manager gives six (6) months prior written notice to the other party hereto of their intention to terminate the respective Extension Term.

2. Payment

a) Manager covenants and agrees to pay a monthly fee (“**Management Fee**”) to City throughout the Term of this Agreement as follows:

(i) For the period commencing on the Commencement Date and ending on last day of the twelfth (12<sup>th</sup>) full calendar month thereafter (such twelve (12) month period and each twelve (12) month period thereafter being referred to as a “**Contract Year**”), an amount equal to Sixty Thousand 00/100 Dollars (\$60,000.00) per annum or Five Thousand 00/100 Dollars (\$5,000.00) per month; and

(ii) For the second (2<sup>nd</sup>) year of the Initial Term, an amount equal to Seventy Thousand 00/100 Dollars (\$70,000.00) per annum or Five Thousand Eight Hundred Thirty Three 33/100 Dollars (\$5,833.33) per month; and

(iii) For the third (3<sup>rd</sup>) year of the Initial Term, an amount equal to Seventy Five Thousand 00/100 Dollars (\$75,000.00) per annum or Six Thousand Two Hundred Fifty 00/100 Dollars (\$6,250.00) per month; and

(iv) For each year thereafter (“**Contract Year**”) during the Initial Term, the Management Fee will adjust from the immediately preceding Contract Year by an amount equal to the lesser of (a) a three percent (3%) increase, or (b) an increase or decrease to the CPI-U rate from the immediately preceding Contract Year. As used herein, the “**CPI-U**” means the Consumer Price Index for Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(v) During each Extension Term, if applicable, the Management Fee will continue to adjust from the immediately preceding Contract Year by an amount equal to the lesser of (a) a three percent (3%) increase, or (b) an increase or decrease to the CPI-U rate from the immediately preceding Contract Year.

b) If any portion of the Management Fee or any other sum payable to City hereunder shall be due and unpaid for more than five (5) business days following receipt by Manager of a written notification from City, the unpaid amount shall bear interest at an annual rate equal to the lesser of (i) the highest rate permitted by law or (ii) ten percent (10%) per annum from the date due until the date of payment.

c) This Agreement does not change the ownership of the Premises, and the City of York remains the sole owner. The Premises has been, is, and will continue to be tax-exempt. Manager shall have no obligation to pay any real or personal property taxes in connection with the Premises. Manager is not an owner of the property.

d) All costs, expenses, and obligations of every kind and nature whatsoever relating to the Premises shall be paid by the Manager with the exception of any real or personal property taxes should any be assessed during the term of this Agreement.

e) Manager will be required to pay Business Privilege and Mercantile Tax in accordance with local ordinance Article 343.

f) Notwithstanding the foregoing, the Management Fee payable during the Term shall be discontinued and abated for any period of time commencing on the date that the City of York, the Commonwealth of Pennsylvania or the national government has declared a national or local emergency or instituted “work from home,” “shelter-in-place,” border closures or travel restrictions preventing the operation of the Premises (“**Quarantine Measures**”) as a result of the swine flu, avian influenza, SARS, the 2019-nCoV or any other virus, pandemic or public health emergency, with such Management Fee abatement period terminating on the first day operations of the Premises are allowed to proceed. If the Premises is permitted to operate on a restricted basis, the parties will in good faith negotiate a reduced Management Fee to reflect the impact of the Quarantine Measures on the operation of the ice rink.

3. Use and Access

a) The Premises may be used by the Manager for ice skating rinks, ice hockey and figure skating training facility, place of public assembly, athletic training and other uses compatible therewith, including but not limited to using turf/sport court material on one of the rinks for all purpose sports use. Manager shall undertake reasonable efforts to make available to the general public opportunities for public skating sessions in the ordinary course of business as Manager deems to be customary for similar hockey rinks.

b) Manager shall have the sole and exclusive right to enter into all concession agreements (including, without limitation, pro shop, food and beverage and skating and hockey equipment rental and sales) for the duration of the Term pursuant to such terms and conditions as Manager deems appropriate. City shall not take any action with respect to, or have any authority over, concessions or concessions agreements relating thereto.

c) Manager shall control the pricing, the advertising of and on, and the distribution of any ticketed events at or within the Premises and shall receive and retain all non-tax revenues in connection with any such events.

d) Manager, its customers and other invitees shall have access to the Premises 24 hours per day, 365 days per year and City shall ensure that Manager's access to the Premises, or to the parking facilities is not impeded or otherwise obstructed during the Term.

