

**INTELLECTUAL PROPERTY LICENSE AGREEMENT**

**THIS INTELLECTUAL PROPERTY LICENSE AGREEMENT** (this "Agreement") is dated as of \_\_\_\_\_, 2014, by and between **CITY OF ORLANDO, FLORIDA**, a municipal corporation of the State of Florida ("Licensor"), and **ORLANDO SPORTS HOLDINGS, LLC**, a Delaware limited liability company authorized to do business in Florida ("Licensee"). This Agreement will become fully effective, binding, and enforceable on (i) the date of complete execution by the parties hereto of that certain Soccer Stadium Use Agreement between Licensor and Licensee (the "Use Agreement") and (ii) the date that each of the Conditions Precedent (as defined in the Use Agreement) have been satisfied or waived in writing by the party entitled to the performance of such condition (the "Effective Date").

**WITNESSETH:**

**WHEREAS**, Licensee has been granted the right to own and operate a Major League Soccer ("MLS") team in the Orlando, Florida metro area (the "Team");

**WHEREAS**, Licensor, Licensee and Soccer Stadium Development, LLC, will enter into a Project Construction Agreement, pursuant to which Licensee will agree to construct the multipurpose sports and entertainment soccer stadium (the "Soccer Stadium") to be located on certain real property to be acquired by Licensor that is located in Orlando, Florida north of Church Street, south of Central Blvd., east of Parramore Avenue and west of Terry Street (the "Soccer Stadium Site"), to be owned, operated and managed by Licensor and used primarily for the Team home games as well as other sports, athletic, entertainment and other types of games, events, exhibitions, concerts, performances and assemblages;

**WHEREAS**, Licensor and Licensee have entered into the Use Agreement, dated as of the date hereof, to provide, among other things, for the terms and conditions upon which the Team shall play its MLS Home Games (as defined in the Use Agreement) at the Soccer Stadium;

**WHEREAS**, Licensor has certain intellectual property rights in and to the image depictions, likeness and other intellectual property, if any, associated with the Soccer Stadium, which image depictions, likeness and other intellectual property and the goodwill and common law rights therefor (collectively, the "Stadium Intellectual Property");

**WHEREAS**, the Use Agreement provides that, subject to Licensor's approval (which shall not be unreasonably withheld), Licensee shall have the exclusive right to sell or license the Naming Rights (as defined in the Use Agreement) of the Soccer Stadium and any components thereof and to retain one hundred percent (100%) of all revenues therefrom and be responsible for 100% of the expenses arising from the Naming Rights transaction, including, without limitation, all costs of fulfillment of the benefits granted to the Naming Rights sponsor;

**WHEREAS**, Licensee wishes to obtain a license to use the Stadium Intellectual Property as provided herein and Licensor is willing to grant such a license subject to the terms and conditions hereof; and

**WHEREAS**, Licensor wishes to obtain a license to use the Naming Rights as provided herein and Licensee is willing to grant such a license subject to the terms and conditions hereof.

**NOW, THEREFORE**, in consideration of the mutual promises and conditions herein and for other consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

#### **ARTICLE I- Definitions and Interpretation**

1.1 Capitalized terms set forth herein without definition shall have the meaning ascribed to such terms in the Use Agreement.

1.2 As used herein, the term “Stadium Intellectual Property” shall have the meaning set forth in the recitals to this Agreement.

1.3 As used herein, the term “Permitted Use” means the use of Stadium Intellectual Property by Licensee for the purposes of (i) marketing, advertising, promoting and/or commemorating MLS Home Games, the Team, and/or Team Events and (ii) exploiting such Stadium Intellectual Property for the purpose of generating revenue, including, but not limited to creating and offering products and sponsorships that incorporate the Stadium Intellectual Property (“Commercial Purposes”).

1.4 As used herein, “Licensed Territory” shall mean worldwide to the extent that Licensor has rights to the Stadium Intellectual Property in any applicable country, territory and/or jurisdiction.

