

March 6, 2018

Via Federal Express

Greg Demko
City Manager

City of High Point
P.O. Box 230
High Point, NC 27261

Re: Client-Matter No. City of High Point

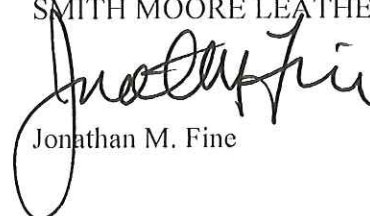
Dear Greg:

Enclosed please find the City's original fully-executed Charitable Grant Agreement.

Please let us know if you have any questions or need anything further.

Very truly yours,

SMITH MOORE LEATHERWOOD LLP



Jonathan M. Fine

JMF/lmh
Enclosures

CHARITABLE GRANT AGREEMENT

This **CHARITABLE GRANT AGREEMENT** (this "Agreement"), is made and entered into as of the 31st day of January, 2018 (the "Execution Date") by and among The Winston-Salem Foundation, on behalf of its BB&T Charitable Fund ("WSF"), Branch Banking and Trust Company, with principal offices located at Winston-Salem, North Carolina ("BB&T"), High Point Downtown Stadium Foundation ("HPDSF"), High Point Community Foundation ("HPCF") and the City of High Point, North Carolina (the "City").

RECITALS

A. The City is a governmental unit which plans to develop a baseball stadium and community entertainment facility in High Point, North Carolina, located at a site bordered by Elm Street, Gatewood Avenue, Lindsay Street and Pine Street (collectively, the "Stadium"), which Stadium, pursuant to that certain Use and Operating Agreement by and between the City and HPDSF dated January 31, 2018 (the "Use Agreement"), will be exclusively operated by HPDSF on behalf of the City. The Stadium will, among other events and functions, be the home venue for a minor-league professional baseball team which will be owned or controlled by HPDSF or its Affiliates (the "Team").

B. HPDSF is a North Carolina nonprofit corporation which will apply for Federal tax exemption under Sections 501(c)(3), 509(a)(1) and 170(b)(1)(A) of the Internal Revenue Code of 1986, as amended from time to time (the "Code"). HPDSF has every expectation that its tax exempt status as described above will be granted by the Internal Revenue Service.

C. HPCF is a North Carolina nonprofit corporation formed as a community foundation which has received its Federal tax exemption and is described under Sections 501(c)(3), 509(a)(1) and 170(b)(1)(A) of the Code.

D. WSF is a North Carolina charitable trust formed as a community foundation which has received its Federal tax exemption and is described under Sections 501(c)(3), 509(a)(1) and 170(b)(1)(A) of the Code. The BB&T Charitable Fund at WSF is a donor-advised fund whose grants must be made to governmental units or charitable organizations described under Sections 501(c)(3), 509(a)(1) and 170(b)(1)(A) of the Code. BB&T is the advisor to the BB&T Charitable Fund.

E. Pursuant to a grant request made by BB&T, WSF, on behalf of the BB&T Charitable Fund, desires to make a grant from the BB&T Charitable Fund in the amount of \$7,500,000 to be paid to HPDSF, so long as it has received its tax exemption under Sections 501(c)(3), 509(a)(1) and 170(b)(1)(A) of the Code at the time each grant is made, or to HPCF if HPDSF has not received its tax exemption, for the use and benefit of the City and its citizens.

F. Pursuant to the Use Agreement, HPDSF has the right and authority to name the Stadium and wishes to name the Stadium after the BB&T Charitable Fund, all in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants and agreements set forth below, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties, intending to be legally bound, agree as follows:

SECTION 1. INCORPORATION BY REFERENCE

1.1 Incorporation By Reference. The foregoing recitals in this Agreement are hereby incorporated herein by this reference.

SECTION 2. TERM

2.1 TERM. The term of this Agreement (the "Term") shall commence on the Execution Date and shall continue in full force and effect until October 31, 2033, unless otherwise terminated in accordance with the terms and conditions of this Agreement.

SECTION 3. CHARITABLE GRANT

3.1 GRANT. At the request of BB&T, WSF hereby pledges to make a grant in the aggregate amount of Seven Million Five Hundred Thousand and 00/100 Dollars (\$7,500,000) (the "Grant") to HPDSF, so long as it has received its tax exemption under Sections 501(c)(3), 509(a)(1) and 170(b)(1)(A) of the Code and is the operator of the Stadium at the time each grant is made, or to HPCF if HPDSF has not received its tax exemption at that time or HPDSF is not the operator of the Stadium (referred to herein as the "Recipient Charity"), for the use and benefit of the City and its citizens. As a condition of making the grant, the Recipient Charity shall provide WSF with a copy of its IRS determination letter declaring the Recipient Charity is tax exempt under Sections 501(c)(3), 509(a)(1) and 170(b)(1)(A) of the Code. BB&T shall have the option, at its sole election, to satisfy any part or all of WSF's pledge hereunder, and WSF shall be relieved of its obligations hereunder to the extent of such gift(s) by BB&T.