4. Advertising, Naming Rights and Signage

a) Manager shall have the sole and exclusive rights to post, exhibit, display and otherwise present, and to sell and license, all advertising to be posted, exhibited, displayed and presented during the Term and to receive all revenue therefrom. City shall not take any action with respect to, or have any authority over, the posting, exhibition, display, sale or license of advertising other than at the express direction of Manager.

b) Manager shall have the sole and exclusive rights to sell and license all naming rights to be effective during the Term and to receive all revenue therefrom. City shall not take any action with respect to the sale or license of naming rights other than at the express direction of the Manager.

c) Notwithstanding anything else herein to the contrary, Manager shall have the right to install the following signage: (a) an identification sign on the exterior of the building and on any monument signage associated with the Building and the adjacent recreational complex that is used for tenant identification; (b) directional signage to the Premises from the parking areas; (c) Manager's name (and/or its affiliates') on the recreational complex, and on any other directory identifying specific amenities; and (d) signage for any contract users of the rink including but not limited to a pro shop, restaurant, youth hockey clubs, junior hockey clubs and/or high schools. Manager shall have the right to reasonably determine placement and subsequently install any monument sign referencing the Premises, including the locations and the size of the panels to be placed thereon.

5. Parking

Manager shall have use of the parking facilities described in Exhibit “A” for parking by Manager, its employees, licensees, invitees and any other users it deems appropriate. City shall have the sole responsibility for all costs and expenses associated with the parking facilities including without limitation maintenance, repair, lighting, snow removal and de-icing, striping, and shall use its reasonable best efforts to keep the parking areas, drives, entrances and exits in good condition and repair in compliance with all local and state rules and regulations.

6. Maintenance and Alterations

a) Manager shall at all times during the Term of this Agreement keep the Premises in good order, condition, and repair including replacements. Manager shall further have the right to make additions and capital repairs to the Premises as Manager deems appropriate in connection with its ongoing operation thereof subject to Subsection (c) below.

b) During the Term, City shall keep, repair, operate, and maintain the following in good order, condition, and repair, and in compliance with all applicable Laws: (a) all landscaped areas outside of the Premises; (b) all drive lanes and parking areas utilized in connection with the Premises, including the application of salt and snow and ice removal at reasonable intervals in connection with same; and (c) all off-site directional and wayfinding signage.

c) During the Term, Manager shall be permitted to make structural and other alterations, additions or improvements to the Premises it deems necessary, which may include, without limitation, all repairs, upgrades and alterations to the existing structure, roof repairs, equipment repairs, interior construction, floor replacement (rink or other), locker room or bathroom repair, repair or replacement of existing machinery, ice-making equipment, HVAC, dehumidification equipment, sub-floor piping and pumps, refrigerant, Zambonis, glass and boards, pumps and tanks, scoreboards, rental skates, hockey equipment, landscape projects, roof repair, exterior drainage projects, an additional rink, storage areas, and/or bathrooms or locker rooms or other significant repairs or capital expenditures and structural improvements or additions and interior or exterior remodeling (collectively, “**Alterations**”) without the requirement of prior notice to or consent from City. Manager agrees to protect the improvements constructed on the Premises from mechanics and other similar liens (except with respect to protective liens filed to secure obligations not yet due and payable) by posting of appropriate security with the court having jurisdiction over such lien. City shall receive no fee for profit, overhead, general conditions, or supervision on any Alterations. Further, Manager shall not be required to reimburse City for out-of-pocket costs associated with any Alterations. City acknowledges and agrees that Manager shall have the right to self-manage the Alterations or hire a third party of its choosing.