1.5 The recitals set forth above are true and correct and are incorporated herein in their entirety.

#### **ARTICLE II- Grant of License**

2.1 Licensor hereby grants to Licensee a royalty-free, revocable, exclusive license to use the Stadium Intellectual Property for Permitted Uses in a lawful manner, in the Licensed Territory, during the Term. Additionally, Licensor hereby grants to Licensee the right to sublicense the Stadium Intellectual Property to third parties, provided such third parties use the Stadium Intellectual Property only for Permitted Uses and in conformance with Article III of this Agreement. Notwithstanding the foregoing, the licenses and rights granted under this Section 2.1 shall be irrevocable during the Term provided that Licensee is not in default under this Agreement and the Use Agreement has not been terminated. Licensee's Permitted Uses hereunder shall be subject to the Quality Control Standard described in Article III below.

2.2 Licensor reserves all rights with respect to the Stadium Intellectual Property not expressly licensed to Licensee hereunder, including the right to use the Stadium Intellectual Property for municipal governmental purposes that are not Commercial Purposes (“City's Permitted Uses”).

2.3 Licensee will claim no interest in the Stadium Intellectual Property beyond those rights expressly granted by this Agreement.

2.4 Except as set forth in Article IV below or insofar as Licensee may use the Stadium Intellectual Property in accordance with the provisions of this Agreement, Licensee shall not use or register or attempt to register any trademark, service mark, or other designation that may be, in Licensor's reasonable opinion, the same or confusingly similar to the Stadium

Intellectual Property. Licensee shall not, by action or inaction, knowingly do anything likely to destroy, impair, diminish or dilute the value or reputation of Licensor, the Stadium Intellectual Property or the goodwill associated therewith. Licensee shall provide Licensor with such information and assistance as may be required to obtain, maintain, and renew registrations for and to prove use of the Stadium Intellectual Property in Licensor's name. These obligations shall survive termination of this Agreement.

2.5 The Permitted Uses shall, at all times during the Term, be in compliance with any and all applicable federal, state, foreign or local laws and regulations, and shall not be lewd or lascivious in nature, promote illegal activity, or reasonably be considered as damaging to the City's reputation. Licensee agrees to notify Licensor promptly of any regulatory action of which Licensee has knowledge is taken in relation to it by any federal, state, foreign, county or municipal authority which relates to or affects the Permitted Uses, including, without limitation, any exercise by Licensee of the Permitted Uses (e.g. products produced in accordance with a Permitted Use).

### **ARTICLE III- Quality Control**

3.1 Licensee shall adhere to reasonable standards for and exercise reasonable control over the nature and quality of items produced in connection with any Permitted Use, including, without limitation, any advertising and/or promotional materials using any Stadium Intellectual Property. Licensee agrees that (i) items produced in connection with any Permitted Use shall not be lewd or lascivious in nature, promote illegal activity, or could reasonably be considered damaging to the City's reputation, (ii) Licensee shall not, under any circumstances, use or otherwise associate any of the Stadium Intellectual Property with any person or entity who would be advertising, promoting or otherwise publicizing any association with (a) a gambling business, (b) tobacco products, or (c) "gentlemen's clubs" (collectively, the "Quality Control Standard").

3.2 Licensor and its designees shall have the right, at all reasonable times, to inspect any Permitted Use or example of Licensee's exercise of its Permitted Use right hereunder for compliance with the Quality Control Standard.

3.3 In the event that the quality, usage and/or notice standards referred to above are not maintained throughout the term of this Agreement, then, upon receipt of written notice from Licensor, Licensee shall immediately discontinue any and all Permitted Use(s) in connection with which the said quality, usage, or notice standards have not been met and shall thereafter promptly take all measures to rectify said deficiencies unless directed otherwise by Licensor.

3.4 Whenever Licensee uses the Stadium Intellectual Property, Licensee shall affix an appropriate trademark notice and agrees to use (where appropriate) the symbol "®" in connection with its use of the Stadium Intellectual Property to the extent federally registered, or "TM" where the Stadium Intellectual Property has not been registered federally, and in each instance where appropriate accompanied by the words "Registered TM of [\_\_\_\_\_]" or such other reference as may be designated by Licensor from time to time.

