

**SPRING TRAINING FACILITY LEASE AGREEMENT
BETWEEN LEE COUNTY AND
THE BOSTON RED SOX BASEBALL CLUB,
LIMITED PARTNERSHIP**

THIS SPRING TRAINING FACILITY LEASE AGREEMENT (“Lease”) is made and entered into on this 9th day of December, 2008 (“Signature Date”) by and between LEE COUNTY, a political subdivision and charter county of the State of Florida (“County”), and the BOSTON RED SOX BASEBALL CLUB, LIMITED PARTNERSHIP, a Massachusetts limited partnership, (“Red Sox”), collectively called the “Parties” hereto.

W I T N E S S E T H:

WHEREAS, the County desires to develop and own a Major League baseball stadium (the “Major League Stadium”), training facilities, practice fields, clubhouse and offices, dedicated parking facilities and other appurtenances and improvements on the site described on Exhibit A (“Site”) attached hereto (collectively “Spring Training Facility” or alternatively “Leased Premises”); and

WHEREAS, the Spring Training Facility being leased hereunder was developed and constructed by the County in compliance with all the terms and conditions of the “Spring Training Facility Development Agreement” dated November 1, 2008, entered into by the Parties (“Spring Training Facility Agreement”), including provisions regarding the selection of the Site and the inclusion of all the elements of the “Minimum Spring Training Facility Requirements” set forth in the Spring Training Facilities Agreement; and

WHEREAS, the Red Sox, the sole owner of the Boston Red Sox professional baseball franchise, are willing to engage in Major League Baseball Spring Training in the County, and to Lease the Spring Training Facility for the Term as defined herein; and

WHEREAS, the Red Sox desire to occupy the Spring Training Facility pursuant to this Lease commencing with the Spring Training Season for 2012 (“Target Date”) but in no event later than the Spring Training Season for 2013 (“Outside Date”); and

WHEREAS, the lease of the Spring Training Facility and its appurtenances by the Red Sox will further improve and promote gainful employment and tourism within the County and enhance the economic prosperity of the County, the State of Florida and their residents; and

WHEREAS, the County, as the owner of the Spring Training Facility, has the legal authority to enter into this Agreement as provided by Chapter 125, F.S., and other relevant provisions of general law.

NOW, THEREFORE, in consideration of the premises mutual covenants and promises herein contained, THE PARTIES HERETO AGREE AS FOLLOWS:

1. **TERM.** This Lease shall become effective and the term of this Lease shall commence on the date (“Commencement Date”) on which the Red Sox shall enjoy full beneficial occupancy of the Spring Training Facility and shall extend for a period of Thirty (30) years thereafter (the “Term”). (Lease Commencement Date is defined as the date on which the County delivers to the Red Sox a final official Certificate of Occupancy issued by the County entitling the Red Sox to occupy and enjoy the full beneficial use of the full Spring Training Facility for its intended purposes. Between the Signature Date and the Commencement Date, the Lease shall be held in escrow in accordance with the terms of the Escrow Agreement attached hereto as Exhibit B.) The Red Sox shall have two (2) separate, consecutive ten (10) year options to extend the Term at its discretion and pursuant to the same provisions hereof, including payment of the Base Annual Rent (hereinafter defined in Section 8) as adjusted every five (5) years as set forth herein. No

later than one (1) year prior to the expiration of the Term (or the extended Term as the case may be), the Red Sox shall give written notice to the County of its election to extend. During the Term, the Red Sox shall engage in regularly-scheduled Major League Baseball Spring Training activities exclusively in the County at the Spring Training Facility.

(A) For the purpose of this Lease, the terms:

(i) “Championship Season” shall mean the regular annual period of play of professional baseball games by the clubs of a professional baseball league, except *as* to the division series, the league championship series of Major League Baseball or the world series, resulting in the determination of one of its members as the champion of that league or Major League Baseball.

(ii) “Major League Baseball” shall mean the American League and the National League and any additional league which may be formed in the future and which is recognized as a Major League pursuant to the Major League Rules and the Professional Baseball Agreement. Each league is known individually as a “Major League.”

(iii) “Major League Club(s)” shall mean the professional baseball clubs which are members of Major League Baseball.

(iv) “Major League Rules” shall mean those certain rules of Major League Baseball, all as the same now exist or may be amended from time to time in the future.

(v) “Minor Leagues” shall mean the professional baseball leagues which are members of the National Association of Professional Baseball Leagues, Inc. Each league is known individually as a Minor League.

(vi) “Professional Baseball Agreement” shall mean that certain agreement of the Major Leagues and the National Association of Professional Baseball Leagues, Inc., as the same now exists or may be amended from time to time.

(vii) “Spring Training” shall mean the operations and activities of the Major League Clubs and the Minor League Clubs in training for the next Championship Season.

(viii) “Spring Training Season” shall be deemed to include that time each year reasonably required for the preparation of the Leased Premises, planning for the start of Spring Training, for additional Minor League player training between the end of Major League Baseball Spring Training and the commencement of the Minor League season, and a reasonable period for the “winding down” of Spring Training activities by the Red Sox. It is anticipated by the Parties that the foregoing time frame will be from approximately January 15 to approximately April 15 of each calendar year during the Term.

(B) The County agrees that if, at any time during the Term, it grants to a third party any terms or conditions more favorable to such third party than the terms or conditions provided to the Red Sox under this Lease for any stadium or complex for Major League Spring Training or Major League Baseball operations or activities (“More Favorable Provisions”), the County shall promptly offer the Red Sox any such More Favorable Provisions as was, is, or will be available to such

third party. For purposes of this section, More Favorable Provisions shall pertain only to the comparison of the amount of total consideration paid to the County by the Red Sox compared to the total consideration paid by such third party taking into account the comparability of the respective Spring Training facilities used by the Red Sox and such third party.

2. **LEASED PREMISES.** In consideration of and pursuant to the covenants, agreements, and conditions set forth herein, the County does hereby lease, let, demise, and rent unto the Red Sox, and the Red Sox do hereby rent and lease the Spring Training Facility from County for the following purposes:

(A) Throughout the Term, on a year-round basis, the right to use all improvements on the Leased Premises on an exclusive basis for the purpose of conducting Spring Training and all Major League Baseball activities and operations;

(B) Throughout the Term, on a year-round basis, the right to use the Leased Premises on an exclusive basis for any Minor League Baseball activities or operations, including without limitation any player rehabilitation programs, player development activities, Instructional League activities and operations, and all other similar events related to the operations of Red Sox professional baseball activities; (the foregoing Spring Training, Major League Baseball and Minor League Baseball activities and operations described in Sections 2(A) and 2(B) are collectively defined herein as “Baseball Activities”.)