3.2 PAYMENT OF THE GRANT. The Grant is an irrevocable pledge that will be paid to the Recipient Charity in annual installments over the Term (each an "Annual Grant") and used for charitable purposes as described in Section 501(c)(3) of the Code. Subject to the terms of this Agreement, the initial Annual Grant, in an amount equal to Five Hundred Thousand and 00/100 Dollars (\$500,000), shall be paid by WSF (or BB&T if it so elects as stated in Section 3.1 above) on or before April 1, 2019, and payments will continue annually thereafter according to the following schedule:

<u>Year</u>	<u>Annual Grant</u>
2020	\$500,000
2021	\$500,000
2022	\$500,000
2023	\$500,000
2024	\$500,000

2025	\$500,000
2026	\$500,000
2027	\$500,000
2028	\$500,000
2029	\$500,000
2030	\$500,000
2031	\$500,000
2032	\$500,000
2033	\$500,000
Total (including initial Annual Grant payment)	\$7,500,000

3.3 INVOICES. Each Annual Grant shall be paid on or before April 1st of such applicable year. HPDSF shall submit an invoice to WSF by January 31st of such year. Failure by HPDSF to send such invoice on or before January 31st shall not constitute an HPDSF Default or otherwise constitute a breach of this Agreement, but instead WSF shall have sixty (60) days from the date of such invoice to make the Annual Grant payment.

3.4 MEANS OF PAYMENT.

(a) Each payment hereunder shall be made by electronic funds transfer of immediately available United States' funds to such account as the Recipient Charity may specify from time to time, or such other means as may be mutually agreed to by WSF and the Recipient Charity. For purposes of this Agreement, payment shall be deemed made once WSF has initiated the wire transfer to the designated account.

(b) The parties acknowledge that the Annual Grant payments can only be made to an entity determined by the Internal Revenue Service to be a public charity exempt from federal income taxes under Sections 501(c)(3), 509(a) and 170(b)(1)(A) of the Code (a "501(c)(3) Organization"). As such, each Annual Grant shall be made to the Recipient Charity, who will then pay such funds to the City in accordance with the terms of the Use Agreement.

(c) With regard to the Annual Grant payments made pursuant to Section 3.4(b) of this Agreement, the City shall have the right (i) to receive payment of the Annual Grant in accordance with the terms of this Agreement, and (ii) upon the occurrence of an Event of Default with respect thereto (and as noted in Section 8.1(a), herein), to avail itself of the rights and remedies set forth in Section 8.3, herein.

3.5 CHARITABLE GRANT. The parties intend each Annual Grant to qualify as a charitable grant to a public charity, and the terms and provisions of this Agreement shall be interpreted consistently therewith. The Recipient Charity shall provide WSF with a formal

written acknowledgment of each charitable contribution and otherwise cooperate with WSF in substantiating the charitable contribution. The Recipient Charity shall use each Annual Grant for charitable purposes as described in Section 501(c)(3) of the Code. Upon WSF's request, the Recipient Charity shall provide evidence satisfactory to WSF that each Annual Grant has been used for charitable purposes and in a manner consistent with the terms of this Agreement.

SECTION 4. NAMING RIGHTS AND LOGO

4.1 NAMING RIGHTS AND LOGO. The parties agree that the name of the Stadium shall be "BB&T _____" with the foregoing blank being filled in with one word to reflect the type of facility (e.g., "BB&T Park" or "BB&T Stadium" or "BB&T Field") (the "Stadium Name"), which shall be the full and complete name of the Stadium. The parties further agree that the second word in the Stadium Name shall be as determined by WSF, subject to the consent of HPDSF, the City and BB&T, which consent will not be unreasonably conditioned, withheld or delayed. HPDSF further agrees to develop a Stadium logo to be mutually agreed to by HPDSF, the City, WSF and BB&T (the "BB&T Stadium Logo") pursuant to the terms of Section 5. HPDSF shall not provide naming rights to any other entities or persons for the field or the Stadium as a whole; provided, however, that WSF agrees that HPDSF may grant sponsorship rights to other persons and entities for certain discrete portions of the Stadium (by way of example only and without limitation, picnic areas, concourses, and specialized seating or entertainment areas).

4.2 BROADCAST REFERENCES; NUMBER OF GAMES. To the extent the Stadium is identified during broadcasts and announcements, the full and complete Stadium Name shall be used. Further, HPDSF shall use all commercially reasonable efforts to cause other non-employee broadcasters and announcers to use the full and complete Stadium Name if mentioned during broadcasts of the games and to avoid any abbreviated, shorthand or slang term for the Stadium Name.

4.3 DIRECTIONAL SIGNS. The City shall, and shall use all reasonable commercial efforts to coordinate with the State of North Carolina and federal transportation authorities to, install and erect roadway, traffic and pedestrian directional signs identifying the Stadium as per the Stadium Name and providing directions for reaching the Stadium.