7. Hazard Insurance

With respect to any buildings, structures or improvements at any time constructed or erected by Manager on the Premises, Manager shall maintain fire and extended coverage insurance adequate for repair or replacement with regard to any buildings and improvements erected and constructed upon the Premises. Any such insurance proceeds so obtained shall be

applied by Manager to the restoration of that portion of the property damaged if restoration is feasible. In the event restoration is not feasible, Manager shall clear the Premises of all refuse and debris and restore same to a clean and orderly condition.

8. Insurance

Manager will procure and keep in effect during the Term hereof the following required insurance:

a) All-risk (special form causes of loss) property insurance on any buildings, structures or improvements constructed or erected by Manager on the Premises and all personal property located at the Premises, whether owned by Manager or owned by others in Manager's care, custody or control, in an amount not less than the 100% replacement cost thereof. In the event restoration is not feasible, Manager shall clear the Premises of all refuse and debris and restore same to a clean and orderly condition.

b) All-risk (special form causes of loss) business income and extra expense insurance in amounts satisfactory to protect Manager's interests because of direct physical loss of or damage to property required to be covered under Subsection (a) hereof.

c) Manager shall waive all right of recovery from City and its elected or appointed officials and employees for loss of or damage to the property required to be insured by Manager, including consequential loss of income and extra expense. Any insurance policies maintained by Manager shall permit such waivers by endorsement or otherwise.

d) Commercial general liability insurance written on an occurrence basis that insures against bodily injury, property damage, personal and advertising injury claims arising from Manager's use of the Premises or operations incidental thereto. This insurance shall name City and its elected and appointed officials and employees as additional insureds on a primary and non-contributory basis. The limits of liability shall be at least One Million Dollars (\$1,000,000) combined single limit per occurrence, and Two Million Dollars (\$2,000,000) combined single limit aggregates. The amounts of insurance provided for herein shall be adjusted annually to compensate for the effects of inflation and may be satisfied with a combination of commercial general liability and umbrella excess liability insurance.

e) Workers' compensation insurance with statutory benefits as required by Pennsylvania law and employers' liability insurance with limits of at least \$500,000 each accident, \$500,000 each employee for disease and \$500,000 disease policy limit. The minimum employers' liability limits may be satisfied with a combination of employers' liability and umbrella excess liability insurance.

f) Manager shall deliver certificates of insurance satisfactory to City evidencing required insurance prior to the effective date of this Agreement, each renewal thereafter and upon reasonable request by City.

g) Failure of the City to obtain certificates or other evidence of full compliance with these insurance requirements or failure of the City to identify a deficiency from evidence

provided shall not be construed as a waiver of Manager's obligation to maintain required insurance.

h) By requiring insurance and insurance limits herein, the City does not represent that coverage and limits will necessarily be adequate to protect the Manager.

i) The Manager shall notify the City by first-class, certified mail within two (2) business days of any notice of cancellation, non-renewal, or other termination of, or any substantive change to any insurance policy providing or represented as providing required insurance.

j) The Manager's insurers must be allowed to do business in the Commonwealth of Pennsylvania. The insurers must have a Best's Financial Strength Rating of "A" or better, in the latest evaluation by the A. M. Best Company, unless the City grants specific approval for an exception, such approval not to be unreasonable withheld, conditioned or delayed.

k) In the event Manager fails to maintain the insurance above or does not renew said insurance for any purpose, City may obtain such insurance five (5) business following delivery of written notice to Manager to do so, and shall charge the cost of any such insurances as additional management fee by Manager hereunder.

l) City and Manager each hereby releases the other from any and all liability or responsibility to the party granting such release (a "**Releasing Party**") and to anyone claiming through or under the Releasing Party by way of subrogation or otherwise, for loss or damage to the property of the Releasing Party, even if the loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible, provided, however, that this release shall be effective only with respect to loss or damage covered by insurance maintained by the Releasing Party or required to be maintained by the Releasing Party pursuant to the terms of this Agreement.