(C) Throughout the Term, on a year-round basis, the right to use on an exclusive basis the offices, clubhouse area, the Red Sox Special Practice Field, and other

locations (the “Red Sox Exclusive Use Areas”) as depicted on Exhibit C attached hereto and including any other areas on the Leased Premises that may be constructed or renovated following the date hereof which maybe designated by the County and the Red Sox as included in the Red Sox Exclusive Use Areas, but in each case subject to the written approval of the County, which approval shall not be unreasonably withheld or delayed;

- (D) Throughout the Term, on a year-round basis, the right to use the Leased Premises for the purpose of sponsoring or conducting non baseball activities, subject to the issuance of any required County permits generally applicable for such activities in the Major League Stadium, such as, by way of example only and without limitation, sponsoring or conducting musical concerts, theatrical performances, or any other event intended for general entertainment purposes (“Red Sox Non-Baseball Event”).
- (E) During the Term and for so long as same has not been terminated by reason of a Red Sox Default (as defined below), no professional baseball activities or baseball activities conducted by any organizations, other than Red Sox Baseball Activities permitted in this Lease shall be permitted on the Leased Premises without the prior written consent of the Red Sox; and
- (F) Throughout the Term of the Lease, the Red Sox shall be granted uninterrupted access to and egress from the Leased Premises and any other improvements from time to time located on the Leased Premises including, without limitation, access to and egress from all areas owned, licensed or otherwise controlled by the

County that are reasonably necessary for the Red Sox to exercise its rights and perform its obligations under this Lease, subject only to the right of the County during times declared by the State of Florida and the County to be a public emergency, to restrict access, egress and/or use of all or portions of the Leased Premises to serve as temporary staging areas or for such other purposes as the County declares necessary and expedient to protect the public's safety, health and welfare ("County Emergency Use").

3. **TICKET SALES.** The Red Sox shall set the Spring Training and Red Sox Non-Baseball Events ticket prices, shall manage all ticketing operations, including ticket sales ("Ticket Sales") for Spring Training games and Red Sox Non-Baseball Events, and shall be entitled to receive the Gross Revenues From Ticket Sales collected by the Red Sox on an annual basis during the Term. All Gross Revenues From Ticket Sales shall be the sole and exclusive property of the Red Sox, unless otherwise specified herein.

(A) For purposes of this Lease, "Gross Revenue From Ticket Sales" shall mean the total gross revenues from Ticket Sales less any taxes or charges imposed by any governmental, regulatory or taxing authority generally included in the gross price of the ticket to the purchaser and required to be remitted by the Red Sox to the governmental, regulatory or taxing authority and the portion of such receipts from Spring Training game Ticket Sales payable to a visiting Major League Club.

(B) In consideration of the benefits provided herein, the Red Sox shall provide the County, at no charge, with fifty (50) admission tickets (or such other lower number for any game as are actually requested by the County) for each Spring

Training game to be used by the County for purposes of promoting County tourism, economic development and/or community goodwill, the location of which shall be at the discretion of the Red Sox.

4. **PARKING.**

- (A) The County agrees to provide, or cause to be provided, no less than four thousand (4,000) parking spaces to be located within one-half (½) mile radius of the Major League Stadium. The initial configuration of the parking plan shall be subject to the approval of the Red Sox, such approval not to be unreasonably withheld. In the event the County plans to reconfigure the parking plan in any material fashion from the original configuration, the County shall deliver to the Red Sox, for the Red Sox approval (not to be unreasonably withheld), the proposed revised parking plan at least ninety (90) days prior to the start of the Spring Training Season.
- (B) Except as may be otherwise agreed by the Parties in writing, the County hereby grants to the Red Sox the right to operate the parking and collect and retain all parking fees and related revenues derived from any and all activities conducted at the Spring Training Facility throughout the Term. The County shall be entitled to retain gross parking revenues minus any operating expenses in connection therewith which are derived from any non-Red Sox event or activity undertaken or sponsored by the County at the Spring Training Facility as permitted under this Lease (“County Events”).
- (C) All parking revenues (except as otherwise provided in Section 4(B) hereof), derived from parking areas located at the Spring Training Facility shall be the

property of the Red Sox. The fees to be charged for all parking at the Spring Training Facility shall be determined by the Red Sox at its sole discretion. The Red Sox will amend its existing agreement with the Fort Myers Rotary Club (“Rotary Club”) to allow for the continuation of the services provided by the Rotary Club with respect to the operation of the parking facilities for all Spring Training games played in the Major League Stadium.

(D) All parking areas located at the Spring Training Facility shall be managed and operated exclusively by the Red Sox or its designee(s) throughout the Term of the Lease.

5. **CONCESSIONS.** The Red Sox or its designee(s) shall control the sale of all foods, beverages, tobacco, merchandise, novelties and logo items mentioned below and the like (commonly called “concessions”) on the Leased Premises. The Red Sox shall be free to contract with a third party to operate such concessions on terms and conditions approved by the Red Sox in its sole discretion, so long as the Red Sox cause such third party(ies) to conduct such concession operations in accordance with applicable State Laws, County ordinances and regulations pertaining to health and safety standards applicable to the sale of food and beverages to the general public.

(A) The Red Sox agree to consult periodically with the County concerning concession and advertising prices. The Gross Revenues From Concessions shall be the sole and exclusive property of the Red Sox. Gross Revenues From Concessions shall mean total concession revenues from all operations on the Leased Premises, including, but not limited to Spring Training operations, less all taxes and charges

imposed by any governmental, regulatory, or taxing authority and subject to Sections 5(D) and 5(E) below.

- (B) The Red Sox, or its designee(s), may, during the Term, publish and sell or dispense scorecards, yearbooks and novelty items carrying the logo or marks of the Red Sox or of any other Major League Baseball club on the Leased Premises. The revenues derived from such logo items, scorecards and yearbooks, shall be included in the calculation of Gross Revenues From Concessions.
- (C) Subject to the provisions of Sections 5(D) and (E) below, the Red Sox, or its designee, shall be responsible for paying all costs and expenses of concessions operations. As the concessionaire, the Red Sox or its designee shall operate the concessions in a manner consistent with applicable industry standards for comparable concession operations, including providing a sufficient number of properly trained concession personnel to provide the concessions to those attending all events held at the Leased Premises. In addition, the Red Sox agree to provide (or cause to be provided) a reasonable selection of quality items for purchase by those attending Spring Training events at the Leased Premises.
- (D) The County shall notify the Red Sox of any County Events for which it desires that the Red Sox provide concessions operations no less than fifteen (15) business days prior to the date of such County Event. Except as may be otherwise agreed by the Parties in writing, the Red Sox will provide such operations for any such County Event requested by the County, and the County agrees to be responsible for the payment of all costs incurred to provide such concession operations.

Subject to Section 5(E) below, the County shall be entitled to retain the gross revenue available to the Red Sox from concession operations after deduction of any and all costs and expenses associated with such concessions operations for the applicable County Event.

- (E) Notwithstanding the foregoing, the County reserves the right to sell or allow third parties to sell novelty items only at County Events on the Leased Premises. The County or third parties will not sell novelty items that carry the Red Sox logo or marks or the logo or marks of any other Major League or Minor League Club. Subject to the Red Sox deduction for the cost of concession operations pursuant to the preceding Section 5(D), the County or its designee shall retain all revenues from the sale of novelties in accordance with this Section 5(E).
- (F) The Red Sox or its designee shall purchase and maintain all equipment reasonably necessary for the operation and sale of concessions for Spring Training events held at the Leased Premises during the Term. Concession equipment and all other equipment acquired by the Red Sox (or its designee) shall be the property of the Red Sox (or its designee) both during and after the Term. The County acknowledges and agrees that all concessions equipment on the Leased Premises as of the commencement of the Term hereof belongs to the Red Sox or its designee.
- (G) The Red Sox shall maintain standards of cleanliness and product quality consistent with general industry standards and applicable license laws and regulations for comparable concession operations conducted at a Major League

Spring Training facility. The Red Sox shall consult annually with the County as to these issues and pricing, and shall give due consideration to the views of the County regarding these issues.