### **ARTICLE IV– Intellectual Property Protection**

4.1 Except as set forth in Section 4.2, Licensee agrees that it shall not at any time apply for any trademark protection which would affect Licensor's ownership of any rights in the

Stadium Intellectual Property, nor file any document with any government authority or take any other action which could affect Licensor's ownership of the Stadium Intellectual Property, or aid or abet anyone else in doing so.

4.2 Notwithstanding anything to the contrary herein, upon the reasonable request by Licensee and the prior consent by Licensor (which consent may not be unreasonably withheld), Licensee may, at Licensee's sole expense, direct the filing for intellectual property protection related to, and registration of, the Stadium Intellectual Property in the name of Licensor; provided that Licensee shall keep Licensor apprised of any such filings and registrations, as the case may be, and provide Licensor with the reasonable opportunity to comment on any such filing or registration materials. In the event that Stadium Intellectual Property is used together with Team Marks (as defined below), Licensor and Licensee shall work together in good faith to determine the name(s) under which such marks shall be registered.

#### **ARTICLE V- Infringement**

5.1 If any party hereto at any time shall become aware or receive notice of any unauthorized use or other infringement of any Stadium Intellectual Property, then such party shall promptly give written notice thereof to the other party hereto setting forth all information in such party's possession regarding such infringement.

5.2 The right to redress infringement, the responsibility therefore, the obligation to keep the other party reasonably informed as to the progress thereof, and the right to sole control over the progress and settlement of any litigation as to the Stadium Intellectual Property and the names, trademarks, trade names, service marks, logos, symbols, emblems, designs, colors, identifications and designations of the Team as they may exist from time to time (collectively, the "Team Marks"), are as follows:

(a) If the unauthorized use or other infringement of the Stadium Intellectual Property occurs without infringement of the Team Marks, then Licensor shall be responsible for the costs, expenses and control of any legal action.

(b) If the unauthorized use or other infringement of the Stadium Intellectual Property occurs in conjunction with infringement of the Team Marks, then Licensee shall each be responsible for the costs, expenses and control of any legal action, except when such legal action is taken by Licensee against Licensor for Licensor's use or other infringement of the Stadium Intellectual Property that is not contemplated by City's Permitted Uses.

(c) If the unauthorized use or other infringement relates solely to the Team Marks, then Licensee shall be responsible for the costs, expenses and control of any legal action.

5.3 Each party not responsible for instituting the legal action shall cooperate fully with the filing party in any legal action taken against any party alleged to be infringing, including, if necessary, agreeing to be named as a party plaintiff in such suit, at the filing party's expense. Licensee expressly grants Licensor the right, and Licensor shall have standing, to join Licensee as a named party in any legal action taken against any party alleged to be infringing upon the Stadium Intellectual Property, at Licensor's sole cost and expense.

5.4 As to only the Stadium Intellectual Property, in the event that the party responsible for instituting the action hereunder fails to institute legal action within ten (10) days of receipt of the notice of the infringement, then any party designated as not responsible for instituting legal action may institute such legal action, and the other party shall cooperate fully with the filing party in any legal action taken against any party alleged to be infringing, including, if necessary, agreeing to be named as a party plaintiff in such suit.

5.5 Any amount awarded or paid as a result of such legal action shall be allocated first to reimbursement of any costs and expenses incurred in pursuing such action and then to the parties in proportion to their respective damages.

#### **ARTICLE VI- Indemnification**

Licensee hereby agrees to indemnify Licensor and undertakes to defend and hold harmless Licensor, its affiliates and their respective partners, members, managers, shareholders, directors, officers, agents and employees from any and all claims, suits, liabilities, actions, losses, damage, costs and expenses, including legal expenses and attorneys' fees (collectively, "Losses"), whether incurred as the result of a third party claim or resulting from Licensor's enforcing this indemnification clause against Licensee, (a) arising out of Licensee's Permitted Use of the Stadium Intellectual Property hereunder, including without limitation, use of the Stadium Intellectual Property in connection with any product or service or (b) arising out of or related to any breach or misrepresentation by Licensee under this Agreement; provided, however that the foregoing indemnity shall not apply to any Losses caused, in whole or in part, by the negligence, recklessness or willful misconduct or omission of, or breach of this Agreement by, Licensor or its agents.

