

~~February~~ <sup>March</sup> 23, 2006

City of Indian Wells  
44-950 Eldorado Drive  
Indian Wells, California 92210  
Attention: Greg Johnson

Dear Mr. Johnson:

This letter sets forth the agreement (the "Agreement") which has been reached between the City of Indian Wells, a municipal corporation of the State of California ("City"), and Desert Champions LLC, a California limited liability company ("DC"), with regard to the tennis tournament currently known as the Pacific Life Open, as it may be renamed (the "Tournament"), to be played annually at the Indian Wells Tennis Garden (the "Facility") in Indian Wells, California during the term hereof.

1. Term. The term of this Agreement commences as of the closing under the Purchase Agreement (as defined below) and terminates at the conclusion of the 2026 Tournament, unless earlier terminated as set forth herein (the "Term"). Notwithstanding anything to the contrary contained herein, this Agreement shall be null and void, and of no force or effect, if the transactions contemplated by the Purchase and Sale Agreement and Joint Escrow Instructions dated ~~February~~ <sup>March</sup> 23, 2006 ("Purchase Agreement") between City and Garden of Champions LLC, a California limited liability company ("GOC"), the Agreement Regarding Tournaments dated ~~February~~ <sup>March</sup> 23, 2006 ("Tournament Agreement") between City, DC and GOC, and the Ground Lease dated ~~February~~ <sup>March</sup> 23, 2006 ("Ground Lease") between City and GOC do not close by ~~February~~ <sup>March</sup> 23, 2006. The Purchase Agreement, Tournament Agreement and Ground Lease will be collectively referred to as the "City Agreements."

2. Grant of Sponsorship Rights. In consideration for City's entering into the City Agreements, and the timely closing of the transactions contemplated thereunder, DC grants to City the non-exclusive right to be a "host sponsor" of each Tournament throughout the Term, beginning with the 2007 Tournament and concluding with the 2026 Tournament, subject to the terms and conditions set forth herein. City may use such sponsorship rights on a non-exclusive basis in connection with the City's advertising and promotion of City as a resort destination and the Golf Resort at Indian Wells and the resort properties within the City's boundaries (presently the Hyatt Grand Champions Resort, Indian Wells Resort Hotel, Miramonte Resort and Renaissance Esmeralda Resort) may be mentioned in this context (collectively, such advertising and promotion will be referred to in this Agreement as the "City Promotions"), subject always to the provisions of Paragraph 6 hereof and provided that any such City Promotions shall not conflict with or violate any of the rights or agreements of DC or Garden of Champions LLC, an affiliate of DC ("GOC"), relating to the Tournament, Special Events (defined below in Paragraph

3 (a) or the Facility (the "Other Agreements"). DC represents to City that no current Other Agreement would prohibit City with respect to City Promotions. All rights related to the Tournament or any Special Event not specifically and/or exclusively granted to City shall be and remain the property of DC to be used in any manner that DC deems appropriate.

3. Agreements of DC. In furtherance of the grant contained in Paragraph 2, DC shall provide City with the following in connection with each Tournament, and certain benefits for each Special Event as specifically described below, during the Term hereof:

- (a) The exclusive use of Stadium Suite 332, (the "Stadium Suite") a thirty-four (34) seat stadium suite during each Tournament session. DC shall provide City with up to forty-six (46) passes for the Stadium Suite for each Tournament session. Any supplemental signage or decorations within the Stadium Suite are the responsibility of City, are at City's expense and are subject to DC's prior approval. Subject to the foregoing, DC shall install and deinstall signage or banners bearing City's logo within the Stadium Suite during City's use of it at City's request. At the end of each Tournament or the earlier termination of this Agreement, the Stadium Suite and the furnishing and property therein provided by DC shall be surrendered and returned to DC in the same condition as when received by City, ordinary wear and tear excepted.
- (b) All catering for the Stadium Suite during the Tournaments will be supplied by a caterer designated by DC. DC shall, at DC's expense, provide City with an individual chosen by DC from time to time to act as Host or Hostess within the Stadium Suites at all times play is occurring within the Stadium Court. DC shall provide City with an aggregate Seventy-Five Thousand Dollars (\$75,000) catering credit for each Tournament for use only within the Stadium Suite and/or any other stadium suite for which City has the exclusive right to use during the Tournament under this Agreement or any other agreement with DC. Any unused portion of this catering credit is not refundable and may not be carried over to another Tournament. City will be responsible for all food and beverage charges over the above-described catering credit.
- (c) Sixteen (16) four-seat box seat tickets (total of 16 seats) in the Stadium Court for each Tournament session, in a location selected by DC.
- (d) Sixteen (16) loge seat tickets in the Stadium Court for each Tournament session, in a location selected by DC.
- (e) Sixteen (16) grandstand seat tickets in the Stadium Court for each Tournament session, in a location selected by DC.
- (f) Six (6) VIP valet parking passes for each Tournament session.