6. **MESSAGE CENTER/BILLBOARD ADVERTISING/SPONSORSHIP/NAMING RIGHTS.**

- (A) All revenues received by the Red Sox from all advertising, promotions or sponsorships, including without limitation scoreboard/message center advertising, billboard signage (i.e., outfield fence, concourses and other advertising signage) and advertising rights and, without limitation, all rights with regard to the naming of the Spring Training Facility or any part thereof shall be the property of the Red Sox. Naming rights shall not be subject to termination by the County until the expiration of this Lease and any extensions thereof. The Red Sox agree that it shall not permit billboard signage in the Major League Stadium to advertise or promote any specific hotel, inn or any other facilities offering overnight accommodations to transient guests (collectively, "Hotels") which are not located within the County. The foregoing, however, shall not prohibit the Red Sox from selling billboard signage to promote any national business entity which operates or owns a "chain" of hotels throughout several states.
- (B) The County shall have the right to sell message center advertising during County Events as permitted herein. All gross revenues derived from the sale of message center advertising in accordance with this Section 6(B) shall be the sole and exclusive property of the County, and the County shall be responsible for all third party expenses incurred in connection with such advertising. In no event may the

County sell any message center advertising to an entity if the sale of such advertising would cause the Red Sox to breach any exclusivity granted to a naming rights or presenting sponsor pursuant to Section 7 below, unless the Red Sox have expressly approved in advance such advertising in writing.

- (C) The County shall use all reasonable, lawful and permissible efforts to assist the Red Sox in obtaining any and all permits or licenses required under the laws or regulations of any governmental authority and necessary for the scoreboard message center and billboard or fixed signage advertising. The County shall also not act unreasonably to withhold or delay its approval of any such permits or licenses required under its laws or regulations.

7. **FEES FROM THIRD PARTIES AND MISCELLANEOUS REVENUE.** Except for approved County Events, the Red Sox shall be entitled to retain any and all fees from third parties for the use of the Spring Training Facility during the Term, as well as any other moneys, without limitation, generated pursuant other activities not enumerated herein. Use of the Spring Training Facility by other entities shall be subject to an agreement by and between any such entity and the Red Sox on terms determined by the Red Sox in its sole discretion.

8. **LEASE PAYMENTS.** As consideration for this Lease and as rent due to the County for the lease of the Leased Premises to the Red Sox, the Red Sox agrees to pay to the County a guaranteed, base annual lease payment for each year during the Term (“Base Annual Rent”) commencing in the first year of the Term in the amount of Five Hundred Thousand Dollars (\$500,000.00). The Base Annual Rent shall be increased every five (5)

years by adding a three percent (3%) increase thereto during the Term (or extended term as the case may be) of this Lease. Attached hereto as Exhibit D, is the schedule of the Base Annual Rent payments due to the County for the entire Term. The Red Sox shall be responsible for payment of the Florida six percent (6%) Sales Tax of such amount in accordance with Florida Statute §212.031 as it may be amended, revised or re-numbered from time to time. Such payment shall be made to the County no later than June 1 of each year during the Term.

9. **FANTASY CAMPS.** In the event the Red Sox or its designee or assignee shall hold or conduct any fantasy camp at the Spring Training Facility at any time during the Term, the Red Sox shall pay no additional costs to the County for the use of the Spring Training Facility for such fantasy camp. All revenues derived from such fantasy camps shall be the property of the Red Sox.

10. **BROADCASTING.** The County shall equip the Major League Stadium for broadcast, cablecast and/or televising of any games played by the Red Sox and shall maintain the equipment necessary therefor. The Red Sox shall retain any and all broadcasting and television rights for any games played by the Red Sox (or any Red Sox Minor League affiliate) at the Major League Stadium. The Red Sox and its affiliates and agents shall not be charged any “hook-up” fees or similar charge for Major League and/or Minor League Baseball events. The County shall have the right to charge reasonable market rate hook-up fees and other similar charges to visiting teams for Major League and/or Minor League Baseball events.

11. **GAMES PLAYED.** The Red Sox will play each and every one of its regularly scheduled Spring Training home games exclusively at the Major League Stadium. Such exclusivity shall not include any exhibition games scheduled to be played by the Red Sox following the conclusion of the Spring Training schedule and prior to the immediate ensuing Major League Baseball Championship Season, or any game approved by the Office of the Commissioner of Baseball to be played at an independent site where the Red Sox shall be designated as the “home team” for the purpose of that game. The Red Sox shall endeavor in good faith to schedule no less than three (3) night games during each Spring Training Season.

12. **OPERATING MAINTENANCE AND CAPITAL IMPROVEMENTS.**

(A) **OPERATING MAINTENANCE.**

(1) Throughout the Term and except as otherwise expressly provided herein, the County shall, at its sole expense, provide all cleaning, repair and operational maintenance services for the Leased Premises including without limitation the Major League Stadium and practice fields, in conformity with Major League Baseball standards and otherwise consistent with the maintenance standards and practices adhered to by the County in connection with its maintenance of The City of Palms Stadium during the term of the City of Palms Stadium Amended Lease Agreement with the Red Sox dated February 22, 2005. For purposes of this Lease, cleaning, repair and operational maintenance services shall mean those ordinary cleaning, maintenance and repair services necessary to keep the

premises in a first-class, and good working and playing condition and are the ordinary and recurring expenses for current repair and maintenance that do not improve an asset or add to its useful life, including, without limitation, painting, waterproofing and any expenditures that would otherwise be treated as capital expenditures in accordance with generally acceptable accounting principles but become necessary as the result of the County's failure to conduct appropriate operational maintenance services pursuant to this Section 12(A) or (B) to maintain the Leased Premises in good working order.

- (2) The Leased Premises shall be maintained by the County pursuant to the terms of this Lease and in accordance with Major League Baseball standards, generally. The maintenance of the athletic fields located at the Leased Premises shall include, without limitation, fertilization, weed and vegetation control, and pest control and shall be done after normal game hours to ensure minimum interruption with Red Sox activities.
- (3) The Red Sox shall be responsible for providing janitorial services for the Red Sox Exclusive Use Areas.
- (4) In connection with any operations at the Leased Premises, the Red Sox shall have the right to request that the County use products and/or services of its corporate partners if such products and/or services are reasonably comparable in price and quality to other alternatives available to the County, provided however, the County shall not be obligated to purchase

such products and/or services if doing so would require the County to violate any pre-existing written agreement with any third party or applicable law or regulation related to the County's procurement of products and services.

- (5) In connection with County Events and any County Emergency Use, the County shall, at its sole expense, provide all clean up, repair and operational maintenance services for the Leased Premises and shall restore the Leased Premises to the same condition as it was prior to any such County Event. In connection with Red Sox Non Baseball Events conducted by the Red Sox on the Leased Premises, the Red Sox shall, at its sole expense, provide all clean up, repair and operational maintenance services for the Leased Premises and shall restore the Leased Premises to the same condition as it was prior to any such Red Sox Non-Baseball Event.

(B) CAPITAL IMPROVEMENTS.

- (1) The County and the Red Sox shall establish an account (the "Capital Improvements Fund") for mutually agreed upon capital improvement projects to benefit the Leased Premises. No later than January 1 of each calendar year during the Term, the County and the Red Sox shall contribute funds to the Capital Improvement Fund in accordance with the schedule of contributions to the Capital Improvement Fund as set forth in the attached Exhibit E.