#### **ARTICLE VII- Termination**

7.1 Licensor may terminate this Agreement immediately upon written notice if: (a) the Use Agreement is terminated for any reason; or (b) Licensee fails to perform, in any material respect, any of its obligations under this Agreement, unless, if such failure is curable, Licensee cures such failure within sixty (60) days after Licensor gives Licensee written notice of such failure to perform. The uncured failure of Licensee to perform obligations under this Agreement shall constitute a "breach" of this Agreement.

7.2 Licensee may terminate this Agreement immediately upon written notice if: (a) the Use Agreement is terminated for any reason; or (b) Licensor fails to perform, in any material respect, any of its obligations under this Agreement, unless, if such failure is curable, Licensor cures such failure within sixty (60) days after Licensee gives Licensor written notice of such failure to perform. The uncured failure of Licensor to perform obligations under this Agreement shall constitute a "breach" of this Agreement.

7.3 Upon termination of this Agreement for any reason Licensee shall: (a) discontinue use of the Stadium Intellectual Property and not use any trademarks, service marks, or other designations that are reasonably likely to be confusingly similar thereto; (b) dispose of any unused raw materials containing the Stadium Intellectual Property, designs or proprietary rights of Licensor in accordance with instructions from Licensor; (c) complete any in-process items incorporating the Stadium Intellectual Property, provided that the quantities or length of time involved are reasonable given Licensee's sales experience, the prospective market conditions,

and other relevant market factors; (d) sell any finished products or services arising from a Permitted Use, provided such finished products or services comply with the Quality Control Standard; and (e) promptly deliver to Licensor all specifications, samples, literature, sales aids, confidential business information and trade secrets of Licensor that are in Licensee's possession.

7.4 Nothing in this Agreement shall preclude the appearance of Stadium Intellectual Property in connection with photographs and video footage (including, without limitation, MLS Home Game, Team Events and Other Team Event broadcasts) in perpetuity when used for any reason in any and all forms of media whether now or hereafter developed.

#### **ARTICLE VIII– Assignment**

Licensee shall not assign or transfer all or any portion of this Agreement except in accordance with MLS Rules and Regulations and without first obtaining the express written consent of Licensor, which consent shall not be unreasonably withheld, delayed or conditioned. Any assignment or transfer without the express written consent of Licensor shall be *void ab initio*. Notwithstanding the foregoing, (i) Licensee may sublicense the Stadium Intellectual Property in accordance with Section 2.1 hereof and (ii) in the event that MLS assumes the Use Agreement pursuant to the terms of the Use Agreement, MLS may assume the rights and obligations of Licensee under this Agreement without the consent of Licensor and MLS may subsequently assign or otherwise transfer this Agreement without the prior written consent of Licensor to a third party that acquires operating rights to Licensor or another MLS team based in the greater Orlando, Florida metropolitan area..

#### **ARTICLE IX– Naming Rights**

Licensee hereby grants to Licensor a non-exclusive, royalty free license to use the Soccer Stadium name, trademarks, trade names, service marks, logos, symbols, emblems, designs, colors, identifications, designations and other intellectual property (the "Naming Rights Intellectual Property") in connection with the exercise of Licensor's rights and the carrying out of Licensor's obligations under the Use Agreement. Licensor shall have no obligation to seek any approval for any use of the Naming Rights Intellectual Property if such use is in connection with communications with Soccer Stadium tenants and licensed users, and in supply, service or use agreements, leases, press releases relating to the Soccer Stadium, routine correspondence and other routine functions of Licensor as owner, operator and manager of the Soccer Stadium and for municipal governmental purposes. Notwithstanding anything to the contrary herein, Licensor may not use the Soccer Stadium name for any Commercial Purposes without the express written consent of Licensee.

