

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====

ADDITIONAL FTE
POSITIONS (Cumulative) - 0- 0--- 0--- 0--- 0-----

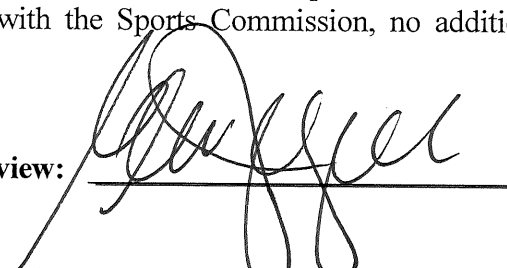
Is Item Included In Proposed Budget? Yes X No.

Budget Account No.: Fund 1457 Dept 710 Unit 7426 Object 3401
Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

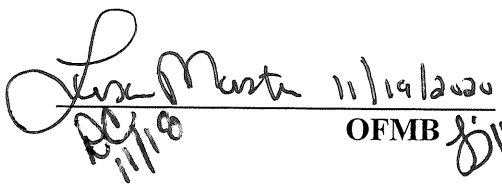
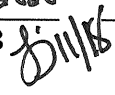
Second, third, fifth and sixth cent of the local option bed tax funding. Funding previously allocated via contract with the Sports Commission, no additional funding impact to the County.

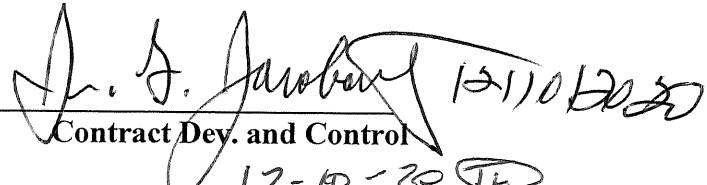
C. Department Fiscal Review:



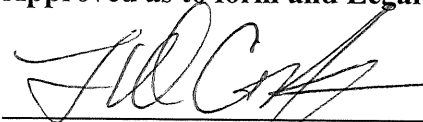
III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:

 11/19/2020
OFMB 

 12/10/2020
Contract Dev. and Control

B. Approved as to form and Legal Sufficiency:


Assistant County Attorney

12-10-20 JLW
At the time of our review, the Agreement was not executed.

C. Approved as to Terms and Conditions:

Department Director

This summary is not to be used as a basis for payment.

**TRI-PARTY AGREEMENT
BETWEEN
PALM BEACH COUNTY, THE CITY OF BOCA RATON
AND ESPN PRODUCTIONS, INC.
FOR ESPN – BOCA RATON BOWL GAME
AT FLORIDA ATLANTIC UNIVERSITY STADIUM**

THIS TRI-PARTY AGREEMENT ("Agreement"), is made this ____ day of December 2020, by and between Palm Beach County, a political subdivision of the State of Florida (hereinafter "**County**"), the City of Boca Raton, a municipal corporation (hereinafter "**City**"), and ESPN Productions, Inc., a Delaware corporation (hereinafter "**ESPN**").

WHEREAS, ESPN has produced an annual college football bowl game (hereinafter "**Bowl Game**") featuring teams from NCAA Division I Football Bowl Subdivision teams with which ESPN Events has agreements for participation in the bowl game at Florida Atlantic University ("**FAU**") in the City of Boca Raton, Palm Beach County, Florida since 2014 and desires to continue to produce this Bowl Game and enter into a new agreement beginning in December of 2020; and

WHEREAS, the County, the City and ESPN have determined that the Bowl Game will provide benefits to tourists, residents and businesses in the City and the County; and

WHEREAS, the County, through its Tourist Development Council ("**TDC**"), and the Palm Beach County Sports Commission ("**Sports Commission**") desire to cooperate in the implementation of said Bowl Game and to provide funding for said Bowl Game; and

WHEREAS, the City desires to cooperate in the implementation of said Bowl Game and to provide funding for said Bowl Game; and

WHEREAS, the County, City and ESPN (hereinafter each individually is a "**Party**" and collectively County, City and ESPN are the "**Parties**") desire to establish the terms and conditions for the contributions towards the Bowl Game as set forth herein.

NOW, THEREFORE, in consideration of the mutual representations, terms, and covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated herein.
2. Authority. Each Party represents to the other Parties that it has the authority to enter into this Agreement.
3. Purpose. The purpose of this Agreement is to establish the terms and conditions for the Parties to mutually participate in the Bowl Game, which shall take place on or before January 31, 2021 in the football stadium located at Florida Atlantic University, and to agree on contributions for funding for the Bowl Game.

4. Effective Date. This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, the City Council of the City of Boca Raton and ESPN Productions, Inc., and shall become effective on the date executed by the last Party.

5. Term. The Term of this Agreement will commence on the Effective Date as set forth herein and will expire on March 30, 2021.

6. Funding. The total annual funding to be provided by the County and City under this Agreement shall not exceed the amount as outlined in **Exhibit A.1**. Such total funding shall include two types of funding – payments to ESPN (“Base Cost”) and costs of activities associated with the Bowl Game (“Activity Cost”) as listed in **Exhibit A.1**. The total funding requirement shall be split equally between the City and County, and the funding provided by each shall not exceed the amount as outlined in **Exhibit A.1**. The total amount of funding provided by the City and the County may be reduced in accordance with Section 9.f. of this Agreement.

The annual funding provided by the County will be provided by the County TDC Agency, Sports Commission. Funding shall be for the Base Costs as outlined in **Exhibit A.2** and Activity Costs as outlined in **Exhibit A.3**.

7. County’s/TDC Agency Obligations. Although the County’s funding and coordination of activities under this Agreement is anticipated to be at least partially completed by and through the County TDC Agency, the County is ultimately responsible for the County’s responsibilities and obligations under this Agreement. The County agrees to:

- a. Provide Base Cost payments to ESPN as outlined in **Exhibit A.2.**, the total of which shall be paid within thirty (30) days after the occurrence of the Bowl Game.
- b. Provide Activity Cost payments as outlined in **Exhibit A.3.** for Activity Cost activities as listed in **Exhibit B**.
- c. Provide advertising call to action logos for destination identity name: “Discover the Palm Beaches, Florida” supplied by Discover which shall be used for banners, billboards, and media advertising.
- d. Provide partnering organization logos for sponsorship recognition, including Palm Beach County and Tourist Development Council.
- e. The TDC Agency (Sports Commission) will arrange and provide for the management of all Activity Cost activities.
- f. The TDC Agency (Sports Commission) will assist with the Activity Cost requests to maximize the value received at the lowest cost possible from partners for buses and beach parties.