- (g) Fifty (50) daily general parking passes in connection with each Tournament.
- (h) Twenty-four (24) Valet parking passes for each Tournament session.
- (i) A mutually agreed upon number of Tournament sponsor credentials allowing access to the Facility as the parties agree is necessary in order for City to fully enjoy its benefits hereunder.
- (j) One sidewall signage positions on each of the west and east walls of each of Stadium 2 and Stadium 3. These positions are referenced as positions W1 and E8 as marked on Exhibit A hereto.
- (k) Two (2) wing signage positions in the Stadium Court, in positions referenced as SE3 and NW3 as marked on Exhibit A hereto.
- (l) One (1) signage position, in a location with the confines of the upper Stadium Court as DC may determine.
- (m) In the event that any or all of the signage positions referenced as positions NW2, NE2, SW2 and SE2 of Stadium Court as marked on Exhibit A hereto remain unsold by DC at the commencement of any Tournament, City shall be provided with the use of such unsold signage positions for that Tournament, subject to all the terms and conditions hereof.
- (n) Recognition of City on the Welcome Board located at each Facility entrance.
- (o) Recognition of City as a host sponsor on the Sponsor Recognition Board.
- (p) City shall be credited as a "Host Sponsor" of the Tournament in at least three (3) public address announcements each day of the Tournament. City and DC will consult as to the content of such announcements as they relate to Sponsor. Sponsor shall have no right to approve or disapprove of any material unrelated to Sponsor included in any such announcement.
- (q) City will be recognized as a host sponsor on an electronic scoreboard each day during the Tournament that an electronic scoreboard is in use.
- (r) City will be provided with the ability to place one (1) panel on up to four (4) information kiosks, such kiosks to be in locations as determined by DC, at the Facility. The contents of the panel are subject to DC's prior review and approval.

- (s) The opportunity to conduct up to three (3) on-court promotions between matches on Stadium Court as selected by DC during each Tournament. Such consent is subject to DC's prior approval, which shall not unreasonably withheld. City is solely responsible for determining that any such promotional contest complies with all applicable federal, state and local laws, rules and regulations regarding such contests and for complying therewith.
- (t) City shall receive name recognition as a host sponsor on all advertising and Promotional Materials produced and disseminated by DC for each Tournament during the term hereof. As used herein "Promotional Materials" includes all print advertising, pamphlets, maps, brochures and informational material in written form.
- (u) Space to place a one (1) full-page four-color advertisement in the Official Tournament Program produced and disseminated by DC for each Tournament, such advertisement to be provided to DC with camera-ready artwork by the dates designated by DC in advance of each Tournament.
- (v) Space to place one (1) Welcome Letter from the Mayor of the City within the Official Tournament Program produced and disseminated by DC for each Tournament.
- (w) Space to place one (1) one-quarter (1/4) page black and white advertisement within the daily drawsheet for one Tournament session, on a date each year as DC may determine in its sole discretion.
- (x) A date as determined by DC, during the first week of each Tournament, will be branded as "City of Indian Wells Day". In connection with such designated day, each individual presenting a valid Indian Wells Property Owner's Card and driver's license (or other form of picture identification) may obtain, at no cost, the best available loge seat tickets for one Tournament session on that date, up to a maximum of four tickets per household. Tickets are subject to availability for each Tournament session and distributed on a first come first served basis. Tickets will be distributed directly from the Indian Wells City Hall in advance of "Indian Wells Residents Day" and at the Facility on such designated day.
- (y) The option to use one (1) twenty foot by twenty foot (20' x 20') Display Booth and one (1) ten foot by ten foot (10' x 10') Display Booth, at the Facility during each Tournament, in a location selected by DC. Each Display Booth comes complete with: carpeted flooring, general lighting, 1 four-outlet electrical outlet, 1 telephone line with local access only, if required, 2 six-foot tables, 2 chairs and signage on the booth canopy. Any supplemental furnishings, signage, power, telephone, special equipment, security or other needs are the responsibility of City, are at