- (2) The County shall be responsible for and undertake capital improvements to the Leased Premises in accordance with the terms herein and in conformity with high quality industry standards. For purposes of this Lease, capital improvements shall mean those improvements that restore an asset or add to its useful life, or relate to assets having a useful life of more than twelve (12) months, in accordance with generally accepted accounting principles, but shall expressly exclude capital expenditures to concession and novelty equipment, portable concession units, and equipment owned solely by the Red Sox.
- (3) The Red Sox and the County shall provide to the each other annually by January 1 a list of those capital improvements reasonably anticipated to be needed in the following fiscal year (October 1 to September 30). The County shall provide the Red Sox an estimate of the cost of the capital improvements on such list no later than February 15th of the applicable year. The Red Sox shall have thirty (30) days to review the estimates and submit a final list of reasonable capital improvements for the following fiscal year to the County. The County shall complete all items on the final list submitted by the Red Sox to the extent the costs of such items are payable from the Capital Improvements Fund. In the event that the actual cost of capital improvements agreed upon by the Parties for the then current year exceeds the total amount contributed to the Capital Improvements Fund by the Parties, the Parties shall negotiate in good faith

to agree upon any additional contributions to the Capital Improvements Fund to be paid by the Red Sox and the County.

13. **EQUIPMENT.** Throughout the Term, the County shall be solely responsible for providing all equipment necessary to operate the Leased Premises for purposes contemplated herein except as expressly provided herein with respect to telephones, concession and novelty equipment. In addition, the County shall be responsible throughout the Term for the cost of replacing any equipment not in good and working order.

14. **TOURIST PROMOTION.** The Parties hereto expressly recognize and agree that the County is undertaking substantial financial responsibility to induce the Red Sox to continue their use of the Leased Premises for Spring Training. The County and the Red Sox agree to develop an ongoing promotional partnership for the purpose of promoting the Beaches of Fort Myers and Sanibel as an attractive and viable year round vacation and meeting destination as well as promoting the Red Sox Spring Training games and ticket sales thereof. Accordingly, the Red Sox agree to cooperate in good faith with the County in its effort to promote the development and success of Major League baseball activities in the County area. The Red Sox shall endeavor in good faith effort to cause personnel and players to participate in a reasonable number of cooperative activities involving the promotion and development of professional baseball in the County during Spring Training.

(A) In connection with each regularly scheduled Red Sox Spring Training cablecast from the Major League Stadium (including pre-game and post-game shows), the

Red Sox shall cause its cable telecast rights holder to provide six (6) spot audio/video announcements each of a duration of no less than thirty (30) seconds. These spots shall be prerecorded and supplied by the County at its own expense, shall be solely for the purpose of promoting and advertising the unique tourism attributes and attractions of Lee County, and shall be subject to the prior written consent of the Red Sox, which consent shall not be unreasonably withheld. In no event may the County sell such spots to third party advertisers.

(B) The Red Sox shall provide the County with the following Fenway Park advertising and promotional opportunities during each year of the Term:

(1) One (1) full page four-color advertisement in each of the six (6) regular season editions of the official Red Sox magazine. Lee County shall be responsible for creating such advertisement, but the Red Sox shall have final approval over such advertisement, which approval shall not be unreasonably withheld or delayed. Such advertisement shall be solely for the purpose of promoting and advertising the unique tourism attributes and attractions of Lee County and in no event may be sold by the County to any third party advertiser.

(2) Lee County shall be entitled to one (1) VIP event prior to a Red Sox home game at Fenway Park, which shall include game tickets and food and beverage service for fifteen (15) guests. The date of such event shall be mutually agreed upon by the Parties but subject to availability as determined by the Red Sox in its sole discretion.

- (3) The Red Sox shall offer the County the opportunity to have a promotional location at one (1) pre-season ticket sales event at Fenway Park during the Term, but only in the event the Red Sox elect to hold such event.
 - (4) The Red Sox will provide the County at no charge the use of a suite (including complimentary parking passes for suite attendees) at the Major League Stadium (“County Suite”) for each Major League Spring Training Game to help the County promote tourism, economic development and community goodwill. The Parties agree that, to the extent the County does not use all the tickets in the County Suite for any Spring Training Game, such unused tickets may be used by the Red Sox. The County agrees to be responsible for the payment of all concession items served in the County Suite for guests of the County.
- (C) The Red Sox shall provide the County with the following Major League Stadium advertising and promotional opportunities during each year of the Term:
- (1) One (1) “Beaches of Fort Myers and Sanibel” promotional day to be held in conjunction with one home game at the Major League Stadium during Red Sox Spring Training. The Beaches of Fort Myers and Sanibel will be the “featured” partner for that game and receive exposure and pre-game promotion in the local market consistent with “standard” one-day sponsorship packages. In conjunction with such promotional day, the County may provide promotional giveaway items for game attendees subject to the approval of the Red Sox, which approval shall not be

unreasonably withheld or delayed. The County shall be responsible for the cost of creating such items and staffing such item giveaway, but such items shall be subject to the prior approval of the Red Sox, which shall not be unreasonably withheld or delayed.

- (D) The County shall use reasonable efforts to promote the presence of the Red Sox baseball operations by all reasonable methods incidental to regular tourist promotional activities conducted by the County. In addition, the County shall use reasonable efforts to promote ticket sales for Red Sox events at the Major League Stadium.
- (E) The Red Sox and the County Visitors and Convention Bureau shall meet on or before November 1st of each year throughout the Term for the purpose of finalizing a mutually beneficial promotional campaign to be jointly undertaken to target the Boston/New England market in the next succeeding calendar year consistent with the value, scope and cost incurred in the preceding calendar year. The County shall be solely responsible for any third party costs incurred in connection with the promotional campaign.
- (F) The Red Sox agree that in connection with Red Sox Baseball Activities, it shall make a good faith reasonable effort to rent or encourage visitors to the Spring Training Facility to rent hotel rooms and overnight accommodations from businesses located within the County that are subject to the County Tourist Development Tax.

15. **SERVICES AND PERSONNEL.**

- (A) The Red Sox (or its designee) shall hire and be responsible and pay for concession, ticketing, advertising, parking and other personnel necessary to service patrons attending: (1) the Red Sox Spring Training games (2) Red Sox Baseball Activities, and (3) Red Sox Non-Baseball Events presented at the Major League Stadium. Such personnel shall include, but are not limited to, ushers, ticket takers, concession workers, first aid attendants, parking attendants and other related personnel. The Red Sox personnel shall be responsible for maintaining their respective work areas in a neat and orderly fashion.
- (B) The County shall provide adequate law enforcement and fire protection coverage for the Leased Premises.
- (C) The Red Sox shall provide security within the Major League Stadium portion of the Spring Training Facility for any Red Sox related activities held therein. The Red Sox agree to hire off duty deputies from the Lee County Sheriff's Office to provide such security services. In addition, at all times during Spring Training, the Red Sox shall be responsible for providing its own private security personnel to staff for the Red Sox Exclusive Use Areas.