8. City’s Obligations. The City agrees to:

- a. Provide Base Cost payments as outlined in **Exhibit A.2.**, half of which shall be paid to

ESPN within thirty (30) days after the occurrence of the Bowl Game.

b. Provide Activity Cost payments as outlined in **Exhibit A.3.** for Activity Cost activities as listed in **Exhibit B.** Activity Cost payments shall be 50% share of costs reimbursements payable to the Palm Beach County Sports Commission.

c. Provide City of Boca Raton logo for sponsorship recognition which shall be used for banners, billboards, and media advertising associated specifically with the Bowl Game.

d. Assist with the Activity Cost requests to maximize the value received at the lowest cost possible from partners.

9. Activity Costs.

a. The total amount for Activity Cost funding is outlined in **Exhibit A.3.** and the costs will be shared equally by the County through its TDC Agency (Sports Commission) and the City.

b. The centralized point of financial approval for Activity Cost activities will reside with the TDC Executive Director.

c. After the schedule of Activity Cost expenses is approved by the TDC Executive Director, the schedule will be provided from the Sports Commission to TDC, and the Sports Commission will invoice the City for Fifty Percent (50%) of the expenses, not to exceed the amount listed in **Exhibit A.3.** Any sponsored donations of cash or in-kind contributions as set forth in 9.f below shall apply equally to the City and County to reduce their Activity Cost funding obligations.

d. The Activity Cost funding shall be used to fund the costs of events and activities as outlined in **Exhibit B.** The Sports Commission will be the event hosting/processing agent for these events.

f. Sponsors may be obtained for the events and activities. Such sponsors may provide cash or in-kind contributions. Such contributions shall be used to defray the costs of the events and activities and shall be used to reduce the payment of the City and County towards the Activity Costs equally.

g. It is agreed by all Parties that the costs incurred by the City for police services, fire rescue services, and any other activities, services or participation of City staff, involved in the Bowl Game is not considered an Activity Cost. Instead, such costs shall be an expense of the Bowl Game and paid by ESPN.

10. Payments/Invoicing and Reimbursement. The City will submit the statements of the costs of any Activity Cost expenses or in-kind expenses provided by the City for Activity Cost activities authorized under this Agreement to the TDC Executive Director. Such costs shall be included as part of the total Activity Cost funding to be provided by the City and shall be used as credit against the Activity Cost invoices prepared by County in Section 9.f of this Agreement.

11. ESPN Responsibilities and Deliverables to the Agreement.

- a. ESPN shall host a Bowl Game at FAU in December 2020, in accordance to the responsibilities and deliverables set forth herein.
- b. ESPN shall provide all activities and services regarding the planning, organization, production, and operation of the Bowl Game and shall be responsible for the full cost of such activities and services and the provision of such responsibilities and deliverables.
- c. ESPN shall be responsible for: (1) securing the use of the FAU Stadium for the Event; (2) completing any and all arrangements with FAU and others for the use of the FAU Stadium; (3) meeting all conditions of the arrangements with FAU for the use of the Stadium for the Event; and (4) for coordinating the Event.
- d. ESPN shall be responsible for televising the Bowl Game. The Bowl Game shall be televised live through a national television broadcast on ESPN or ESPN2.
- e. The ownership of the Bowl Game shall remain with ESPN.
- f. The Bowl Game participants shall be teams from NCAA Division I Football Bowl Subdivision teams with which ESPN Events has agreements for participation in the bowl game.
- g. ESPN will provide sponsorship elements as outlined in **Exhibit C**. The County and City acknowledge and agree that the sponsorship elements set forth therein are limited to the Bowl Game only, and may be used by County and City during the Term, solely to advertise and promote County and City as identified therein, via the methods described therein, in accordance with and subject to the terms and conditions of this Agreement.

12. Distribution and Media.

- a. ESPN and its parent, subsidiary and affiliated companies, and the licensees of each have the exclusive (except as to noncommercial purposes as outlined herein), perpetual right to distribute, transmit, exhibit, license, advertise, duplicate, promote, perform, telecast and otherwise exploit (collectively, “**Distribute**” or “**Distribution**”) audio, video, audiovisual and other programs based on or including the Bowl Game or any portion thereof (the “**Program**”) and its constituent elements and any other material pertaining to the Bowl Game in ESPN’s possession and control throughout the universe, by all means and media now known or hereafter developed, on a live and delayed basis, in perpetuity, without limitation as to the number of uses. ESPN also has the right to make reproductions of the Program and its constituent elements and to use, exhibit and deal with those reproductions in any manner or media whatsoever, including but not limited to the right to incorporate the Program and/or its constituent elements into other works for commercial profit. ESPN has complete control over the scheduling, production and format of the Program of the Event. Without limiting the generality of the foregoing, ESPN has the right to determine the length of the Program; subject to the rights granted to County and City pursuant to this Agreement, to insert commercial and promotional announcements therein as it may determine by such

sponsor or sponsors as it may elect; to title or retitle each Program.