City's sole expense and are subject to DC's prior reasonable approval. If City exercises the option to use either or both Display Booths, City agrees to have an attendant at such Display Booth at all times the Facility is open to the public during each Tournament. All property of City stored or located at the Facility will be the responsibility of City and City bears all risk of loss or damage to such property. City agrees that, at the end of each Tournament or the earlier termination of this Agreement, each Display Booth and the furnishings and property therein provided by DC shall be surrendered and returned to DC in the same condition as when received by City, ordinary wear and tear excepted.

- (z) City may distribute sales and promotional literature to entering and exiting attendees during one Tournament session as the parties may agree, such literature and location and method of distribution being subject to DC's prior review and approval.
- (aa) The mayor or other designated City representative will be recognized during each of the men's and women's awards ceremonies along with Tournament representatives as designated by DC.
- (bb) Subject to broadcaster's approval in its sole and absolute discretion, area of interest/beauty shot "bumpers" during the domestic cable broadcast, if any, of each Tournament.
- (cc) If DC has a video wall in the Facility area known as the "Garden Village" during any Tournament, City will have the opportunity to air three (3), 30 second spots once each day during the Tournament, which spots will be subject to DC's approval.
- (dd) Subject to any third party restrictions, DC shall mail direct response campaign materials (limited to City Promotions) provided to it by City which promote City as a resort destination (such materials to be subject to DC's prior approval) to entities included on DC's database once each year during the Term. All out of pocket costs associated with such mailing (e.g., the creation of the materials, postage, etc.) will be the sole expense of City. This right shall survive expiration but not early termination of the Term.
- (ee) Recognition as a host sponsor, and a reciprocal link to City's web site, on the official Tournament web site at all time such web site is operational throughout the Tournament.
- (ff) City shall have the exclusive use of Stadium Suite 332 for all other events held within the main stadium at the Facility (the "Stadium"), except for events not open to the public (as so limited, a "Special Event" or the "Special Events"). For

each Special Event, DC shall provide City with up to thirty-four (34) passes for the Stadium Suite, six (6) VIP parking passes (valet parking, if provided for the event) and twelve (12) general parking passes (if such are issued for the event). For each Special Event, DC shall use its commercially reasonable best efforts to provide up to twelve (12) additional passes for the Stadium Suite. All catering, if any, for the Stadium Suite during a Special Event will be supplied by a caterer designated by DC. There is no catering credit for any Special Event and City will be responsible for all food and beverage charges it incurs in respect of its use of the Stadium Suite during a Special Event. At the end of each Special Event, the Stadium Suite and the furnishing and property therein provided by DC shall be surrendered and returned to DC in the same condition as when received by City, ordinary wear and tear excepted.

In connection with the benefits listed above for the Tournament, any and all advertisements, vignettes and other materials provided by City hereunder must be provided with camera-ready artwork by the date or dates specified by DC, are subject to DC's editing and approval, which approval shall not unreasonably withheld, and DC is not responsible for any errors or misprints therein. If City does not supply artwork by dates as requested, then DC shall use the artwork, if any, provided for any of the prior issues. City shall have no right to approve or disapprove of any material or item unrelated to City included in the Official Tournament Program, the daily draw sheet, the Promotional Materials, or in any other materials in which City Promotions, City's advertisements or City Marks (as defined in Paragraph 6) appear. Any and all signage bearing City's identification (other than as set forth in Paragraph 3(a)) shall be created by DC at DC's expense and in conformance with DC's then-current specifications for such signage and will be subject to City's prior approval, which approval shall not be unreasonably withheld or delayed. DC shall own all such signage. All signage will be installed, maintained in good repair and removed by DC at its expense. All benefits listed above are subject to Paragraph 7 hereof, as applicable.