4.4 DESIGN, INSTALLATION, FABRICATION, MAINTENANCE AND REPAIR OF SIGNAGE. The City shall be responsible for the initial fabrication and installation of all Stadium signage described herein. Maintenance and repair of such signage shall be the responsibility of the City or HPDSF, in accordance with the Use Agreement. WSF and BB&T shall have no responsibility for the initial fabrication, initial installation, maintenance or repair of the signs, billboards or other similar structures installed. The parties hereby acknowledge and agree that signs to be installed initially (as of Stadium's opening) shall be created, fabricated and installed at the sole cost and expense of the City. Prior to fabrication, the City shall prepare for WSF's approval, not to be unreasonably withheld, conditioned or delayed, three-dimensional (to the extent practicable), full-color renderings of the intended displays ("Stadium Renderings"), and BB&T agrees to cooperate reasonably in provision of any BB&T intellectual property to the

City so that the City may fulfill this obligation. If WSF desires to re-design such signage for any reason then WSF shall be solely responsible for the expenses associated with the design, fabrication and installation of such signage. Any signage is subject to the City's and HPDSF's prior approval, which shall not be unreasonably withheld.

4.5 RIGHT TO RENAME THE STADIUM. WSF shall be entitled to change the Stadium Name, subject to the prior approval of HPDSF, BB&T and the City which approval shall not be unreasonably withheld; provided, however, that WSF shall not rename the Stadium if such name is lewd, vulgar, sexually explicit, offensive, discriminatory against a protected class, or offensive to the sensibilities of the community at large (as determined in the City's reasonable discretion). Any and all reasonable and customary costs associated with such changing of the Stadium Name shall be the responsibility of WSF.

4.6 TYPE OF AGREEMENT. The parties understand, intend and agree that this Agreement is not a license to use real property. It is understood and agreed that WSF shall not have the right to access the advertising signage or the devices, scoreboards or other surfaces upon which such signage shall be placed without the permission of HPDSF, which may be granted or withheld by HPDSF in its reasonable discretion. If such signage requires replacement, removal, repair or modification during the Term, HPDSF has the right to exclusively perform the same, but shall cooperate with WSF in assuring that the display of signage is constructed, created and maintained consistent with industry standards.

4.7 APPROVALS AND COMPLIANCE. The parties acknowledge and agree that all signage that is intended to be displayed in or on the Stadium and its surrounding areas and approaching roadways may be subject to applicable governmental requirements and approvals. Accordingly, all such signage shall comply with, and HPDSF's obligations hereunder are subject to, all applicable governmental rules, regulations and approvals.

SECTION 5. INTELLECTUAL PROPERTY.

5.1 OWNERSHIP AND USE

(a) BB&T grants to WSF, HPDSF and the City a non-exclusive, non-transferable, revocable license, without the right to sublicense, to use BB&T's trademarks and service marks identified in Exhibit A (the "BB&T Intellectual Property") solely in connection with the Stadium; *provided, however*, that BB&T or its Affiliates shall not own any City Intellectual Property (defined in Section 5.1(e)), to the extent that any City Intellectual Property is incorporated into the Stadium Name, the BB&T Stadium Logo or other Identifying Characteristics. WSF, HPDSF and the City shall use the BB&T Intellectual Property in strict conformance with BB&T's then-current trademark guidelines available at <https://www.bbt.com/sites/bbtdotcom/bbt/documents/legal/trademark.pdf>. WSF, HPDSF and the City acknowledge BB&T's right, title, and interest in and to the BB&T Intellectual Property and acknowledge that nothing herein shall be construed to accord to WSF, HPDSF or the City any rights in the BB&T Intellectual Property other than expressly enumerated in this Section. At the direction of BB&T, WSF, HPDSF and the City shall cease all use of the BB&T Intellectual Property. HPDSF agrees that nothing herein shall otherwise give to HPDSF any right, title or interest in the BB&T Intellectual Property, or any other mark of BB&T, except the right to use

the BB&T Intellectual Property solely in accordance with the terms hereof; that the BB&T Intellectual Property are the sole property of BB&T; and that all goodwill and common law rights derived from any and all uses by HPDSF and its approved sublicensees of the BB&T Intellectual Property, whether or not done pursuant to this Agreement, shall inure solely to the benefit of BB&T. HPDSF hereby assigns any rights, including copyrights, it may acquire through joint development of any BB&T Intellectual Property to BB&T.

(b) For purposes of this Agreement, (i) "Affiliate" means with respect to any particular entity, any current or future corporation, limited liability company or other entity Controlled by that entity, any corporation, limited liability company or other entity which Controls that entity ("Parent") and any current or future corporation, limited liability company or other entity Controlled by such Parent; and (ii) "Controlled" and "Controls" means (x) ownership, either directly or indirectly, of more than fifty percent (50%) of all equity interests in such entity or (y) possession of such voting power sufficient to permit the election of a majority of all individuals holding the office of director, governor and other office having comparable powers under the laws of the jurisdiction under which such entity is organized and, directly or indirectly, to appoint and remove from time to time each executive officer of such entity (including its chief executive officer).

(c) BB&T or its Affiliates may file applications for copyright, trademark or service mark registration or otherwise protect the BB&T Intellectual Property and may continue or renew such registrations as required by law. HPDSF and the City agree not to raise or cause to be raised any questions concerning or objections to the validity of the BB&T Intellectual Property or to the rights of BB&T in the BB&T Intellectual Property. HPDSF, at BB&T's request and expense, shall provide BB&T with any specimens and execute all documents necessary to protect and confirm BB&T's rights in the BB&T Intellectual Property including without limitation any act reasonably necessary for BB&T to secure or maintain trademark and service mark rights for the BB&T Intellectual Property.