- b. ESPN shall (subject to ESPN being prevented for reasons of force majeure as described in Section 15 herein) include County and City's commercial units set forth in **Exhibit C** (the "**Commercial Units**") in the live Distribution of the Event and the first re-air of the Event, if any, on the applicable ESPN network, for the promotion of County and City's products and services in accordance with, and subject to, the terms and conditions set forth herein. In the event that ESPN does not include the Commercial Units set forth in **Exhibit C** in ESPN's required distribution of the Program, then ESPN shall provide "make-good(s)" reasonably acceptable to County and/or City, as applicable, and consistent with ESPN's then-current make-good policy and practices ("**Make-Good Benefits**"). In the event that ESPN and County and/or City, as applicable, are unable to agree upon any such Make-Good Benefits, County and/or City, as applicable, shall, as its sole remedy, be entitled to a pro rata refund for any such Commercial Units not provided by ESPN, to be determined in accordance with ESPN's standard rate card. In using such Commercial Units, County and City, respectively, shall: (1) promptly advise ESPN of each product or service to be advertised and such other relevant information as ESPN may request, and furnish ESPN, no later than five (5) business days before the date of the Distribution, with the fully-cleared audio recordings and other requisite materials for airing the Commercial Units according to the guidelines contained in ESPN's Media Delivery Guidelines, attached hereto as **Exhibit D**; and (2) observe and comply with ESPN, Inc.'s advertising regulations attached hereto as **Exhibit E**. ESPN does not have any right or authority to use in any fashion the Commercial Units provided by and through this Agreement for any other purpose than provided for in this Agreement.
- c. Notwithstanding the foregoing paragraphs, during the Term, County and City, solely for the promotion of Palm Beach County and/or the City of Boca Raton as tourist destinations, but not for any commercial or endorsement purpose, shall have the right to Distribute up to ten (10) minutes of highlights from the Program on the Digital Platforms (as defined below), without limitation as the number of uses, commencing at the conclusion of the initial Distribution of the Program by ESPN (the "**Highlights**"). "Digital Platforms", as used in this Agreement, shall mean any digital platform controlled by County and/or City and predominantly branded with Sponsor IP (as defined below), including County and/or City's social media platforms (e.g., Facebook, Instagram, YouTube, etc.) that meet the foregoing requirements, provided that (i) the Digital Platforms must be Distributed solely via the internet and other means of digital Distribution (e.g., mobile), (ii) the Digital Platforms may not be distributed via any means of over-the-air broadcast, cable or satellite television, and (iii) ESPN approves in advance any third party host or content contributor, such approval not to be unreasonably withheld. The Highlights must not be distributed as "encapsulated" or "sped up" versions of the Event intended as a substitute for the full Program, and shall be restricted to highlights as the term is ordinarily used within the industry. County and/or City's Distribution of the Highlights is made without any representation or warranty by ESPN to County and City of any kind regarding the Program or the Highlights (including, without limitation, with respect to the constituent elements and any third party materials contained in such Program or Highlights) and is made strictly on a quitclaim, as-is, where-is basis. ESPN specifically disclaims any and all warranties, including warranties of merchantability and fitness for a particular purpose,

clear and marketable title, and non-infringement of third-party rights.

- d. County and City, respectively, hereby grant to ESPN a nonexclusive, nontransferable, royalty-free, perpetual, worldwide right and license to use County and City's name(s), logo(s) and decorative design(s) (collectively, "**Sponsor IP**"), as provided to ESPN, in furtherance of ESPN's promotion, staging and distribution of the Bowl Game (the "**Bowl Game Promotion and Distribution**"). ESPN's license to use Sponsor IP is perpetual with respect to uses within the Program (and portions thereof), but is limited to the Term hereof with respect to other uses (e.g., ESPN shall not create Bowl Game collateral bearing Sponsor IP upon expiration of the Term but, for clarity, may continue to distribute such existing collateral created prior to expiration of the Term). ESPN's proposed executions of the Sponsor IP shall be subject to County and/or City, as applicable, prior written approval, which approval shall not be unreasonably withheld, conditioned, or delayed. ESPN shall provide County and/or City, as applicable, the proposed material in connection with any and all such executions appropriately in advance to enable County and/or City's review and approval. Once County and/or City, as applicable, has approved a particular use of the Sponsor IP, the approval will remain in effect for such use until withdrawn by County and/or City, as applicable, with reasonable prior written notice. County, City and ESPN shall meaningfully consult regarding ESPN's use of Sponsor's IP within such Bowl Game Promotion and Distribution.
 - e. County and City may use only the designated Bowl Game-specific trade/service mark(s) of ESPN ("**Designated Mark(s)**"), during the Term, on a non-exclusive basis, in accordance with this Agreement. Notwithstanding the foregoing, all of County and City's proposed executions of the sponsorship and/or advertising benefits set forth herein containing the Designated Mark(s) shall be subject to ESPN's prior written approval, in each instance, granted or withheld in ESPN's sole discretion. County and City, respectively, shall provide ESPN the proposed material in connection with any and all such executions appropriately in advance to enable ESPN's review and approval. Once ESPN (through the Executive Director of the Event or his/her delegate) has approved a particular use of the Designated Mark(s), the approval will remain in effect for such use until withdrawn by ESPN with reasonable prior written notice. For clarity, County and City do not have any right to, and shall not: (i) use any trade/service marks, names, corporate indicia, fanciful characters, designs or other intellectual property of ESPN or its parent, subsidiaries, or affiliates other than the Designated Marks (collectively, "**ESPN IP**") unless such use is explicitly permitted herein); or (ii) utilize the Designated Mark(s) on products or merchandise. County and City acknowledge and agree that all collateral materials (e.g., signage and promotional materials, to the extent permitted hereunder) that County and City are authorized to produce hereunder utilizing the Designated Mark(s) must be printed in the United States of America.
 - f. As between ESPN and County and City, ESPN owns, exclusively, all rights in and to the Bowl Game, the ESPN IP, the Designated Mark(s), and any and all Programs. All rights not specifically granted to County and City herein are exclusively reserved by ESPN.
13. Access and Audits. The City and the County shall maintain adequate records to

justify all charges, expenses, costs and revenue (including sponsorships) regarding the Activity Costs for at least three (3) years after completion of the Bowl Game. The County and the City shall each have access to all books, records and documents of the other as required in this section for the purpose of inspection or audit during normal business hours.