16. **VIOLATION OF LAWS.**

- (A) Except as provided in Section 22 below, the Red Sox shall pay all lawful taxes, assessments, licenses and charges on its operations, and on goods, merchandise, fixtures, appliances, equipment and property owned solely by the Red Sox and

located on or about the Leased Premises (the "Red Sox Assets"). Should any improvements to the Red Sox Assets made by the Red Sox become subject to taxes, the Red Sox agrees to pay any and all lawful taxes, assessments or charges which at anytime maybe levied by any federal, state, county, city or any tax or assessment levying body (i) against the Red Sox, (ii) upon the Leased Premises; (iii) upon any interest in this Lease or any possessory right which the Red Sox may have in or to the Leased Premises, or (iv) in the improvements thereon by reason of the Red Sox use or occupancy thereof (but expressly excluding capital improvements made by the County pursuant to Section 12 herein). The County agrees that to the extent permitted by law for a Political Subdivision of the State, that it will not support the levy of any new form of governmental tax by third parties against the Red Sox operations hereunder. Notwithstanding the foregoing provisions, the Red Sox shall have the right, in its own name, or at the request of the County and on behalf of the County, to contest in good faith by all appropriate proceedings, the amount, applicability, or validity of any such additional tax or assessment.

- (B) The Red Sox shall not in any manner, directly or indirectly, violate the laws, ordinances, rules or regulations of any federal, state, county, city or other governmental authority or agency in connection with the use and occupancy of the Leased Premises under the terms of this Lease.

17. **RED SOX ALTERATIONS.**

- (A) During the terms of this Lease, The Red Sox shall not make any permanent alterations or permanent additions to the physical structure of the Leased Premises without first requesting and obtaining written approval from the County, which approval shall not be unreasonably withheld. The Red Sox shall repair or cause to be repaired, any damage to the structures, water apparatus, electric lights, or any fixtures, appliances, furniture, lockers or other appurtenances of said premises, which damages result from any gross negligence or willful misconduct of any of the Red Sox, its assigns, agents or employees, and to pay, or cause to be paid to the County, the costs for all reasonable and necessary repairs arising from such gross negligence or willful misconduct; provided, however, that, damage by the natural elements or ordinary wear and tear shall in no event be the responsibility of the Red Sox.
- (B) Upon the termination of this Lease, the Red Sox shall return to the County all equipment and personal property of the County in the exclusive possession of the Red Sox, its assigns, agents or employees. All such equipment and property shall be in good condition, subject to ordinary wear and tear, damage by the natural elements or damage caused by parties other than the Red Sox, its agents, assigns or employees.
- (C) Immediately prior to and following Spring Training during each year of the Term, the County and the Red Sox shall jointly perform an inspection of the Leased Premises that shall include an inventory of all equipment and personal property of the County and the Red Sox thereon. The Red Sox shall promptly pay to the County any monies owed pursuant to Section 17(A) for damage to the Leased

Premises or County property thereon that was discovered as a result of such inspections, but only to the extent such damage was caused by the Red Sox or its assigns, agents or employees. The County shall promptly pay to the Red Sox any monies owed for damage to the Red Sox property on the Leased Premises that was discovered as a result of such inspections. Any damage not caused by the Red Sox shall be promptly repaired by the County.

18. **UTILITIES.** Except as provided herein, the County shall be responsible for the cost of all utilities with respect to the Leased Premises, including but not limited to, electricity, water, sewage, trash removal and telephone lines. Notwithstanding the foregoing, the Red Sox shall reimburse the County for electrical costs incurred to provide field lighting for any evening games played by the Red Sox at the Major League Baseball Stadium during the Term, and shall be responsible for electricity charges related to the Red Sox Exclusive Use Areas. The County will provide separate electric meters for all such locations. The Red Sox will be responsible for the installation and maintenance of all telephone hardware and equipment.

19. **USE.**

(A) During the Term, the Red Sox shall be entitled to peacefully hold and enjoy the exclusive use of the Spring Training Facility for its Major League Baseball Activities and the uses permitted pursuant to Section 2 throughout the Term of the Lease without unreasonable interruption or interference by the County or any person claiming by, through and under the County, except (i) for the County's Emergency Use in accordance with the provisions of Section 2 and (ii) to the

extent that concurrent rights to use the Leased Premises may be exercised or granted to others by the County hereunder in accordance with the provisions of this Section 19. Throughout the Term of the Lease, the Red Sox use of the Spring Training Facility for Spring Training Seasons and other Red Sox Baseball Activities shall be exclusive, and the County may not use the Spring Training Facility for any purpose during Spring Training Season without the prior written consent of the Red Sox. Outside of the Spring Training Season, the County has the right to use the Leased Premises (excluding the Red Sox Exclusive Use Areas) for any sports event so long as (a) such use would not interfere with the Red Sox Baseball Activities and/or (b) such use would not negatively impact the condition of any playing field on the Leased Premises such that the field condition would no longer meet Major League Baseball standards, and/or (c) such use would not interfere with Red Sox Exclusive Use Areas. In any case, the County shall notify the Red Sox in writing no less than thirty (30) days prior to any such use outside of the Spring Training Season and the Red Sox shall have the right to object to any such use if the Red Sox determine in its reasonable discretion, that (a) such use would interfere with the Red Sox Baseball Activities, and/or (b) such use would negatively impact the condition of any playing field on the Leased Premises such that the field condition would no longer meet Major League Baseball standards, and/or (c) such use would interfere with the Red Sox Exclusive Use Areas. If the Red Sox deliver a written notification to the County setting forth the reasons for its objections, the County agrees it will not use the Leased Premises for the use with respect to notice provided.

- (B) The Red Sox shall advise the County of its intended Spring Training Season schedule as soon as practicable each year following the confirmation of such schedule to enable the County to schedule events on the Leased Premises but only in accordance with the terms of this Section 19. No later than November 15 of any year during the Term, the Red Sox shall furnish the County with its final Spring Training exhibition game schedule and any extended use requirements, if any, for the upcoming year.
- (C) In connection with use of the Leased Premises for County Events, in no event shall the County use any Red Sox property or equipment without the express written consent of the Red Sox. The County shall promptly repair or replace any damaged property or equipment owned by the Red Sox or its concessionaire if such damage resulted from the County's use or any other third party's use of the Leased Premises to the extent such third party use was authorized or permitted by the County or resulted from the County's negligence.
- (D) In the event the Red Sox wish to use the Major League Stadium for a Red Sox Non-Baseball Event outside of a Spring Training Season, the Red Sox shall give the County reasonable written notice thereof. If the proposed date of any such proposed Red Sox Non-Baseball Event conflicts with a previously scheduled County Event ("Conflict Date"), the County agrees to give consideration to the Red Sox request to hold such Red Sox Non-Baseball Event. However, the County shall have the exclusive right to allow or not allow the Red Sox to use the Major League Baseball Stadium on the Conflict Date for its proposed Red Sox Non-Baseball Event.

- (E) In the event the Red Sox notifies the County outside the Spring Training Season that the Red Sox wish to use the Major League Stadium on a Conflict Date for a Red Sox Baseball Activity, the County agrees to give priority use to the Red Sox, and the County agrees to allow the Red Sox to use the Major League Stadium for its Red Sox Baseball Activity on the Conflict Date.
- (F) In the event that the Red Sox use the Major League Stadium for a Red Sox Non-Baseball Event, the Red Sox agree to pay to the County [20%] of the Net Ticket Revenue (defined as Gross Ticket Revenue derived from the Red Sox Non-Baseball Event less any and all expenses incurred by the Red Sox in connection with such Event, including without limitation, payments for any physical modifications to the Major League Stadium to accommodate the Event, security, equipment, utility, costs, royalties, fees for performers, advertising and promotional costs).