(d) HPDSF shall retain exclusive ownership of any HPDSF-related and/or Team-related trademarks, service marks, logos, brands or names as specifically designated by HPDSF as well as any copyrights relating thereto (collectively, the "HPDSF Intellectual Property").

(e) The City shall retain exclusive ownership of any City-related trademarks, service marks, logos, brands or names as specifically designated by City as well as any copyrights relating thereto (collectively, the "City Intellectual Property").

(f) BB&T reserves all rights to BB&T Intellectual Property not expressly granted herein.

5.2 DEVELOPMENT OF INTELLECTUAL PROPERTY. All identifying characteristics of the Stadium Name and the BB&T Stadium Logo including, without limitation, color schemes, logos, distinctive formats, fonts and trade dress ("Identifying Characteristics") shall be developed by HPDSF, subject to the approval of BB&T, which shall not be unreasonably withheld, conditioned or delayed. HPDSF will pay all costs associated with the development of the Identifying Characteristics.

5.3 COMMUNITY STANDARDS. All advertising, publication, display or other use of the BB&T Intellectual Property shall be in good taste and shall not violate community standards so as not to damage the reputation of any party.

5.4 CONTROL OF INTELLECTUAL PROPERTY.

(a) Except as otherwise provided in this Agreement, HPDSF shall not use the BB&T Intellectual Property or the City Intellectual Property, the City shall not use the BB&T Intellectual Property or the HPDSF Intellectual Property, and neither WSF nor BB&T shall use the HPDSF Intellectual Property (HPDSF, the City, WSF and BB&T are also hereinafter referred to individually as the “User” and the BB&T Intellectual Property, the City Intellectual Property and the HPDSF Intellectual Property are also hereinafter referred to individually as the “Intellectual Property”) for any purpose, without the prior written consent of the other party (the “Owner”), provided, however, that any proposed use of the Intellectual Property by a User shall be deemed consented to by the Owner if the Owner receives notice of such proposed use within a reasonable time before such use will begin and does not object to the proposed use within a reasonable time period (based on, in particular, the time constraints, if any, associated with such proposed use) following the Owner’s receipt of materials describing and, as appropriate to the intended use, demonstrating such intended use. Once such consent has been obtained, a User may produce the identical materials on future occasions without seeking any further consent from the Owner. Once the Stadium Renderings and BB&T Stadium Logo have been developed by HPDSF to the mutual satisfaction of the parties (pursuant to Sections 3.1 and 3.7), HPDSF may use the Stadium Renderings and BB&T Stadium Logo or derivative (as to size and placement) works thereof without first seeking further consent so long as such use is in accord with the approved Stadium Renderings and BB&T Stadium Logo.

(b) All use of the Intellectual Property shall be in accordance with the specifications of the Owner as communicated from time to time pursuant to this Agreement. Without limiting the generality of the foregoing, the Intellectual Property shall be used in conformity with the form, font, typeface and colors as communicated by the Owner, and except as to the size of reproduction, the Intellectual Property shall not be altered in any way. Each use is to be accompanied by the appropriate trademark, service mark, copyright, or other designation required by the Owner. The User shall make whatever change is required by the Owner to comply with the Owner’s specifications.

(c) The User shall not make any changes to any item bearing the Intellectual Property of the Owner without the prior written consent of the Owner. All errors in the use of the Owner’s Intellectual Property will be corrected promptly by the User after notification thereof by the Owner.

(d) Notwithstanding the foregoing, as for HPDSF’s use of BB&T Intellectual Property, BB&T acknowledges and agrees that it would be impossibly cumbersome for HPDSF’s personnel to seek BB&T’s consent for each and every instance in which HPDSF proposes to use the BB&T Intellectual Property. Accordingly, the parties agree that subject to the restrictions on the uses of Intellectual Property set forth in this Section 4, BB&T consents to the use of the Stadium Name by HPDSF as follows:

- (i) Game-day event publications;
- (ii) Game-day print advertisements;
- (iii) Scoreboard messages;
- (iv) Press releases;
- (v) Internal employee memos and notification;
- (vi) Temporary banner, easel and identification signage used for booked meeting space or special events; and
- (vii) Tickets, announcements and collateral materials related to non-baseball events taking place at the Stadium.

In no event shall the name "BB&T" be used in isolation by HPDSF, the City or the Recipient Charity; rather the name "BB&T" shall only be used in conjunction with the Stadium Name.

(e) HPDSF shall, upon actual knowledge thereof, promptly notify WSF and BB&T in writing of any adverse use by a third party of the BB&T Intellectual Property or of a mark or name which HPDSF reasonably deems confusingly similar to the BB&T Intellectual Property, but agrees to take no further action of any kind with respect thereto without BB&T's prior written consent. HPDSF further agrees to provide full cooperation with any legal or equitable action by BB&T to protect their respective rights and interest in and to the BB&T Intellectual Property, at the reasonable cost and expense of BB&T. In the event of infringement of the BB&T Intellectual Property by a third party, BB&T shall have the sole right in its discretion to initiate and conduct proceedings (including modifications to customs or other government officials objecting to the importation of infringing goods) against the infringing party, to initiate and conduct negotiations with respect thereto, including, but not limited to settlement discussions and to retain any damages recovered in such proceedings.