14. Default, Opportunity to Cure, and Termination for Default. In the event that the County or City is in default of the obligations set forth in this Agreement, the Party not in default or ESPN shall provide to the Party in default thirty (30) days written notice to cure. If said default is not cured within the 30-day period, the Party not in default may choose at its sole discretion to take the full responsibility for the Base Costs and Activity Costs for the remainder of the duration of the Agreement. The Party assuming the responsibilities of the defaulting Party shall be entitled to the benefits provided to the defaulting Party in this Agreement, as identified in Exhibit C. If such assumption of responsibilities by the Party not in default does not occur, ESPN may terminate the Agreement against the defaulting Party.

If ESPN is in default of the obligations set forth in this Agreement before the payment to ESPN for the first of the two Base Cost payments, the County and City, individually or collectively, shall provide ESPN thirty (30) days written notice to cure. If the default is not corrected within thirty (30) days, the County and City, individually or collectively, may terminate this Agreement. If the default occurs after the payment to ESPN for the first of the two Base Cost payments, and before the Bowl Game, ESPN shall reimburse the County and City for all Base Costs and all Activity Costs paid to date within 30 days from City and/or County's demand for reimbursement.

15. Force Majeure. Each Party shall have the right to terminate this Agreement immediately in the event of a force majeure event that results in the cancellation of the Bowl Game and such terminating Party shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the terminating Party and without the terminating Party's fault or negligence. Such causes include, but are not limited to:

- Natural or public health emergencies or pandemics and epidemics, including but not those limited to, those caused by bacteria or virus, (e.g., the current COVID-19 pandemic (and any future resurgence thereof) and related actions, regulations or decrees by federal, state or local government or by a sport governing body or authority)
- acts of God, such as severe acts of nature or weather events including floods, fires, earthquakes, hurricanes, or natural explosions;
- war, acts of terrorism, explosions or manmade biological attack;
- acts of governmental authorities such as expropriation, condemnation, and changes in laws and regulations (Such acts are not compensable under this Agreement); and strikes and labor disputes.

If termination occurs as a result of a force majeure event, and only if the Bowl Game for which the Base Cost payments or Activity Cost payments were made is cancelled and does not occur, County and City will be reimbursed for those payments, minus verifiable documented direct expenditures ESPN has made towards the Bowl Game event and any non-cancellable obligations incurred by ESPN under this Agreement (after all mitigation efforts) which expenditures must be dated and occurring prior to the notification of the Force Majeure cancellation. No overhead, profit, or internal expenditures shall be included as verifiable documented expenditures. ESPN shall

provide invoices and paid receipts in order to document expenditures made to date of cancellation. Thereafter, County, City and ESPN shall be relieved of all obligations under this Agreement, excepting indemnity, access and audits, remedies, and other obligations which are included in paragraph 30 or by their natures are intended to survive this Agreement shall survive. In the event County or City terminates for force majeure but the non-cancelling government entity desires to continue the Agreement and not terminate for force majeure, then the Party not terminating may choose at its sole discretion to take the full responsibility for the Base Costs and Activity Costs for the remainder of the duration of the Agreement. The Party assuming the responsibilities of the terminating Party and shall be entitled to the benefits provided to the terminating Party in this Agreement. Notwithstanding the foregoing, in the event that ESPN postpones or delays the Bowl Game due to a force majeure event, then the Parties shall have no right to terminate this Agreement and ESPN shall have the right to elect to stage, produce and distribute the live event Bowl Game on its rescheduled date and/or time and to provide County and City with the applicable sponsorship and advertising benefits hereunder in accordance with all the terms hereof in connection with the rescheduled Bowl Game (including, without limitation, any payments described on Exhibit A and all benefits under Exhibit C), in which case all of the City, the County and ESPN's rights herein shall survive.

16. Authority to Execute This Agreement. Any person executing this Agreement hereby warrants and represents that he or she has received all corporate, government, association, or entity authorization necessary to enter this Agreement.

17. Notices. All notices required under this Agreement shall be in writing and shall be personally delivered; sent certified mail, return receipt requested; or e-mail with verbal confirmation to:

As to the County:

Glenn Jergensen, Executive Director
Palm Beach County Tourist Development Council
2195 Southern Boulevard, Suite 500
West Palm Beach, Florida 33406
561-233-3133

with a copy to:

Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
561-355-2225

Verdenia C. Baker
County Administrator
Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401
561-355-6726

As to the City:

City of Boca Raton
City Manager Leif Ahnell
201 West Palmetto Park Road
Boca Raton, Florida 33432

With a copy to:

City of Boca Raton
City Attorney's Office
201 West Palmetto Park Road
Boca Raton, Florida 33432

As to ESPN Productions, Inc.:

Pete Derzis, Sr. Vice President & General Manager
ESPN Productions, Inc.
11001 Rushmore Drive
Charlotte, NC 28277

These names and addresses can be modified at any time by written notice to the remaining signatories to this Agreement.

18. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.

19. Filing. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

20. Liability. The Parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, and negligence of the other Parties. Further, nothing herein shall be construed as a waiver of sovereign immunity by either the County or City pursuant to Section 768.28, Florida Statutes, nor shall same be construed as consent to be sued by any third party.

21. Indemnification.

- a. Subject to the monetary and all other limitations contained in Section 768.28, Florida Statutes, County shall protect, defend, reimburse, indemnify and hold ESPN, its parent, subsidiary and affiliated companies and each of its and their respective officers, directors, employees, agents, successors, representatives and assigns from and against any and all third party demands, claims, suits, causes of action (whether at law or in equity), costs, expenses and reasonable attorney's fees, and/or any liability whatsoever, for any injuries and/or damages whatsoever sustained by anyone, whether to their persons, property, and/or reputation (collectively, "**Claims**"), to the extent caused, or alleged to be caused, by County's unauthorized use of ESPN IP or the Designated Mark(s).

- b. Subject to the monetary and all other limitations contained in Section 768.28, Florida Statutes, City shall protect, defend, reimburse, indemnify and hold ESPN, its parent, subsidiary and affiliated companies and each of its and their respective officers, directors, employees, agents, successors, representatives and assigns from and against any and all Claims to the extent caused, or alleged to be caused, by City's unauthorized use of ESPN IP or the Designated Mark(s).
- c. ESPN shall protect, defend, reimburse, indemnify and hold the County, City, their agents, employees and elected officers harmless from and against all Claims to the extent caused by: (i) the negligent acts or willful misconduct of ESPN, its employees, officers, agents, licensees or subcontractors; or (ii) ESPN's breach or alleged breach of this Agreement or any applicable law.
- d. The obligations of this Section 21 shall survive the expiration or earlier termination of this Agreement.