Except as expressly set forth herein, City acknowledges and agrees that it is not entitled to any credit, deduction, rebate or refund of any kind for any benefit listed in Paragraph 3 that is not used by City, in whole or in part.

4. Agreements of City.

- (a) City and its guests shall, at all times, maintain proper decorum (including without limitation the avoidance of any conduct or action which will cause a disturbance in the Facility or a distraction to players, performers or other patrons) while using the Stadium Suite, or while present anywhere in the Facility and shall use the Stadium Suite and other parts of the Facility only in a manner which is in full compliance with all present and future laws, orders, rules and regulations of all state, federal, municipal and local governments, departments, commissions and boards asserting jurisdiction thereover, or any direction of a public officer

pursuant to law (all of the foregoing, collectively "Legal Requirements"). City and its guests shall observe faithfully, and comply strictly with, such standards of decorum and all of the rules and regulations as may be established by DC from time to time for the licensing of the Stadium Suite and use of or attendance at the Facility and with all applicable provisions of the Legal Requirements. City and its guests shall be subject to ejection from the Facility and/or the Stadium Suite for failure to maintain proper decorum or for failure to abide by Legal Requirements. City hereby acknowledges and agrees that neither it nor any of its guests are permitted to bring alcohol into the Facility. City further acknowledges and agrees that it is responsible for ensuring its guests' observance of the requirements set forth in this subparagraph (a).

- (b) City agrees it will vacate the Stadium Suite after a Tournament or Special Event as provided in Paragraphs 3(a) or 3(ff), as applicable. In addition, City agrees that for each Tournament it will vacate the other areas of the Facility, and remove all its property therefrom, within ten (10) days after the completion of such Tournament.

5. Payments. All City payments under this Agreement shall be made by check payable to Desert Champions LLC and sent to:

Desert Champions LLC  
78-200 Miles Avenue  
Indian Wells, California 92210  
Attention: Controller

6. Trademarks.

(a) During the Term hereof, City grants to DC the limited right to use any trademarks, trade names, service marks, and logos owned by it (the "City Marks") in connection with the Tournaments and any activities or promotions reasonably incidental thereto.

(b) During the Term hereof, DC grants to City the limited right to use the trademarks, trade names, service marks, and logos owned by it, or for which DC has been granted a license, (the "DC Marks," and together with the City Marks, the "Marks") in connection with the promotion of the Tournaments and City's role of host sponsor in accordance with the terms and conditions of this Agreement.

(c) Neither party has an interest in or right to the use of the other party's Marks except for the limited right of usage which each grants the other in this Agreement and each such grant is expressly limited to the Tournaments and any activities, promotions or advertising reasonably incidental thereto. It is mutually understood that improper use of Marks by the other party may cause immediate and irreparable harm and shall entitle the non-defaulting party to seek

injunctive relief without the necessity of posting a bond or other security or showing actual damages.

7. Advertising Approvals. Any advertising or other material prepared by one party which contains the other party's Marks, shall be provided to the other party in advance of publication or other use for its review. All such materials must receive the written approval of the other party prior to any publication of it, such approval not to be unreasonably withheld or delayed. Each of the parties agrees that any material submitted to it for approval as provided herein may be deemed by the other to have been approved hereunder if the same is not disapproved in writing within ten (10) days after receipt hereof. Each of the parties acknowledges that any such use previously approved by it or deemed approved by the other as set forth herein shall be deemed approved and accepted for any and all future use unless the other party is informed otherwise in writing.