20. **OPERATIONS.** The Parties hereby agree that the exclusive use of the Leased Premises by the Red Sox during the Spring Training Season includes operational jurisdiction over the various service providers, subcontractors, and other persons or entities who may be involved or working at the Leased Premises, but shall not include operational jurisdiction over any County employees unless expressly agreed by the Parties. Accordingly, the Red Sox shall manage the agreed upon operations for the Spring Training games, including ticket sales and distribution of tickets. The Red Sox will endeavor in good faith to cooperate with other parties using the Leased Premises, including the County, when managing personnel on the Leased Premises during the Spring Training Season.

21. **ASSIGNMENT/SUBLEASE.** The rights granted to the Red Sox pursuant to this Lease shall not be assigned, except with the prior written consent of the County; provided, however, that any assignment or transfer pursuant to the sale of all or substantially all of the assets and/or ownership interest of the Red Sox shall not require County's consent hereunder. The County shall have the right to approve such sublessee and sublease agreement, provided that such approval shall not be unreasonably withheld or delayed.
22. **TAXES.** The County represents that (1) as of the date hereof, it has and shall continue to have throughout the Term, all ownership interests in the Leased Property, (2) as such, has the full authority to grant the Red Sox the rights provided hereunder, and (3) this Lease has been entered into for the public purpose of promoting tourism, gainful employment and economic growth in Lee County and the State of Florida. It is the intent and understanding of the Parties that the leasehold interest held by the Red Sox pursuant to this Lease shall be exempt from ad valorem taxation pursuant to Chapter 196.199, Florida Statutes. If, for any reason during the Term, all or any portion of its leasehold interest or other rights or benefits held by the Red Sox under this Lease becomes subject to ad valorem taxation, such tax shall be paid by the County as provided by law.
23. **HOLD HARMLESS/INSURANCE.**
- (A) Subject to the limitations as set out in Florida Statutes §768.28 and §252.51, the County shall indemnify, defend, and hold harmless the Red Sox and the members, partners, officers, employees, affiliates, representatives and agents for the Red Sox (the "Red Sox Indemnified Parties"), from and against any and all claims, actions, damages, liability, costs and expenses, including reasonable attorneys'

fees and court costs, arising out of the use, maintenance or operation of the Leased Premises by the County or any of its designees, approved third party lessees, agents, employees, or contractors, or arising out of the actions, omissions to act, or negligence of the County or any third party using the Leased Premises with permission from or the approval of the County in accordance with its rights hereunder, or the County's breach of any representation, warranty or agreement with the Red Sox including, but not limited to, bodily injury, death and/or property damage or any other lawful expense. The County agrees to defend all actions to which such indemnity applies and to conduct the defense thereof at the County's sole expense and by the County's counsel, which counsel shall be satisfactory to the Red Sox, but such approval shall not be unreasonably withheld or delayed. The County may not settle any suit, action or claim to which an indemnification obligation applies under this Section 23 without the prior written approval of the Red Sox, which approval shall not be unreasonably withheld or delayed.

- (B) The Red Sox shall indemnify, defend, and hold harmless the County from and against any and all claims, actions, damages, liability, costs and expenses, including reasonable attorney's fees and court costs, arising out of the use of the Leased Premises by the Red Sox or any of its agents, employees, or contractors (the "Red Sox Parties") or arising out of the actions, omissions to act, or negligence of the Red Sox or any third party using the Leased Premises for professional baseball activities or related events with permission from or the approval of the Red Sox in accordance with its rights hereunder, or the Red Sox's

breach of any representation, warranty or agreement with the County including, but not limited to, bodily injury, death and/or property damage or any other lawful expense. The Red Sox agree to defend all actions to which such indemnity applies and to conduct the defense thereof at the Red Sox sole expense and by the Red Sox counsel. The Red Sox may not settle any suit, action or claim to which an indemnification obligation applies under this Section 23 without the prior written approval of the County, which approval shall not be unreasonably withheld or delayed.

- (C) Each Party shall maintain insurance with a company or companies reasonably acceptable to the other, which company or companies shall have at least an A-Best rating. Each Party agrees to maintain insurance policies as follows:
- (1) Workers' compensation insurance in an amount not less than is required by Florida law;
 - (2) Property damage insurance in an amount not less than \$1,000,000.00 or such other amount as the Red Sox and the County shall jointly determine is reasonably prudent;
 - (3) Commercial general liability insurance with a limit of \$1,000,000.00 or such other amount as the Red Sox and the County shall jointly determine is reasonably prudent; and
 - (4) The Red Sox shall name the County as an additional insured on all comprehensive general liability insurance policies as required herein and

shall issue certificates evidencing such insurance policy to the County no less than thirty (30) days prior to Spring Training each year.

24. **DISPUTE RESOLUTION.**

A. The Parties agree to attempt to settle any dispute or controversy that may arise between the Red Sox and the County regarding any provision or obligation set forth in this Lease by mediation. A mediator will be selected by the parties who will endeavor to resolve in a mutually satisfactory way, any such dispute or controversy in accordance with the laws of the State of Florida. The Party desiring the mediation shall give written notice thereof to the other Party specifying the specific question or questions to be mediated.

B. If a mediator is unable to satisfactorily resolve the question or questions to be mediated within sixty (60) days of commencing the mediation, the Parties agree to then submit the question or questions to resolution by binding arbitration conducted in accordance with applicable Commercial Arbitration Rules of the American Arbitration Association (“AAA”) then in effect.

C. The arbitration shall be expedited to completion within ninety (90) days after notice of electing to arbitrate sent by one Party to the other Party. Both Parties shall agree in good faith to cooperate and facilitate the completion of the arbitration within said ninety (90) day period.

D. In the event the Parties are unable to agree on a single arbitrator within thirty (30) days of the notice of electing to arbitrate, each Party shall within ten (10) business days thereafter select an arbitrator from a panel of eligible arbitrators provided by AAA and thereafter the two selected arbitrators shall select a third arbitrator.

E. If the arbitrator (or if a panel is selected) feels that he or she requires input from third party consultants, the arbitrator shall be entitled to hire any such consultant provided that such consultant is unbiased and has no relationship with either Party. The cost of the arbitration, including all fees and expenses of the arbitrator, shall be borne or apportioned in accordance with the reward of the arbitrator.

F. Discovery in the arbitration will be conducted in accordance with the Florida Rules of Civil Procedure.

G. After all the evidence has been presented and the hearing has concluded, the arbitrator shall issue an award within thirty (30) days. A judgment upon that award shall be enforceable in any court having jurisdiction of such matters in the State of Florida.

25. **SUSPENSION OF PLAY.** If for any reason beyond the reasonable control of the Parties, including without limitation, as a result of any act of nature or force majeure, national emergency, state of war, or because of a labor strike, lock-out, or other cause of similar nature, the Leased Premises are unavailable for Spring Training in any of the years covered under the terms of this Lease, this Lease shall be regarded as suspended for the period of unavailability without liability to either Party, and the Term shall be extended for one (1) additional calendar year so long as the period of unavailability is no more than one (1) Spring Training Season during the Term. If the Leased Premises shall be unavailable for more than one Spring Training Season during the Term, the Red Sox shall have the right to terminate the Lease without any further liability to the County.