## 9. Indemnification

a) Except for the gross negligence and intentional misconduct of City and/or any City Parties (as hereinafter defined), Manager shall indemnify and hold harmless City and City's officers, agents, employees, partners, successors, and assigns (collectively, the "**City Parties**") from and against any and all claims arising from Manager's use of the Premises, or from the conduct of Manager's business or from any activity, work, or things done, permitted, or suffered by Manager in, on, or about the Premises or elsewhere, and shall further indemnify and hold harmless all City Parties from and against any and all claims arising from any breach or default in the performance of any obligation on Manager's part to be performed under the terms of this Agreement, or arising from any gross negligence of Manager, or any of Manager's agents, contractors, or employees, and from and against all costs, attorneys' fees, expenses, and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon; and in case any action or proceeding shall be brought against City by reason of any such claim, Manager, upon notice from City, shall defend the same at Manager's expense by counsel reasonably satisfactory to City.

b) Except for the gross negligence and intentional misconduct of Manager and/or any Manager Parties (as hereinafter defined), City shall indemnify and hold harmless Manager and Manager's officers, agents, employees, partners, successors, and assigns (collectively, the "**Manager Parties**") from and against any and all claims arising from Manager's use of the Premises, or from the conduct of the City's business or from any activity, work, or things done, permitted, or suffered by City in, on, or about the Premises and shall further indemnify and hold harmless the Manager Parties from and against any and all claims arising from any breach or default in the performance of any obligation on City's part to be performed under the terms of this Agreement, or arising from any negligence of City, the City Parties, or any of City's agents, contractors, or employees, and from and against all costs, attorneys' fees, expenses, and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon; and in case any action or proceeding shall be brought against Manager by reason of any such claim, City, upon notice from Manager, shall defend the same at City's expense by counsel reasonably satisfactory to Manager.

10. Damage and Destruction

If the Premises are totally or Substantially Destroyed by any cause whatsoever, Manager may elect to terminate this Agreement as of the date the destruction occurred regardless of whether City receives any insurance proceeds upon the delivery of written notice to City within ninety (90) days following the date of such casualty. The term "**Substantially Destroyed**" shall mean a fifty percent (50%) destruction of the Premises.

11. Eminent Domain

If the part of the Premises hereby leased shall be taken by any public authority (other than by the City, which shall be prohibited from taking the Premises by eminent domain) under the power of eminent domain, Manager shall use any condemnation proceeds to restore the remaining improvements to their prior condition, if such restoration is feasible. In the event restoration is not feasible, then the Term of this Agreement shall cease on the part so taken from the day the possession of that part shall be required for any public purpose, and the Management Fee shall be paid up to that day. In the event of a total taking, Manager shall have the right to terminate and cancel this Agreement and declare the same null and void.

12. Bankruptcy and Insolvency

Subject to the United States Bankruptcy Code, neither this Agreement, nor any interest therein, nor any estate thereby created, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law.

13. Default

If Manager or City shall fail to make any payment or perform any obligation required to be made by Manager or City as applicable under this Agreement when the same is due and such non-payment or non-performance shall continue for period of thirty (30) days following receipt of written notice by Manager or City as applicable specifying such non-payment or non-performance ("**Event of Default**"), Manager or City as applicable shall have the right to seek such remedies as may be available to it in law or equity which shall include the right to sue for



damages or to restrain by injunction any violation or threatened violation of any of the terms, covenants or conditions of this Agreement, and by decree, to compel performance of any such term, covenant or condition.

14. Estoppel Certificates

City and Manager agree that, upon the request of the other, each shall execute estoppel certificates in such form as (reasonably) requested by the other.

15. Assignment and Subletting.

a) Manager shall have the right to sublet, from time to time, any portion of the Premises (which may include, without limitation, the leasing of the parking lot or portions of the interior of the Premises for a rental facility, pro shop, locker rooms, restaurant, bar and/or other uses).

b) Manager shall additionally be permitted to make the following transfers without the consent of City:

(i) An assignment of this Agreement to any affiliate of Manager or person which shall: (A) Control; (B) be under the Control of; or (C) be under common Control with Manager. As used herein, “**Control**” shall mean ownership of more than fifty percent (50%) of the outstanding voting stock of a corporation or other majority equity and control interest if not a corporation and the possession of power to direct or cause the direction of the management and policy of such corporation or other entity, whether through the ownership of voting securities, by statute, or according to the provisions of a contract;