(f) The parties acknowledge and agree that the violation by any of the parties or any permitted sublicensees of the terms of this Agreement would result in irreparable injury to the other, for which money damages would not be a sufficient remedy; therefore, in addition to any other remedies that may be available, the non-defaulting party shall be entitled to specific performance and injunctive or other equitable relief as a remedy for such breach.

(g) To the extent such items incorporate any BB&T Intellectual Property, HPDSF shall submit to WSF and BB&T or their designee samples of printed tickets, business cards and stationery, signage, uniforms, packaging and merchandise before any initial use thereof. BB&T may make reasonable objections to any such sample within twenty-one (21) days of its receipt thereof on the grounds that BB&T reasonably believes that the use of such items by HPDSF will have a detrimental effect upon the BB&T Intellectual Property or upon BB&T as the owner of the BB&T Intellectual Property or that the samples do not meet its quality standards. In the event of such an objection, HPDSF shall modify the items in accordance with the objection of BB&T prior to the use of such items. Upon BB&T's reasonable request, HPDSF

will provide BB&T with samples of any materials that incorporate the BB&T Intellectual Property.

5.5 NO DISPUTE. The User will not, directly or indirectly, at any time dispute or contest the ownership, validity and enforceability of any Intellectual Property of the Owner, nor attempt or propose any act which may have the effect of depreciating the goodwill associated therewith.

5.6 INFRINGEMENT. With the exception of WSF, each party (the "Indemnifying Party") agrees to indemnify and hold the other party (the "Indemnified Party") harmless from all loss, cost and expense, including attorneys' fees, arising out of any claim by a third party that the intellectual property of the Indemnifying Party infringes on any property right of such third party, but only on the condition that:

(a) The Indemnifying Party shall have sole conduct of all proceedings and negotiations connected with such claims;

(b) The Indemnified Party will promptly notify the Indemnifying Party of all such claims and will not make any admissions regarding them; and

(c) The Indemnified Party will provide the Indemnifying Party with reasonable assistance and authority in connection with such claims.

SECTION 6. REPRESENTATIONS AND WARRANTIES OF THE PARTIES.

Each party to this Agreement represents and warrants to the other party as follows, which representations and warranties shall survive the execution and delivery of this Agreement:

6.1 DUE ORGANIZATION AND GOOD STANDING. Such party is duly organized and validly existing under the laws of the jurisdiction in which it was formed, and is in good standing under such laws. Such party has all requisite power and authority to execute, deliver and perform its obligations under this Agreement.

6.2 BINDING EFFECT. This Agreement has been duly authorized, executed and delivered by such party and constitutes the legal, valid and binding obligation of such party, enforceable against it, in accordance with the terms hereof, except to the extent enforceability is limited by bankruptcy, reorganization and other similar laws affecting the rights of creditors generally and by general principles of equity.

6.3 NO CONFLICT. The execution, delivery and performance of this Agreement by such party does not conflict with, nor will they result in, a breach or violation of any material agreement to which such party is a party.

SECTION 7. EXIGENCIES.

7.1 FORCE MAJEURE. In the event compliance with any of the parties' obligations under this Agreement is impractical or impossible due to any emergency, including, but not limited to, embargoes, flood, hurricane, tornado, earthquake, strike, lockout or other labor

dispute, fire, epidemic, acts of God, war, national emergency, civil disturbance or disobedience, riot, sabotage or terrorism, restraint by court order or public authority, failure of machinery or equipment, delay in delivery of the Stadium for occupancy and use by the Team for a full 2019 playing season, or any other occurrence beyond the parties' reasonable control (each such occurrence being an "Event of Force Majeure"), then the time for performance of such obligations shall be extended for a period equal to the duration and equivalent in kind to the period of the Event of Force Majeure. However, in no event shall any act or omission by or on the part of any party or any inability on the part of any party to pay money be, constitute or be deemed or considered an event beyond a party's reasonable control. "Rainouts" of games due to storm, lightning or other ordinary weather event shall not constitute Events of Force Majeure; provided, however, that extraordinary weather events such as tornadoes and hurricanes may, under certain circumstances, constitute Events of Force Majeure.

7.2 DAMAGE OR DESTRUCTION. The parties acknowledge that in the event the Stadium or any part thereof shall be damaged or destroyed by fire or other casualty (the "Damaged Facilities"), the City has the sole obligation and authority to determine whether to repair and restore the Damaged Facilities. In the event that the City elects not to repair and restore the Damaged Facilities, then this Agreement will terminate simultaneously with the delivery of notice of such election by the City, and WSF will have no further obligation to pay any remaining Annual Grants.

SECTION 8. DEFAULT AND TERMINATION.