26. **NOTICES.** Any notice required to be given hereunder shall be in writing and shall be deemed received (i) upon actual receipt if sent by overnight delivery by a nationally

recognized courier or by U.S. Postal Services express Main, postage prepaid, (ii) five (5) days after deposit if sent by U.S. certified mail, return receipt requested, or (iii) upon actual confirmed receipt if sent by facsimile copy:

For notices to the Red Sox:
Boston Red Sox Baseball Club, Limited Partnership
4 Yawkey Way
Boston, MA 02215
Attn: Executive Vice President, Business Affairs

With a copy to:
Boston Red Sox Baseball Club, Limited Partnership
4 Yawkey Way
Boston, MA 02215
Attn: Chief Legal Officer

For notices to the County:
Director of Public Works,
Director of Parks and Recreation and
Lee County Manager
Post Office Box 398
Fort Myers, Florida 33902-0398

With a copy to:
Lee County Attorney
P.O. Box 398
Fort Myers, Florida 33902-0398

In addition to the formal notices required by this Lease, the Red Sox shall coordinate in good faith its activities hereunder with the County through the County's Director of Parks and Recreation, or such other person as the County Manager may designate from time to time. Pursuant to the notice provision above, it is hereby agreed that the said Director or other, designee is authorized to represent the County with respect to matters covered by this Lease. In similar fashion, the Red Sox shall designate one person who shall be authorized to represent the Red Sox in such matters. In the absence of the Red Sox

making a specific designation to the contrary, this person shall be the person named above by the Red Sox to receive all notices.

27. **PERMITS.** The Red Sox, at its sole expense, shall comply with all laws, orders and regulations of federal, state and county authorities, and with any directions given by any public officer pursuant to law, which shall impose any duty upon the Red Sox with respect to the Red Sox use of the Leased Premises. The County shall obtain permits or licenses or take necessary corrective action to ensure the acquisition of any permit directly related to the County's repair, renovation or maintenance of the Leased Facilities and compliance with building codes. The Red Sox, at its sole expense, shall obtain all licenses or permits which may be required for the conduct of its business within the terms and conditions of this Lease, and the County, if necessary, will join with the Red Sox in applying for all such permits or licenses. To the extent permitted by law, the County will assist and cooperate with the Red Sox in securing permits for the operation of the Leased Premises. The County shall also not act unreasonably to withhold its approval of any such permits or licenses required under its laws or regulations.

28. **TERMINATION AND REMEDIES.**

(A) The County may terminate this Lease upon thirty (30) days' written notice to the Red Sox of any of the following events (collectively hereinafter referred to as the "Red Sox Defaults"):

(1) If the Red Sox desert or vacate the Leased Premises;

(2) If, by order of a competent authority, a receiver, liquidator or trustee of the Red Sox or any of its property shall be appointed and such receiver,

liquidator or trustee shall not have been discharged within thirty (30) days of the making of such order, or if by decree of such authority the Red Sox shall be adjudicated or determined to be bankrupt or insolvent, or if the Red Sox shall file a petition in voluntary bankruptcy, shall make an assignment for the benefit of or enter into a composition with its creditors, shall seek to terminate its existence or shall otherwise seek to wind up its affairs;

(3) If the Red Sox fail to make any payments to the County pursuant to this Lease within one hundred twenty (120) days following written notice of such payment default, or

(4) If the Red Sox breach any material provision, agreement or obligation hereunder that is not cured within sixty (60) days of written notice of such breach delivered to the Red Sox; provided, however, that if such breach cannot be cured within such sixty (60) day period, but the breach is capable of cure within a reasonable period of time which is acceptable to the County, and the Red Sox diligently pursues such cure, the Red Sox shall be allowed such agreed upon time period to cure such default.

(B) Upon an event of a Red Sox Default, the County, shall have the rights to: (i) file a lawsuit to collect all monetary obligations as they become due, in which event the County shall have the obligation to use reasonable efforts to mitigate its damages, or (ii) file an action for specific performance of this Lease, or (iii) terminate this Lease, or utilize any of the above, as may be appropriate.

- (C) In the event the County should elect to terminate the Lease following a Red Sox Default, the County's remedies are as follows:
- (1) the County shall have the right to re-enter or repossess the Leased Premises by force, summary proceedings, surrender or otherwise, and may dispossess and remove the Red Sox, or any other occupants thereof, without being liable for any prosecution therefor, provided, however, that the County shall have no right to the Red Sox Assets and the Red Sox shall have the right to remove all Red Sox Assets from the Leased Premises.
 - (2) The County shall have the right to file an action to collect any monetary obligations accrued through the date of termination.
 - (3) The County shall have the right to re-let the Leased Premises. Should the County incur necessary and reasonable expenses in enforcing its rights hereunder, specifically including reasonable attorney's fees and court costs, said reasonable expenses shall be borne by the Red Sox.
- (D) In addition to any other remedies available to it as provided herein or at law or equity, the Red Sox may terminate the Lease upon thirty (30) days' written notice to the County of a breach by the County of any material provision, agreement or obligation hereunder ("County Default") that is not cured within sixty (60) days of notice of such breach; provided, however, that if such breach cannot be cured within such sixty (60) day period, but the breach is capable of cure within a reasonable period of time which is acceptable to the Red Sox, and the County

diligently pursues such cure, the County shall be allowed such agreed upon time period to cure such default. Following the termination of this Lease by the Red Sox, the Red Sox shall be relieved of all liabilities and obligations accruing after the effective date of termination.

- (E) In the event of a County Default, and in addition to the remedy permitted by Paragraph (D) above or at law or equity, the Red Sox are granted the remedy of “Self Help” to be exercised at its sole and exclusive discretion, by taking such action as the Red Sox deems necessary to cure such default, and the County shall, upon demand made by the Red Sox, reimburse the Red Sox for the cost of curing such County Default, plus an administrative fee equal to ten (10) percent of the cost to the Red Sox to cure such default. In the event the County fails to reimburse the Red Sox for the cost of curing the County Default within thirty (30) days from demand for payment by the Red Sox, the Red Sox may deduct such amount from the Base Annual Rent payable under this Lease, or from any other sums due the County hereunder. The taking of actions by the Red Sox to mitigate a County Default shall not be deemed a cure of such default.

29. **FIRE OR OTHER CASUALTY.**

- (A) The County shall insure the Leased Premises against damage or destruction by fire or other casualty under a standard fire insurance policy with approved standard extended coverage applicable to the Leased Premises. The County shall ensure that the Leased Premises are covered for 100% replacement value. If any part of either of the Leased Premises is damaged or destroyed by fire or other

casualty insured under the standard fire insurance policy including approved standard extended coverage endorsement applicable to the Leased Premises, and the Leased Premises are unavailable for more than one (1) Spring Training Season, then the Red Sox may terminate this Lease by written notice to the County within one hundred twenty (120) days after the later date of such damage or destruction or unavailability of the Leased Premises, is known by the Red Sox. In the event the Red Sox elect to terminate the Lease, each Party shall be entitled to the proceeds of any insurance it has procured, there shall be an abatement of all monies due hereunder, and the Red Sox shall be entitled to 50% of any Capital Improvements Fund available as of the date of such damage or destruction. Upon payment of any sums then owing by either Party to the other, the Parties shall be released from all future liability hereunder except for liability under the indemnity provisions hereof, which shall survive termination of this Lease.