22. Remedies. This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County, Florida. No remedy herein conferred upon any Party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any Party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a Party to this Agreement, including but not limited to, any citizen or employees of the County and/or the City.

23. Governing Law/ Venue/ Waiver. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County and the Agreement will be interpreted according to the laws of Florida. **BY ENTERING INTO THIS AGREEMENT, ALL PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

24. Inspector General. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present, and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of ESPN, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. ESPN's failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

25. Non-Discrimination. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Parties warrant and represent that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

26. Captions. The captions and section designations used in this Agreement are for convenience only and shall have no substantive meaning.

27. Severability. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or is otherwise unenforceable, then such provision shall be deemed null and void and shall be severable but shall not invalidate any other provision of this Agreement.

28. Public Entity Crimes. As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, ESPN certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

29. Scrutinized Companies. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the ESPN certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.

30. Entirety of Agreement. The Parties agree that this Agreement, together with any attached exhibits, sets forth the entire agreement between the Parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms, and conditions in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto.

31. Survival. Paragraphs 12, 13, 14, 15, 20, 21, 22, and all obligations in this Agreement which by their natures are intended to survive this Agreement shall survive expiration or earlier termination of this Agreement.

[Signature page follows.]

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

ATTEST:
SHARON R. BOCK,
Clerk & Comptroller

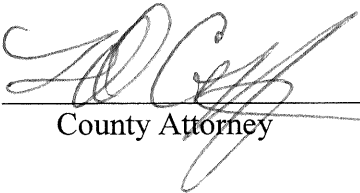
PALM BEACH COUNTY, a political subdivision
of the State of Florida

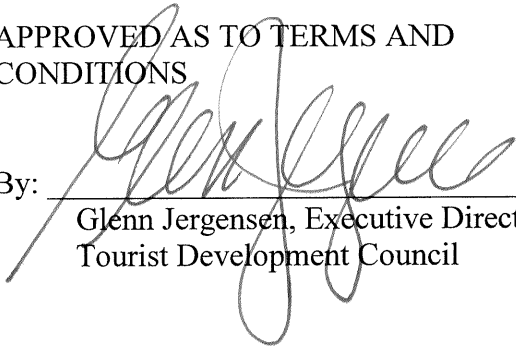
By: _____
Deputy Clerk

By: _____
Dave Kerner, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

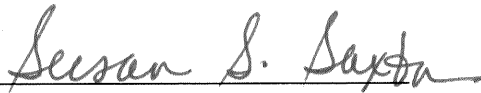
APPROVED AS TO TERMS AND
CONDITIONS

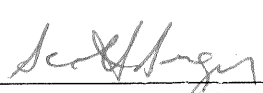
By:  _____
County Attorney

By:  _____
Glenn Jergensen, Executive Director
Tourist Development Council

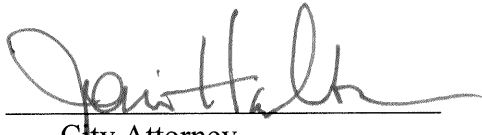
ATTEST:

CITY OF BOCA RATON, FLORIDA

By:  _____
City Clerk

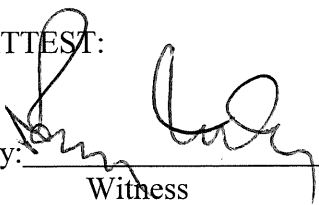
By:  _____
Scott Singer, Mayor

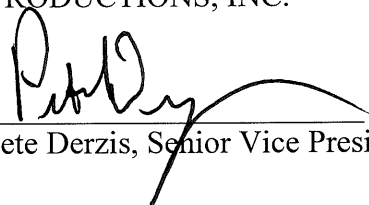
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By:  _____
City Attorney

ATTEST:

ESPN PRODUCTIONS, INC.

By:  _____
Witness

By:  _____
Pete Derzis, Senior Vice President

**CITY OF BOCA RATON AND ESPN PRODUCTIONS, INC.
FOR ESPN-BOCA RATON BOWL GAME AT FLORIDA ATLANTIC UNIVERSITY**

EXHIBIT A

1. Total Combined Costs

Year	County Base Cost	County Activity Cost	City of Boca Raton Base Cost	City of Boca Raton Activity Cost	Combined Investment County/City
2020	\$125,000	\$15,000	\$125,000	\$15,000	\$280,000

2. Total Combined Base Costs

Year	County Base Cost	City of Boca Raton Base Cost	Combined Investment of Base Cost
2020	\$125,000	\$125,000	\$250,000

3. Total Combined Activity Costs

Year	Sports Commission Funded	City of Boca Raton Funded	Shared Costs County/City
2020	\$15,000	\$15,000	\$30,000

**TRI-PARTY AGREEMENT BETWEEN PALM BEACH COUNTY AND THE
CITY OF BOCA RATON AND ESPN REGIONAL TELEVISION, INC.
FOR ESPN-BOCA RATON BOWL GAME AT FLORIDA ATLANTIC UNIVERSITY**

EXHIBIT B

Activity Costs Defined

- Possible beach party for each team
- Bus transportation for both teams

**TRI-PARTY AGREEMENT BETWEEN PALM BEACH COUNTY AND THE
CITY OF BOCA RATON AND ESPN PRODUCTIONS, INC.
FOR ESPN-BOCA RATON BOWL GAME AT FLORIDA ATLANTIC UNIVERSITY**

EXHIBIT C

Sponsorship Elements

- Marketing of City and County logos on all marketing material, all reference materials, programs, website pages, and marketing brochures where the Bowl Game sponsors are defined and listed. County to provide two logos (Palm Beach County and TDC-Discover the Palm Beaches – Destination Logo for Palm Beach County) and the City to provide one logo.
- Four (4) 30-second TV units – two (2) for the County (leisure consumer 30 second) and two (2) for the City.
- Four (4) 30-second commercials to be played during the Bowl Game inside of FAU stadium
- Two (2) full-page, 4-color advertisements in the official souvenir game program – one page for the County and one for the City
- One (1) promotional Discover the Palm Beaches video to appear on the official Bowl website and the Spanish-language and creole language (if available) website.
- Access to the Bowl Game and parking passes for TDC, County, and City officials to be split equally between the County and City as follows:
 - 60 VIP/Club seat passes
 - 60 parking passes to include VIP and Valet
 - 60 regular sideline seat game tickets
- One (1) “Discover the Palm Beaches, Florida” banner and one (1) City of Boca Raton banner each to be displayed at both the FAU stadium end zones at field level during the Bowl Game. The size of the banners to be approved by the Palm Beach County, County Administrator, and the Boca Raton City Manager.