#### **ARTICLE X- Miscellaneous Provisions**

10.1 All notices, consents, directions, approvals, instructions, requests and other communications, as applicable, to be given to a party under this Agreement shall be given in writing to such party at the address set forth below or at any other address as such party designates by written notice to the other party in accordance with this Section 9.1 and may be (a) sent by registered or certified U.S. mail, return receipt requested, or by reputable national overnight courier, (b) delivered personally (including delivery by private courier services), or (c) sent by telecopy (with electronic confirmation of such notice) or by electronic mail, in each case under this clause (c) with a copy by one of the methods set forth in clause (a) or (b). Any

notice shall be deemed to be duly given or made (i) one Business Day after being sent by reputable national overnight courier, (ii) three (3) Business Days after posting if mailed in accordance with clause (a), (iii) the day delivered if sent by hand unless such day is not a Business Day, in which case such delivery shall be deemed to be made as of the next succeeding Business Day, or (iv) in the case of telecopy (with electronic confirmation of such notice) or electronic mail, when received, except that if it was received after 5:00 p.m. delivery shall be deemed to be made as of the next succeeding Business Day. Each party hereto shall have the right at any time and from time to time to specify additional parties to whom notice must be given, by delivering to the other party five (5) days' notice thereof setting forth a single address for each such additional party. The notice addresses for the Parties shall initially be as follows:

For the Team:

Orlando Sports Holdings, LLC  
1201 South Orlando Avenue, Suite 202  
Winter Park, Florida 32789  
Attn: President

With copies to:

Foley and Lardner LLP  
90 Park Ave  
New York, NY 10016  
Attn: Irwin P. Raj  
Fax: 212-687-2329

For the City:

City of Orlando  
400 South Orange Avenue, 3rd Floor  
Orlando, Florida 32801  
Attn: City Attorney's Office  
Fax: (407) 246-2854

With copy to:

Akerman LLP  
350 East Las Olas Boulevard, Suite 1600  
Ft. Lauderdale, FL 33301  
Attn: Edward L. Ristaino, Esq.  
Fax: (954) 468-2472

10.2 This Agreement represents the entire agreement between the parties supersedes all prior or contemporaneous oral or written understandings and may not be modified, added to or waived in whole or in part except by a writing executed by the parties hereto.

10.3 The parties acknowledge that the relationship between the parties is strictly that of an arm's length business transaction. Nothing herein shall be construed to establish an employer/employee, partnership, joint venture or any other type of business relationship between the parties hereto. As such, each of the parties is responsible for the time, manner and place of performance of their respective obligations hereunder and shall be responsible for the payment of their own taxes, state and federal, associated with this relationship. No party shall in any way pledge another party's credit or incur any obligation on behalf of any other party.

10.4 THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY IN FLORIDA.

10.5 EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, LICENSOR MAKES NO REPRESENTATIONS AND EXTENDS NO

WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND VALIDITY OF THE RIGHTS LICENSED HEREUNDER.

10.6 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

10.7 The execution and delivery of this Agreement by the parties and the performance of their obligations hereunder have been duly and validly authorized.

10.8 If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions shall continue in full force and effect without being impaired or invalidated in any way.

10.9 A waiver of any breach of any provision of this Agreement shall not be deemed a waiver of any repetition of such breach or in any manner affect any other terms or conditions of this Agreement.

10.10 Section headings have been included in this Agreement merely for convenience of reference. They are not to be considered part of, or to be used in interpreting, this Agreement.

*[The remainder of this page has been intentionally left blank]*

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

**Licensors:**

CITY OF ORLANDO, FLORIDA

**Licensee:**

ORLANDO SPORTS HOLDINGS, LLC, a  
Delaware limited liability company

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

Name: \_\_\_\_\_

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

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

Name: \_\_\_\_\_

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