- (B) If the Red Sox do not elect to terminate this Lease as a result of damage, destruction or unavailability of either of the Leased Premises, then at its expense, the County shall restore the Leased Premises to as good as condition as existed immediately prior to the damage or destruction and the Red Sox shall not be released from any obligations hereunder except that there will be a release from all monetary payments due hereunder for the period of unavailability.
- (C) If either of the Leased Premises is damaged or destroyed by fire or other casualty and the Leased Premises are unavailable for less than one Spring Training season during the Term, the County shall promptly repair and rebuild the Leased

Premises. In such event, all Red Sox obligations hereunder shall be suspended during the period of time for which the Leased Premises are unavailable.

(D) If, during any period the Leased Premises are unavailable, the Red Sox must find an alternative location for Spring Training, the County shall make reasonable efforts, if requested by the Red Sox, to secure a temporary, substitute Spring Training Facility for the Red Sox, which satisfies the reasonable needs of the Red Sox to conduct Spring Training activities.

(E) Except to the extent provided for in this paragraph or elsewhere in this Lease, neither the monies payable by the Red Sox nor any of the Red Sox other obligations under any provisions of the Lease shall be affected by any damage to or destruction of the Leased Property by any cause whatsoever.

30. **GENERAL PROVISIONS.** This Lease shall be governed by, construed and enforced in accordance with the laws of the State of Florida.

(A) The covenants, terms, conditions, provisions and undertakings in this Lease, or in any renewals thereof, shall extend to and be binding upon the heirs, personal representatives, executors, administrators, successors and assigns of the respective Parties hereto as if they were in every case named and expressed and wherever reference is made to either of the Parties hereto it shall be held to include and apply also to the heirs, personal representatives, executors, administrators, successors and assigns of such Party as if in each and every case so expressed.

- (B) The Parties agree to execute and deliver any instruments in writing, which are necessary to carry out any agreement, term, condition or assurance in this Lease, whenever the occasion shall arise and request for such instrument shall be made.
- (C) The specified remedies to which the Parties may resort under the terms of this Lease are cumulative and not intended to be exclusive of any other remedies or means of redress to which the Parties maybe lawfully entitled in case of any breach or threatened breach of any provision or provisions of this Lease.
- (D) This Lease and any exhibits attached hereto contain the entire Agreement and understanding between the Parties and is a complete and exclusive statement of the terms thereof. Except for any conditions or terms contained in the Spring Training Facility Agreement (defined above) that are unsatisfied as of the effective date of this Lease, this Lease shall supersede all prior oral and written understandings or agreements, terms or conditions relating to the Leased Premises, and neither Party has relied on any representation, express or implied, not contained in this Lease or the simultaneous or prior writings heretofore. Any amendment or modification of this Lease may not be changed or supplemented orally, but shall be in writing and signed by the Parties.
- (E) Each of the Parties represents and warrants that as of the date hereof and throughout the Term (1) it has all requisite authority to enter into this Lease and to perform its obligations hereunder, (2) that the execution and delivery of this Lease and the performance of its obligations hereunder have been duly authorized by all necessary action on the part of such Party, and (3) upon due execution and

delivery by such part, constitutes a legal, valid and binding obligation of the part, enforceable against such Party in accordance with its terms.

- (F) If any term or other provision of this Lease is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms and provisions of this Lease shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify the Lease so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the 9th
day of December, 2008.

(CHARLIE GREEN),
ATTEST: CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: Marcia Wilson
Deputy Clerk

By: Rg Judah
Chairman

APPROVED AS TO FORM:

By: Andrea R. Jones
Office of the County Attorney

WITNESSES:

BOSTON RED SOX BASEBALL CLUB,
Limited Partnership, a Massachusetts
limited partnership
4 Yawkey Way
Boston, MA 02215

By: Jan J. Clapp

By: [Signature]
Executive Vice President

By: Melby Schueller

EXHIBIT A

LEGAL DESCRIPTION OF MAJOR LEAGUE STADIUM LAND AREA AND
MINOR LEAGUE COMPLEX LAND AREA

[To be inserted when the selected Site is acquired pursuant to the
Spring Training Facility Agreement as defined herein.]

EXHIBIT B
ESCROW AGREEMENT

EXHIBIT C

RED SOX EXCLUSIVE USE AREAS

EXHIBIT D

SCHEDULE OF BASE ANNUAL RENT PAYMENTS

<u>Year</u>	<u>Amount</u>
2012	\$500,000
2013	\$500,000
2014	\$500,000
2015	\$500,000
2016	\$500,000
2017	\$515,000
2018	\$515,000
2019	\$515,000
2020	\$515,000
2021	\$515,000
2022	\$530,450
2023	\$530,450
2024	\$530,450
2025	\$530,450
2026	\$530,450
2027	\$546,364
2028	\$546,364
2029	\$546,364
2030	\$546,364
2031	\$546,364
2032	\$562,754
2033	\$562,754
2034	\$562,754
2035	\$562,754
2036	\$562,754
2037	\$579,637
2038	\$579,637
2039	\$579,637
2040	\$579,637
2041	<u>\$579,637</u>
	<u>\$16,171,025</u>

EXHIBIT E

CAPITAL IMPROVEMENT FUND

Boston Red Sox
 Lee County Stadium Lease Agreement
 Capital Improvements Fund

<u>Year</u>	<u>Boston Red Sox</u>	<u>Lee County</u>	<u>Total</u>	<u>Cum. Total</u>
1	\$37,500	\$37,500	\$75,000	\$75,000
2	\$37,500	\$37,500	\$75,000	\$150,000
3	\$37,500	\$37,500	\$75,000	\$225,000
4	\$37,500	\$37,500	\$75,000	\$300,000
5	\$37,500	\$37,500	\$75,000	\$375,000
6	\$62,500	\$62,500	\$125,000	\$500,000
7	\$62,500	\$62,500	\$125,000	\$625,000
8	\$62,500	\$62,500	\$125,000	\$750,000
9	\$62,500	\$62,500	\$125,000	\$875,000
10	\$62,500	\$62,500	\$125,000	\$1,000,000
11	\$175,000	\$175,000	\$350,000	\$1,350,000
12	\$175,000	\$175,000	\$350,000	\$1,700,000
13	\$175,000	\$175,000	\$350,000	\$2,050,000
14	\$175,000	\$175,000	\$350,000	\$2,400,000
15	\$175,000	\$175,000	\$350,000	\$2,750,000
16	\$175,000	\$175,000	\$350,000	\$3,100,000
17	\$175,000	\$175,000	\$350,000	\$3,450,000
18	\$175,000	\$175,000	\$350,000	\$3,800,000
19	\$175,000	\$175,000	\$350,000	\$4,150,000
20	\$175,000	\$175,000	\$350,000	\$4,500,000
21	\$100,000	\$100,000	\$200,000	\$4,700,000
22	\$100,000	\$100,000	\$200,000	\$4,900,000
23	\$100,000	\$100,000	\$200,000	\$5,100,000
24	\$100,000	\$100,000	\$200,000	\$5,300,000
25	\$100,000	\$100,000	\$200,000	\$5,500,000
26	\$100,000	\$100,000	\$200,000	\$5,700,000
27	\$50,000	\$50,000	\$100,000	\$5,800,000
28	\$50,000	\$50,000	\$100,000	\$5,900,000
29	\$50,000	\$50,000	\$100,000	\$6,000,000
30	\$0	\$0	\$0	\$6,000,000
	<u>\$3,000,000</u>	<u>\$3,000,000</u>	<u>\$6,000,000</u>	