ESPN MEDIA DELIVERY GUIDELINES

CONTACTS

ESPN strives to provide the highest level of service and quality to all clients. In order to maintain this quality, all requirements in this document must be met.

Please note, any special requests must be directed to:

Craig Doucette

Director, MSI Ad Standards

Phone: (860) 766-7188

Please address questions to the following team members:

Billboards/Features/Sponsorships

Sports Updates/BottomLine

Julia Padilla, Assoc. Manager (860) 766-2612

Client Supplied

Chris Tate, Manager (860) 766-2624

Commercial Clearance/Media Inventory

Craig Doucette, Director (860) 766-7188

Commercial Traffic

Scott Atkinson, Director (860) 766-2499

We will continue to update and revise all information as needed. Thank you for your continued cooperation.

ESPN MEDIA DELIVERY GUIDELINES

POLICIES

Ad-ID SYSTEM

Agencies are required to utilize the Ad-ID (formerly ISCI code) numbering system for all commercials. To obtain a prefix (assigned exclusively to each advertiser), please contact the AdID as follows:

Ad-ID

Phone: (704)501-4410

Email: cs@ad-id.org

11020 David Taylor Drive, Suite 305

Charlotte, NC 28262

COMMERCIAL CLEARANCE

- All commercial material(s) (e.g., advertisements, billboards, feature materials, etc.) must be submitted in advance for approval and are subject to ESPN's Advertising Standards and Guidelines.
- All clearance materials should be sent in advance to CommercialClearance@espn.com for network approval.
- **A minimum of two weeks lead time is required.** Script, storyboard, and/or Beta SP or DVD viewing material is required for review. On occasion, one or more elements may be required for approval (e.g. script and rough-cut).
- Submission of a commercial shall constitute the agency/client warranty to ESPN that all elements have been cleared for air (and Internet distribution, if via espn.com and/or WatchESPN, Mobile ESPN or other internet or broadband properties) with respect to intellectual property rights: this includes, but not limited to, rights of privacy and master, mechanical, performance and synchronization rights for music.

COMMERCIAL DELIVERY SPECIFICATIONS FOR TELECAST

- Any content which does not meet these specifications may be refused for air or have the levels altered to meet these specifications at ESPN's discretion.
- ESPN reserves the right to refuse to broadcast or otherwise utilize television recordings that, in its opinion, are technically unsatisfactory.
- On-Air materials must be in house (Bristol, CT) no later than **five (5) business days prior to the airdate.**
- On-Air materials for ABC telecasts must be sent to ABC (New York, NY) directly.
- ESPN accepts Closed Captioned commercial content. All Infomercials MUST be Closed Captioned.
- ESPN does NOT accept commercial content with embedded or encoded triggers.
- ESPN will utilize one commercial spot for a buy across all Standard Definition networks. There is no need to submit the same commercial tape for each of these networks.
- ESPN will NOT guarantee replacement of a commercial if it is assigned the same Ad-ID as the original version. **Unique codes must be created for all separate material submitted for telecast.**

COMMERCIAL PURGE POLICY

- Commercial material will be held for **sixty** days from the last airdate, after which time it will be removed from the system. The same commercial purge policy applies to material that does not air within **sixty** days of receipt.
- ESPN cannot hold indefinitely, duplicate or return commercial material submitted for telecast.
- If commercial material may not air after a specific date, it is the agency or advertiser's responsibility to notify ESPN and request that such material be purged from the system effective as of that date.
- If commercial material should not air and the agency or advertiser has not provided purge notification to ESPN, any charges that ESPN may incur as a result will be passed on to the agency or advertiser.

ESPN+ / Digital Platforms Commercial Delivery

- If EDI has not been sent to agency, the following process applies:
 - If creative is already in house in Bristol, the ISCI code information needs to be sent to Nikki Erakovich (NIKKI.ERAKOVICH@disney.com) and Amy Dixon (Amy.K.Dixon@disney.com).

ESPN MEDIA DELIVERY GUIDELINES

- Commercials will be digitized and sent from Bristol to Seattle. Two day lead time required.
- If creative is NOT already in house in Bristol, TV Ad Operations will request that a digitized version (QuickTime or Windows Media file) be sent directly to Seattle.
 - If material cannot be sent directly to Seattle, it should be sent to Bristol via standard media delivery channels.
 - The ISCI code information needs to be sent to the ISCI code information needs to be sent to Nikki Erakovich (NIKKI.ERAKOVICH@disney.com) and Amy Dixon (Amy.K.Dixon@disney.com).
 - Commercials will be digitized and sent from Bristol to Seattle. Two day lead time required.

STANDARD DEFINITION

- Accepted Digital Ad Delivery vendor only.*
- 29.97 frame rate.
- ESPN will utilize one commercial tape for a buy across all Standard Definition networks. There is no need to submit the same commercial tape for each of these networks.
- Full Stereo mix on audio channels 1 & 2.