8. Default; Remedies.

(a) The following events shall constitute an event of default ("Event of Default") under this Agreement regardless of whether any such event shall be voluntary or involuntary or shall result from the operation of applicable laws, rules or regulations or shall be pursuant to or in compliance with any judgment, decree or order of any court of competent jurisdiction:

- (i) Either party shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or similar law, or shall make a general assignment for the benefit of creditors, or shall have an involuntary case or other proceeding instituted against it seeking similar relief; and
- (ii) Either party shall otherwise fail to perform or observe any other material covenant, material representation or material condition set forth herein and such failure shall continue unremedied for a period of thirty (30) days after the receipt of written notice thereof from the nondefaulting party; or
- (iii) Upon expiration or termination of any of the City Agreements.

(b) Upon the occurrence of an Event of Default, and at any time thereafter so long as the same shall be continuing, the nondefaulting party may declare, at its option, this Agreement to be in default and: (i) may immediately terminate this Agreement without any liability whatsoever other than liabilities accrued to such date; (ii) may seek enforcement by appropriate court action of the terms hereof and recover actual damages (which shall not include punitive, speculative or consequential damages, such as loss of business opportunities or profit) for the breach hereof; (iii) may exercise any other right or remedy available to it under law or in equity;

or (iv) may seek any permitted combination of such remedies. No remedy is intended to be exclusive, but each shall be cumulative and the exercise of any such remedy shall not preclude the simultaneous or later exercise of any other remedy. Notwithstanding the foregoing, if an Event of Default is caused as a result of a default under the Tournament Agreement, then City's recovery hereunder shall be reduced, on a dollar for dollar basis, by the amount, if any, that City actually recovers under the Tournament Agreement.

9. Indemnity/Insurance.

(a) City agrees to indemnify, defend and hold DC, its parent, its subsidiaries and the affiliates of each such entity, harmless from and against any and all expenses, damages, claims, suits, losses, actions, judgments, liabilities and costs whatsoever (including attorney fees) (collectively, "Losses") arising out of: (i) City's breach, misrepresentation or non-performance under this Agreement or City or City's agent's gross negligence or willful misconduct; (ii) City's products or services or the distribution or use of City's products or services; (iii) DC's use (in conformance with the terms of this Agreement) of City Marks; (iv) any advertising or promotional material furnished by or on behalf of City or City Promotions; (v) any payment owed by City to persons or entities associated with any Tournament or Special Event (including, without limitation, catering costs); (vi) City's failure to comply with any third party obligations or any applicable local, state, federal or site laws, rules or regulations regarding any and all promotions or activities it conducts in connection with any Tournament; or (vii) the failure by City or its guests to comply with the requirements of Paragraph 4(a). Notwithstanding the foregoing, City shall not be required to so indemnify DC for any Losses to the extent they arise from the gross negligence or willful misconduct of DC or any of its employees or agents.

(b) DC agrees to indemnify, defend and hold City harmless from and against any and all Losses arising out of: (i) DC's breach, misrepresentation or non-performance under this Agreement or DC's or DC's agent's gross negligence or willful misconduct; (ii) any claim or action for personal injury, death, bodily injury, property damage or otherwise, suffered by participants, competitors, spectators or others at any Tournament or Special Event; (iii) any advertising or promotional material furnished by or on behalf of DC; (iv) City's use (in conformance with the terms of this Agreement) of DC's Marks; (v) any payment owed by DC to persons or entities associated with any Tournament (including, without limitation, prize money) or Special Event; or (vi) DC's failure to comply with any third party obligations or any applicable local, state, federal or site laws, rules or regulations regarding any and all promotions or activities it conducts in connection with any Tournament or Special Event. Notwithstanding the foregoing, DC shall not be required to so indemnify City for any Losses to the extent they arise from the gross negligence or willful misconduct of City or any of its employees or agents.