8.1 WSF DEFAULT. The occurrence of any of the following constitutes a default by WSF (a "WSF Default"): (a) so long as a Recipient Charity exists, failure to pay any Annual Grant or any other amount due to the Recipient Charity within sixty (60) days after receipt by WSF of written notice thereof from HPDSF or the City; (b) WSF's or BB&T's material breach of any of its covenants, agreements, representations or warranties contained in this Agreement, if such breach has not been waived in writing, if such breach is not cured or remedied by WSF or BB&T (as the case may be) to HPDSF's reasonable satisfaction within thirty (30) days after delivery of written notice specifying the nature of the breach; or (c) if HPDSF or the City determines, in its sole discretion, that WSF or BB&T's name, reputation or conduct is immoral, criminal, offensive or otherwise of such nature as to bring disrepute to HPDSF, the City or HPCF as a result of its association with WSF or BB&T.

8.2 HPDSF DEFAULT. The occurrence of any of the following shall constitute a default by HPDSF (a "HPDSF Default"): (a) upon HPDSF's, the Recipient Charity's or the City's material breach of any of its covenants, agreements, representations or warranties contained in this Agreement, if such breach has not been waived in writing, if such breach is not cured or remedied by HPDSF, the Recipient Charity or the City (as the case may be) to WSF's reasonable satisfaction within thirty (30) days after delivery of written notice specifying the nature of the breach; (b) if WSF or BB&T determines, in its sole discretion, that the Recipient Charity, HPDSF, HPCF or the City's name, reputation or conduct is immoral, criminal, offensive or otherwise of such nature as to bring disrepute to WSF or BB&T as result of its association with the Stadium; (c) if the plans for construction of the Stadium are abandoned by the City for any reason, or if construction of the Stadium is not substantially completed by April 1, 2020; (d) if HPDSF or its permitted assignee is no longer the operator of the Stadium; (e) if neither

HPDSF nor HPCF is a public charity which has received and maintains its Federal tax exemption as described under Sections 501(c)(3), 509(a)(1) and 170(b)(1)(A) of the Code; (f) if the Team refuses or otherwise fails to commence its utilization of the Stadium to play its home games by the beginning of the 2020 League season, or if the Team commences such utilization but later discontinues its utilization of the Stadium for such purpose; or (g) if a successor operator of the Stadium refuses to agree to the terms of this Agreement.

8.3 RIGHTS AND REMEDIES. Upon the occurrence of either a WSF Default or an HPDSF Default, the non-defaulting party may, at its option, upon written notice to the defaulting party and subject to the limitations in Section 10.13:

(a) Terminate this Agreement at which point WSF will have no further obligation to pay any remaining Annual Grants;

(b) Enforce the provisions of this Agreement and enforce and protect the rights of the non-defaulting party by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein; or

(c) Obtain any other available legal or equitable remedy or relief, including, but not limited to, injunctive relief.

8.4 TERMINATION. This Agreement may be terminated by WSF or HPDSF in the event that the other party makes an assignment of its assets for the benefit of its creditors, files a voluntary petition in bankruptcy, is, following the filing of an involuntary petition in bankruptcy, adjudicated to be bankrupt or insolvent, or any receiver is appointed for its business or assets.

8.5 NO CONTINUED USE OF NAME. Upon expiration or earlier termination of this Agreement:

(a) HPDSF shall be free to rename the Stadium in accordance with HPDSF's rights pursuant to any agreements between HPDSF and third parties;

(b) HPDSF shall cease all use of the BB&T Intellectual Property;

(c) No party shall refer to the Stadium Name or use the BB&T Stadium Logo or any other party's Intellectual Property in its advertising or promotional materials or any other communications, without the prior written consent of the other parties herein;

(d) All parties shall make reasonable efforts to notify third parties with whom it has arranged to use, promote or feature the Stadium Name or the BB&T Stadium Logo not to use such name or BB&T Stadium Logo after the termination of this Agreement;

(e) Notwithstanding the foregoing, HPDSF shall have a period of six (6) months after the termination of this Agreement to remove any references to, or displays of, the BB&T Intellectual Property, the Stadium Name or the BB&T Stadium Logo from the signs or advertisements provided for hereunder, the costs and expenses of which shall be borne by HPDSF;

(f) WSF, BB&T and their Affiliates shall cease all use of the HPDSF Intellectual Property and shall no longer refer to the Stadium Name or use the BB&T Stadium Logo in its or their advertising or promotional materials or other communications by or on behalf of WSF, BB&T or their Affiliates.

SECTION 9. NOTICES.

9.1 REQUIRED NOTICES. All notices, demands and other communications among the parties required hereunder shall be in writing and deemed given upon personal delivery, or if sent by recognized express carrier, to the respective addresses as set forth below. WSF and HPDSF may specify another address from the one set forth below by notice to the other as provided herein.