(ii) An assignment of this Agreement to any entity which is a successor to Manager either by merger or other consolidation of Manager or its affiliates;

(iii) An assignment, pledge, or leasehold mortgage on Manager’s interest in this Agreement to any bank or banks or other lending institutions for the purpose of securing indebtedness;

(iv) A public offering of Manager or its affiliates;

(v) A pledge by any direct or indirect parent of Manager of its interests in the Manager;

(vi) A sale of all or substantially all the assets of Manager or its direct or indirect parent, affiliate, or a related entity; or

(vii) A sublease of all or some portion of the Premises to an affiliate or subsidiary of Manager or a related entity.

c) Each permitted assignee or sublessee pursuant to this **Section 15** shall acquire its interests subject to all terms and conditions of this Agreement.

16. Compliance with Laws

Manager shall, at its own expense, promptly comply with all lawful laws, orders, regulations or ordinances of all municipal, county and state authorities affecting the Premises, and the cleanliness, safety, occupation and use of the same.

17. Cumulative Rights

It is agreed that each and every of the rights, remedies and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other of said rights, remedies and benefits, or of any other rights, remedies and benefits allowed by law.

18. Governing Law; Venue

The Laws of the Commonwealth of Pennsylvania shall govern the validity, performance, and enforcement of this Agreement. Manager consents to personal jurisdiction and venue in the state and judicial district in which the Premises is located. The courts of the Commonwealth of Pennsylvania will have exclusive jurisdiction and Manager hereby agrees to such exclusive jurisdiction.

19. WAIVER OF JURY TRIAL

CITY AND MANAGER HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE DOCUMENTS TO BE EXECUTED AND DELIVERED IN CONNECTION WITH THIS AGREEMENT, OR ANY DEALINGS BETWEEN THEM RELATING TO THIS AGREEMENT OR THE PREMISES. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including contract claims, tort claims, and all other common law and statutory claims. City and Manager acknowledge that this waiver is a material inducement to enter into this Agreement, that each has already relied on the waiver in entering into this Agreement, and that each will continue to rely on the waiver in their related future dealings. City and Manager each represent and warrant to the other that each has reviewed this waiver with its legal counsel, and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER APPLIES TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR THE DOCUMENTS TO BE EXECUTED AND DELIVERED IN CONNECTION WITH THIS AGREEMENT.

20. Use of City's Name

Manager agrees not to pledge the credit of the City, or purchase, rent, lease, buy or contract for any equipment, appliance or other purchase, the sale or lease in the name of the City.

21. City Representations and Covenants

a) City represents that it has obtained, or will timely obtain prior to the Commencement Date, all required approvals and has the authority to enter into this Agreement and perform all obligations required hereunder.

b) City represents and warrants that the Premises as constructed is suitable for its current use and City is not aware of any latent defects in or to the Premises and, to the best of City's knowledge following due inquiry, no repairs are required to be made to the Premises other than such items as may have been previously disclosed in writing to Manager.

c) A true and correct inventory of all assets, personal property and equipment currently used and required for the operation of the Premises as currently conducted is attached at Exhibit "B" hereto and incorporated by reference (the "**Transferred Equipment**"). City has not moved or caused any other person to move any of the Transferred Equipment since April 1, 2020.

d) City shall sell and transfer the Transferred Equipment to Manager on the date hereof for a purchase price of One Dollar (\$1.00) in accordance with a bill of sale to be entered into by the parties as of the date hereof in connection with this Agreement.

e) City further represents and warrants that all agreements relating to the Premises or the operation thereof will be terminated by City prior to the Commencement Date except to the extent referenced at Exhibit "C" attached hereto and incorporated by reference.

f) Upon the expiration or earlier termination of the Initial Term or the first Extension Term, the Alterations constructed on the property by Manager with an initial cost of at least \$1,000 individually or, if a project, in the aggregate of at least \$5,000, shall be transferred to City by virtue of a bill of sale. Concurrently with the delivery of such bill of sale, City shall pay Manager a sum equal to the initial cost of the Alterations, provided, however, that if both Extension Terms are exercised and the second Extension Term is completed and not terminated by the City for any reason other than payment default by Manager, the requirement for such payment shall be waived and the City shall pay the fair market value for such Alterations at the termination of the second Extension Term, with the fair market value being determined by subtracting all depreciation allocated to the Alterations as of such date from the initial costs of the Alterations which amount shall be due from City to Manager upon termination of the second Extension Term. If Manager terminates the Agreement for any reason other than the default of the City, prior to the conclusion of both of Extension Terms, the City shall pay the fair market value of the Alterations, as described above, at the time of the termination.