(c) City will provide evidence of self insurance or obtain and maintain at its own expense throughout the Term (i) general liability insurance (including products liability insurance) having limits of no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (ii) automobile liability insurance having limits of no less than \$1,000,000 per

occurrence; and (iii) workers compensation insurance in statutory coverage amounts, with a minimum of \$500,000 employer's liability. DC and GOC shall each be named as an additional insured with respect to items (i) and (ii). City shall provide DC with a certificate evidencing all insurance required under this Agreement within fourteen (14) days after the execution and delivery of this Agreement. Such insurance policy shall provide that the insurer shall not terminate or materially modify such policy or remove DC or GOC as additional insured without prior written notice to DC at least thirty (30) days in advance thereof.

(d) DC will provide evidence of self insurance or obtain and maintain at its own expense throughout the Term (i) general liability insurance (including products liability insurance) having limits of no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (ii) automobile liability insurance having limits of no less than \$1,000,000 per occurrence; (iii) workers compensation insurance in statutory coverage amounts, with a minimum of \$500,000 employer's liability; and (iv) property insurance covering all property owned, on in the care, custody and control of DC. City shall be named as an additional insured with respect to items (i) and (ii) and as a loss payee as applicable with respect to item (iv). DC shall provide City with a certificate evidencing all insurance required under this Agreement within thirty (30) days after the execution and delivery of this Agreement. Such insurance policy shall provide that the insurer shall not terminate or materially modify such policy or remove City as additional insured, without prior written notice to City at least fourteen (14) days in advance thereof.

10. Governing Law/Arbitration. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any dispute arising under this Agreement will be first referred for resolution to City's and DC's respective management designee. To the extent that the designees of the parties cannot resolve the dispute within five (5) business days of referral to them, the parties agree to try in good faith to settle the dispute by non-binding mediation under the Commercial Mediation Rules of the Judicial Arbitration and Mediation Services, Inc. ("JAMS"). If after three (3) days of mediation with the mediator, the dispute is not settled, or if the mediator declares an impasse prior to the end of the three (3) day period, then and only then may the aggrieved party pursue arbitration as set forth herein.

The parties agree to submit to arbitration any dispute related to this Agreement unresolved by mediation and agree that the arbitration process shall be the exclusive means for resolving disputes which the parties cannot resolve by mediation. Any arbitration hereunder shall be conducted under the Dispute Resolution Rules of JAMS as modified herein. Arbitration proceedings shall take place in Riverside County, California, before a single arbitrator who shall be a lawyer. All arbitration proceedings shall be confidential. Neither party shall disclose any information about the evidence produced by the other party in the arbitration proceedings, except in the course of judicial, regulatory, or arbitration proceeding, or as may be demanded by government authority or as may be required under the Public Records Act. Before making any disclosure permitted by the preceding sentence, a party shall give the other party reasonable advance written notice of the intended disclosure and an opportunity to prevent disclosure. In

connection with any arbitration provisions hereunder, each party shall have the right to take the deposition of one individual and any expert witness retained by the other party. Additional discovery may be had only where the arbitrator so orders, upon a showing of substantial need. Only evidence that is directly relevant to the issues may be obtained in discovery. Each party bears the burden of persuasion of any claim or counterclaim raised by that party. The arbitration provisions of this Agreement shall not prevent any party from obtaining injunctive or other equitable relief from a court of competent jurisdiction to enforce the obligations for which such party may obtain provisional relief pending a decision on the merits by the arbitrator. Each of the parties hereby consents to the jurisdiction of California courts for such purpose. The arbitrator shall have authority to award any remedy or relief that a court of the State of California could grant in conformity to applicable law, except that the arbitrator shall have no authority to award attorneys' fees or punitive damages. Any arbitration award shall be accompanied by a written statement containing a summary of the issues in controversy, a description of the award, and an explanation of the reasons for the award. The arbitrator's award shall be final and judgment may be entered upon such award by any court.