HIGH DEFINITION

- Accepted Digital Ad Delivery vendor only.*
- 720p; 59.94 frame rate.
- Full Stereo mix on audio channels 1 & 2. ESPN does not broadcast commercial inventory on 5.1 Dolby Surround.
- The HD Ad-ID must have an "H" at the end to signify HD material.
- Only one piece of creative (either SD or HD) will be accepted for air on all available networks and will air simultaneously on the HD and SD services. Commercials airing on any SD only network (Classic, etc.) may submit a center-cut protected HD tape or an SD version.
 - HD material (i.e. in full 16 x 9 format) and will be simulcast in letter-box format (i.e. in 4 x 3 format) on the SD broadcast.
 - ESPN Classic is currently SD only. HD material is accepted on this network and will be down-converted as center-cut for the SD broadcast.
 - During applicable commercial breaks where the bottom line remains static, a video move will occur to ensure all content in the title safe area remains visible.

ESPN MEDIA DELIVERY GUIDELINES

*** Digital Ad Vendor Contact Info:**

- Extreme Reach: support@extremereach.com or (877) 769-9382
- Javelin/Hula: support@javelindelivers.com or 877-851-1786
- AdStream: Traffic.latam@adstream.com or (786) 472 2615
- DMDS/Yangaroo: support@dmds.com or (866) 992-9902
- Comcast AdDelivery: addelivery_support@comcast.com or 855-858-1942, option 1
- On The Spot Media/EZSpot: stationservices@onthespotmedia.com
- SpotGenie: support@spotgenie.com, or (888) 808-1631
- Syncro: spots@syncroservices.com

Additional Video Specification Details

Sponsorship Delivery Guidelines

Packager Delivery Guidelines

ESPN MEDIA DELIVERY GUIDELINES

COMMERCIAL INSTRUCTIONS

- Commercial instructions must be sent simultaneously with tapes under separate cover emailed to traffic@espn.com.
- **Instructions must be received at ESPN five business days prior to the airdate.**
- ESPN must have written instructions from agency in order to air commercials. Do not enclose instructions with commercials tapes.
- Copy revisions must be followed up with a phone call from the agency contact.
- ESPN will NOT guarantee replacement of a commercial if it is assigned the same Ad-ID as the original version. **Unique codes must be created for all separate material submitted for telecast**
- If commercial instructions for repeat units are not supplied, original traffic instructions may be applied as needed.
- Instructions must include:
 - ESPN network(s)
 - Client
 - Product
 - Title
 - Ad-ID, max. of 18 characters (www.ad-id.org)
 - Length(s)
 - Rotation, Percentage or specific Placement
 - Agency contact with a phone and fax number

ESPN+ / Digital Platforms Traffic Delivery

- Client sends traffic via Extreme Reach to ESPN-Bristol, per the same process as linear and notifies Nikki Erakovich (NIKKI.ERAKOVICH@disney.com) and Amy Dixon (Amy.K.Dixon@disney.com)
- Client sends Nikki and Amy e-mail with the below:
 - o Event:
 - o Event Date:
 - o Traffic (ISCI):
 - o Traffic Instructions:
 - o Additional Notes:
- Traffic instructions are needed for initial launch and creative changes during the flight.
- If Client is not able to send traffic via ER, client is responsible for contacting Nikki and Amy for alternate instructions
- Nikki or Amy will setup line(s) and upload creative to FreeWheel

Changes to commercial copy within a current flight will be accommodated as soon as operations permit. ESPN will not guarantee changes within 48 hours of airdate, but will make every attempt to meet the requested date. Verbal instructions or changes will be accepted no later than 48 hours prior to airdate. Written confirmation must follow immediately. By submitting verbal instructions or changes, clients waive the right to object to the results, including errors. Revised commercials must be assigned a new Ad-ID. ESPN will not guarantee replacement of a commercial if it is assigned the same Ad-ID as the original version.

LENGTH POLICY

All commercial lengths must be negotiated as part of the order. ESPN TV Ad Operations will not accept length change allocations not agreed to when the order was confirmed. If circumstances require a length change after order confirmation, notification must be made through your ESPN Account Executive.

PLACEMENT POLICY

ESPN endeavors to give advertisers fair and equal rotation across network buys. ESPN does not guarantee placement requests. ESPN will bookend: 15 second commercials of the same advertiser/product if a: 15 second mate is unavailable.

- PSA & cause-related marketing content is not permitted in billboards or features.
- Material submitted on behalf of non-profit institutions or government agencies must contain a "paid for by" disclaimer.
- ESPN reserves the right to require all sponsorship creative to adhere to NCAA advertising guidelines.
- All sponsorship materials must also adhere to ESPN advertising content regulations and are subject to ESPN's editorial judgment with respect to show compatibility and integration. ESPN reserves the right to decline to air any materials, which we feel compromise the overall look of our on-air product and/or do not meet our technical standards or editorial judgment

ADVERTISING CONTENT REGULATIONS

ESPN will telecast only commercial material which is lawful and of the highest possible standards of excellence. ESPN may refuse to distribute any commercial or any element thereof that, in ESPN's sole judgment:

1. Does not conform to these regulations or to ESPN's general practices and formats regarding commercials, as they may be modified from time to time;
 2. Is not of a suitable artistic and technical quality;
 3. May violate any rights of any person, firm or corporation;
 4. Contains any false, unsubstantiated or unwarranted claims for any product or service, or makes any unauthenticated testimonials;
 5. Advertises any habit-forming drug, tobacco product, handgun or handgun ammunition, distilled liquor or any non-alcoholic product containing the name of a hard liquor product. Malt beverage advertising is acceptable, subject to appropriate scheduling restrictions and only if commercial clearly and conspicuously communicates in audio and/or video that the product is an alcoholic malt beverage;
 6. Contains any material constituting or relating to a lottery, a contest of any kind in which the public is unfairly treated or any enterprise, service or product that tends to encourage, abet, assist, facilitate or promote illegal or legal gambling;
 7. Makes any appeal for funds or consists of, in whole or in part, political advocacy or issue-oriented advertising. All Institutionals (PSA's), paid or unpaid and regardless of source, must be approved in advance by ESPN;
 8. Contains any material that is defamatory, obscene, profane, vulgar, repulsive or offensive, either in theme or in treatment or that describes or depicts repellently any internal bodily functions or symptomatic results of internal conditions, or refers to matters that are not considered socially acceptable topics;
 9. Contains any false or ambiguous statements or representations that may be misleading to the audience;
 10. Includes any element of intellectual property without the owner's consent to such use, including but not limited to music master, mechanical, performance and synchronization rights or gives rise to any other colorable claim of infringement, misappropriation or other form of unfair competition;
 11. Unfairly disparages or libels any competitor or competitive products; or
 12. Is or might be injurious or prejudicial to the interests of the public, ESPN or honest advertising and reputable business in general.
- **ESPN reserves the right to accept or reject at any time advertising for any product or service submitted for telecast over its program facilities.**
 - **ESPN reserves the right at any time to revoke its acceptance of and to require the elimination or revision of any advertising matter that is inconsistent with ESPN standards and policies.**

Please see ESPN Ad Standards and Guidelines document for complete advertising policy information.