22. Manager Financial Statements

Upon reasonable written request by City, Manager agrees to provide City financial statements for the operation of the ice rink facility located upon the Premises on an annual basis.

23. Notices

All notices provided for in this Agreement shall be sent:

To City:	<u>Director of Public Works</u> <u>101 S. George St. 2<sup>nd</sup> Fl.</u> <u>York, PA 17401</u>
With copy:	<u>Solicitor, City of York</u> <u>101 S. George St. 2<sup>nd</sup> Fl.</u> <u>York, PA 17401</u>
To Manager:	York Ice Arena, LLC c/o Black Bear Sports Group, Inc. 7250 Woodmont Ave. Suite 210 Bethesda, MD 20814 Attn: Murry N. Gunty
With copy:	DLA Piper LLP (US) 500 8th St., NW Washington, DC 20004 Attn: Douglas C. Boggs

and such other place or places as hereafter shall be designated in writing by the respective parties. Such notice shall be mailed via U.S. registered or certified mail, return receipt requested, postage prepaid. Notices hereunder shall not be sent via email.

24. Counterparts

This Agreement may be executed by the parties in separate counterparts, each of which when executed and delivered shall be an original for all purposes, but all of which, when taken together, shall constitute one and the same instrument.

25. Successors

The covenants and agreements contained in this Agreement shall enure to the benefit of the parties hereto, their respective successors, legal representatives or assigns.

26. Governmental Immunity

It is understood and agreed by the execution of this Agreement, that City does not waive any right of governmental immunity in such suit in law or in equity or such pleading as is appropriate, notwithstanding the execution of this Agreement.

27. Partial Invalidity

If any clause or provision of this Agreement is found to be illegal, invalid, or unenforceable under present or future laws, the remainder of this Agreement shall not be affected

thereby and there shall be added as part of this Agreement a replacement clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and still be legal, valid, and enforceable.

28. Right of First Refusal

If at any time during the Term of this Agreement (including any Extension Terms), City receives a bona fide offer from a third party unrelated to City to purchase the Premises (the "**Third Party Sale Offer**"), City shall provide a copy of such Third Party Sale Offer to Manager and Manager shall have thirty (30) days within receipt of such Third Party Sale Offer to elect to purchase the Premises on materially similar financial terms of the Third Party Sale Offer. In the event and to the extent that the Third Party Sale Offer shall be in whole or in part for consideration other than cash, Manager shall have the right to pay in cash the fair market value of such non-cash consideration. Moreover, if certain conditions are specific to the party making the Third Party Sale Offer, Manager shall be afforded an opportunity to either waive such conditions or match them on a reasonable basis. If such conditions are non-financial, Manager shall not be required to match such terms (Manager shall only be required to match the financial terms of the Third Party Sale Offer). Notwithstanding the terms set forth in a Third Party Sale Offer, Manager shall have sixty (60) days to close the transaction regardless of the closing provisions set forth in the in the Third Party Sale Offer.

**[Remainder of Page Intentionally Left Blank]**

**[Signatures contained on following pages]**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized representatives, all as of the day and year first above written.

**City:**

**CITY OF YORK, PENNSYLVANIA**

**By:** \_\_\_\_\_  
**Mayor**

**By:** \_\_\_\_\_  
**Controller**

**Manager:**

**YORK ICE ARENA, LLC**

**By:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

EXHIBIT "A"

Description of Premises

[legal description of Premises including parking to be provided]

EXHIBIT "B"

**Schedule of Property and Equipment**

[schedule to be provided]



EXHIBIT "C"

**Schedule of Agreements to be Assumed by Manager**

[schedule to be provided]