If to HPDSF: High Point Downtown Stadium Foundation
Attention: Coy O. Williard, Jr.
449 S. Wrenn Street
High Point, NC 27260

If to WSF: The Winston-Salem Foundation
Attn: Mr. Scott F. Wierman
751 West Fourth St., Suite 200
Winston-Salem, NC 27101-2702

If to BB&T: Branch Banking and Trust Company
Attn: Jennifer Randall
2400 Reynolda Road, 2nd Floor
Winston-Salem, NC 27104-4606

If to the City: City of High Point
211 South Hamilton
High Point, NC 27260
Attention: City Attorney

and

City of High Point
211 South Hamilton
High Point, NC 27260
Attention: City Manager

9.2 REQUIRED DESIGNEE. Each party agrees to provide (by notice to the other party from time to time) a single person designated to act as the point of contact for the other party in the administration of this Agreement throughout the Term. Each party agrees to work with the other in the event of a change in management to assure continuous efforts to work cooperatively to fulfill such party's obligations under this Agreement.

SECTION 10. MISCELLANEOUS.

10.1 EXPENSES. All expenses of the preparation of this Agreement and of the transactions provided for hereby shall be borne by the respective parties incurring such expense, whether or not such transactions are consummated.

10.2 CHOICE OF LAW. This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina, without regard to the conflicts of laws principles thereof.

10.3 DISPUTE RESOLUTION. Except as otherwise set forth below, any dispute, controversy or claim (including without limitation tort claims, requests for provisional remedies or other interim legal relief, and issues as to the ability to arbitrate any matter) arising out of or relating to this Agreement, or the breach thereof, that cannot be settled through negotiation shall be settled (a) first, by the parties trying in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association ("AAA") (such mediation session to be held in Winston-Salem, North Carolina and to commence within thirty (30) days of the appointment of the mediator by the AAA), and (b) if the dispute, controversy or claim cannot be settled by mediation, then by arbitration administered by the AAA under its Commercial Arbitration Rules (such arbitration to be held in Winston-Salem, North Carolina before a single arbitrator and to commence within sixty (60) days of the appointment of the arbitrator by the AAA), and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. Notwithstanding the preceding sentence, any party may apply directly, without a need to first pursue mediation or arbitration, to any court of competent jurisdiction for protection, enforcement, an order or other equitable relief relating to such party's rights pursuant to this Agreement. Such protection, enforcement, order or other equitable relief may include, in such party's sole discretion, application for and enforcement of temporary, preliminary and permanent injunctive relief or any other equitable relief to which such party may be entitled. Notwithstanding the foregoing, the City shall be exempt from the application of this section and the provisions of this section shall not apply to the City.

10.4 LEAGUE RULES. This Agreement shall in all respects be subject to (in each case to the extent applicable):

(a) the constitution, bylaws, and all other rules, regulations and policies of the Atlantic League, or other professional baseball league of which the Team may be a member from time to time during the Term;

(b) any collective bargaining agreement to which the Team is now or in the future subject to; and

(c) any national corporate marketing, licensing, sponsorship or similar agreements between the Atlantic League, or other professional baseball league of which the Team may be a member, and third parties, all as the same may now or hereafter exist (collectively, the "League Rules").

10.5 CONFIDENTIALITY. Each party agrees to treat as confidential all information regarding the other party or any Affiliate furnished, or to be furnished, pursuant to this Agreement, (collectively, the “Information”), in accordance with the provisions of this section, and to take, or abstain from taking, other actions set forth herein. The Information will be used solely for the purpose of fulfilling each party’s obligations hereunder, and will be kept confidential by the receiving party, its Affiliates and their respective officers, directors members, employees, representatives, agents, and advisors, provided, however, that: (a) any of such Information may be disclosed to officers, directors, members, employees, representatives, agents, and advisors of the receiving party or an Affiliate who need to know such Information for the purpose of fulfilling such party’s obligations hereunder, (b) the receiving party may disclose any Information to which the disclosing party previously and expressly consents to in writing, and (c) a party may disclose that portion of the Information to the extent and in the manner required to satisfy its obligations under federal and state laws and regulations. A party intending to make any such required disclosure shall provide to the disclosing party reasonable advance notice of such requirement and reasonable opportunity to seek a court order or other relief preventing such disclosure. Subject to applicable law, upon termination or expiration of this Agreement, each party will return to the disclosing party all materials containing or reflecting the Information and will not retain any copies, extracts, or other reproductions thereof. These obligations of confidentiality shall survive the termination of this Agreement for any reason whatsoever for a period of three (3) years. In addition to the foregoing, any documents that come into possession of the City pursuant to this Agreement may be “public records” as defined and regulated under Chapter 132 of the General Statutes of North Carolina. Specifically, if any party desires to protect the confidentiality of any document or record shared with the City that party must comply with the labeling of such document as a “trade secret” or as “confidential” pursuant to the terms of NCGS 132-1.2. If a request for any record or document properly labeled is requested as a public record by any person, the City shall notify the party claiming protection as a trade secret or confidential record, and that party shall have five (5) working days to notify the City that the party claiming protection will provide a defense to the release of the record at the expense of the party desiring to protect the record from public disclosure pursuant to the laws of the State of North Carolina. If no such notice is delivered in writing to the City, the City will release the record pursuant to the statute and shall have no liability to the party claiming protection.

10.6 INTERPRETATION. The parties agree that the Agreement is jointly drafted and that the Agreement has been reviewed with the advice and input of legal counsel for each party, respectively. Accordingly, the parties agree further that if any issue arises as to the meaning or construction of any word, phrase or provision hereof, then no party shall be entitled to the benefit of the principles of the construction and interpretation of contracts or written instruments that provide that any ambiguity is to be construed in favor of the party who did not draft the disputed word, phrase or provisions.