Exhibit E

ESPN Advertising Regulations

A. ADVERTISING SALES REGULATIONS

In using the Commercial Units specified in the Agreement, Sponsor must:

1. Consult regularly with the designee in ESPN's Advertising Sales Department on Sponsor's plans and actions related to such units;
2. Not sell to or solicit any advertiser to which ESPN is itself either currently furnishing advertising time or attempting to sell such time, without ESPN's prior consent.
3. Promptly advise ESPN of each product or service and whatever other relevant information that ESPN requests. Sponsor also must furnish ESPN, no later than five business days before the date of the distribution in question, with the fully-cleared videotapes and other requisite materials for airing Sponsor's Commercial Units according to the guidelines contained in the attached ESPN Media Delivery Guidelines;
4. Comply with the Advertising Content Regulations specified in Section B, below;
5. Subject all advertisers on the Program(s) to ESPN's prior approval; and
6. Not use any third-party sales representative, broker or other intermediary for the sale of any Commercial Units, without the prior approval of ESPN.

B. ADVERTISING CONTENT REGULATIONS

ESPN will telecast only commercial material which is lawful and of the highest possible standards of excellence and in this regard Sponsor will ensure that the following conditions are observed with respect to all local commercial announcements. There shall be:

1. no commercial or material which is not of a suitable artistic and technical quality;
2. no commercial or material that may violate any rights of any person, firm or corporation;
3. no false, unsubstantiated or unwarranted claims for any product or service, or testimonials that cannot be authenticated;
4. no advertising of any habit-forming drugs, tobacco products, handguns, or handgun ammunition;
5. no commercial or material which advertises any distilled liquor, except as set forth below. Socially responsible distilled liquor advertising may be included in ESPN-approved programs (on ESPN-specified networks) only, provided that such advertising contains prominent and integral social responsibility messaging (e.g.,

the prevention of drinking and driving, moderation in consumption, and references for assistance with drinking-related issues). Message must be an integral part of the creative presentation and not simply a closing “drink responsibly” visual or other fleeting reference. Malt beverage advertising is acceptable, subject to appropriate scheduling restrictions and only if the commercial clearly and conspicuously communicates in audio and/or video that the product is an alcoholic malt beverage;

6. no material constituting or relating to a lottery, a contest of any kind in which the public is unfairly treated or any enterprise, service, or product which would tend to encourage, aid, abet, assist, facilitate or promote illegal or legal gambling; however, advertising for casinos or other places of gambling (including ads for travel services or tourist destinations that directly or indirectly promote gambling) may be placed under the following additional guidelines:
 - The advertisement does not in any way promote sports wagering or race book services, including references to odds, horse racing “tout” boards, betting slips, etc.
 - The advertisements may promote the non-gambling or gambling amenities of the casino, and may now include visual or audio references to gambling or gambling paraphernalia (e.g., dice, roulette wheels, “slot machine” type graphics).
 - The word “casino” may be used if it is part of the official name of the advertised establishment.
 - Advertising for casinos will be subject to any restrictions or prohibition from programming rights-holders during certain programming.

Restrictions

 - Casino advertising of any type may not air in any NFL, NBA or NCAA Championship programming, or any programming ESPN reasonably believes to have significant audience concentrations or appeals to persons under age 17 (X-Games, Little League, Spelling Bee, High School Sports) including any support or ancillary programming.
 - NCAA (non-Championship) and MLB programming may contain “non-gaming” casino advertisements. Advertisements for casinos or other places of gambling may air during NCAA non-Championship and MLB programming only as long as the advertisement does not in any way promote legal or illegal gambling; and the advertisement does not contain any visual or audio references to gambling or gambling paraphernalia (e.g., dice, roulette wheels, “slot machine” type graphics, odds, horse racing “tout” boards, betting slips). Advertisements may, instead, promote the non-gambling amenities of the casino (e.g., floor shows, dining, shopping, etc.)

Note: The list of programming in which such material is permitted is subject to change from time to time.

7. no announcement for a product or service which is illegal per se or has no legal use in the state, county or municipality in which Sponsor is distributing the announcement;
8. no appeal for funds;

9. no commercial or material which is in whole or part defamatory, obscene, profane, vulgar, repulsive or offensive, either in theme or in treatment, or that describes or depicts repellently any internal bodily functions or symptomatic results of internal conditions, or refers to matters that are not considered socially acceptable topics;
10. no false or ambiguous statements or representations that may be misleading to the audience;
11. no commercial that includes any element of intellectual property without the owner's consent to such use, including but not limited to music master, mechanical, performance and synchronization rights or gives rise to any other colorable claim of infringement, misappropriation or other form of unfair competition;
12. no disparagement or libel of competitors or competitive products; or
13. no commercial that is or may be injurious or prejudicial to the interests of the public, Licensor or honest advertising and reputable business in general.

In addition, during any program of a championship athletic event conducted by the National Collegiate Athletic Association (the "NCAA"), there shall be:

1. no advertisement utilizing professional athletes or other persons connected with professional athletics or promoting any professional athletic event or team; and
2. no advertising of alcoholic beverages, drugs or patent medicines other than analgesics, cold remedies, antacids, and athletics training aids that are in general use and institutional advertising by pharmaceutical firms.

[End of Exhibit C]