10.7 [Reserved.]

10.8 WAIVER. No waiver by any party of any covenant or condition of this Agreement shall constitute a waiver by the waiving party of any subsequent breach of such covenant or condition or authorize the breach or non-observance on any other occasion of the same or any other covenant or condition of this Agreement.

10.9 BINDING EFFECT AND ASSIGNABILITY OF RIGHTS. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. No party may assign any rights or obligations hereunder unless it receives the prior written approval of the other parties (such approval to not be unreasonably withheld). Notwithstanding the prior sentence, no party may withhold its approval to an assignment or other transfer of this Agreement, in whole or in part, in the event of a consolidation of a party with any of its Affiliates, so long as such transferee agrees to be bound by all of the transferor party's rights and obligations pursuant to this Agreement which are thereby transferred, and in the case where the transferor is HPDSF, such transferee is a 501(c)(3) Organization with a charitable purpose(s) similar to that of HPDSF.

10.10 SURVIVAL. The expiration of the Term does not affect or in any way limit the provisions of this Agreement that are by their terms or nature intended to survive the expiration of the Term.

10.11 ENTIRE AGREEMENT AND AMENDMENT. This Agreement represents the entire agreement by the parties and may be modified or amended in writing only, signed by the parties. Solely as between HPDSF and the City, nothing herein is intended to amend, modify or in any way supersede the Use Agreement, any exhibits or agreements ancillary thereto, and/or the rights and obligations of HPDSF and the City thereunder.

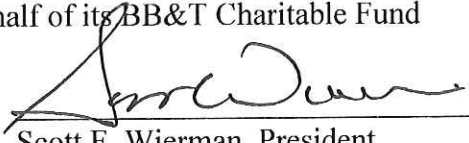
10.12 COUNTERPARTS. This Agreement may be executed in one or more counterparts.

10.13 LIMITATION ON LIABILITY. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY AND EXCEPT TO THE EXTENT RESULTING FROM FRAUD, BAD FAITH OR MALICE, UNDER NO CIRCUMSTANCES SHALL ANY PARTY BE LIABLE TO THE OTHER FOR INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER ARISING FROM OR RELATED TO THIS AGREEMENT OR ANY PARTY'S PERFORMANCE HEREUNDER.

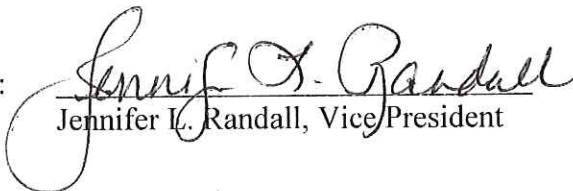
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed on the day and year first written above.

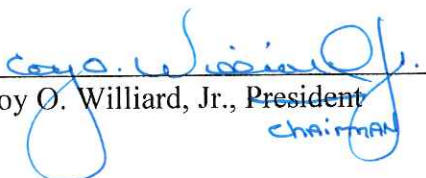
THE WINSTON-SALEM FOUNDATION,
on behalf of its BB&T Charitable Fund

By: 
Scott F. Wierman, President

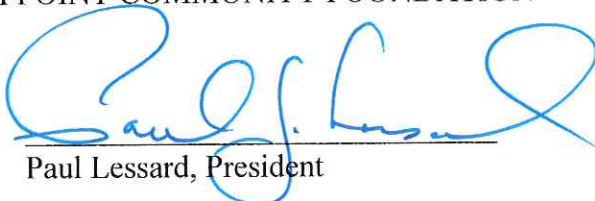
BRANCH BANKING AND TRUST COMPANY

By: 
Jennifer L. Randall, Vice President

HIGH POINT DOWNTOWN STADIUM
FOUNDATION

By: 
Coy O. Williard, Jr., President
Chairman

HIGH POINT COMMUNITY FOUNDATION

By: 
Paul Lessard, President

CITY OF HIGH POINT NORTH CAROLINA

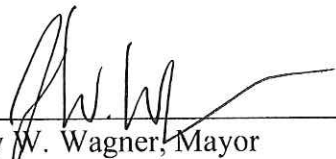
By: 
Jay W. Wagner, Mayor

EXHIBIT A

Licensed Marks



All Logo Options



Corporate Signature

The Halo Logo of the promotional signature is the preferred BB&T logo, but when there are size constraints or limited printing methods, the corporate signature may be used.

The most common applications for this signature include stationery, forms and most corporate communication materials, as well as signs, ATMs and promotional items.



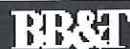
BB&T Burgundy
BB&T_burg



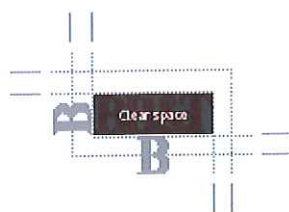
BB&T CMYK (four-color uses only)
BB&T_CMYK



BB&T Black and White
BB&T_K



BB&T Reverse
BB&T_reverse



The clear space is equal to half the letter height of the logotype.