11. Notices. Whenever notice is to be served hereunder, service shall be made personally or by registered or certified mail, return receipt requested, postage prepaid or by confirmed facsimile. Notice shall be effective only upon receipt by the party being served, except notice shall be deemed received 72 hours after posting by the United States Post Office, by method described above. All notices shall be sent to the addresses described below:

To City:                      City of Indian Wells  
                                         44-950 Eldorado Drive  
                                         Indian Wells, California 92210  
                                         Attention: Greg Johnson, City Manager  
                                         Facsimile No. (760) 346-0407

To DC:                         Desert Champions LLC  
                                         78-200 Miles Avenue  
                                         Indian Wells, California 92210  
                                         Attention: Steve Simon  
                                         Facsimile No. (760) 200-8441

12. Force Majeure.

(a) No delay or failure of DC to perform any of its obligations under this Agreement shall be considered a breach of this Agreement if such delay or failure results from any cause beyond the control of DC, including, without limitation, any act of God, fire, flood, strike, lockout or other labor dispute, natural catastrophe, weather or other climatic conditions, public emergency, insurrection, riot, war, act or threat of terrorism, transportation shortage, delay of a common carrier, or actions of governmental authorities (a "Force Majeure Event").

- (b) Without limiting the generality of the foregoing, City acknowledges that (i) each Tournament and Special Event is an outdoor event and agrees that certain Tournament sessions or Special Event performances may be canceled or rescheduled due to inclement weather, (ii) each Tournament is a sporting event in which players occasionally withdraw or otherwise fail to complete their scheduled matches and (iii) each Special Event is subject to cancellation, rescheduling or curtailment due to performer illness and/or other reasons, replacement of one or more performers for a particular performance or performances, and other matters not within DC's control that may change the timing, nature or quality of the performance or event. Any of the results contemplated by the preceding sentence shall be considered a Force Majeure Event and not be a default hereunder.
- (c) Except as otherwise provided by Paragraph 12 hereof, in the event of any such Force Majeure Event, City shall not be entitled to any remuneration or credit for tickets, catering credits, suite use and/or passes or any other consideration.

13. Non-Staging of Tournament. If a Tournament for which the City is a host sponsor is not staged as scheduled during the Term, and City does not exercise its right, if any, to terminate this Agreement, this Agreement shall remain in full force and effect and will apply to the next "Tournament" held at the Facility and all time periods will be extended accordingly to reflect the delay.

14. Redesignation of Tournament. The Tournament currently receives sanctions from the ATP Tour, Inc. ("ATP") and the WTA Tour, Inc. ("WTA"). During the Term, events within and without the tennis world may affect the issuance of those sanctions, the existence of the ATP and/or the WTA, or the desirability of conducting a tennis event under sanctions from those governing bodies or under sanctions from any other governing body. Accordingly, the parties agree that this Agreement will remain in effect during its Term (subject to the Force Majeure provisions of Section 11 and the termination provisions herein) so long as the Tournament is conducted as a sanctioned event of the ATP and the WTA, or is conducted as a sanctioned event of any successor governing body to the ATP and/or the WTA, or is conducted as an independent event combining men and women tennis professionals (or a partially independent event if it operates with a sanction from either the ATP or the WTA or any successor thereto) that is recognized as a major international event of a stature and which receives domestic and international broadcast coverage comparable to the 2006 Tournament. Should the redesignated Tournament fall below the above standard, City at its option may terminate this Agreement under Section 7 (a) (ii).

15. Limitation of Liability. Notwithstanding anything to the contrary contained herein, no party shall be liable for any consequential, punitive, indirect, incidental, reliance, or special damages, whether or not such party has been advised about the possibility thereof.

16. Entire Agreement. This Agreement constitutes the entire agreement between City and DC in respect to the subject matter of City's host sponsorship and supersedes all prior agreements.

17. Naming Rights Sponsorship Agreement. City's rights under this Agreement are separate from and are in addition to its rights under the City of Indian Wells Sponsorship Agreement dated as of October 28, 1998, as amended.

18. Joint Venture. This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between City and DC. Neither party shall have any right to obligate or bind the other party in any manner whatsoever.

19. Severability. If any court of competent jurisdiction finds any provision of this Agreement to be unenforceable or invalid, then such provision shall be ineffective to the extent of the court's finding without affecting the enforceability or validity of the Agreement's remaining provisions.

20. Assignment. This Agreement is non-assignable by City and does not inure to the benefit of City's successors. DC may assign this Agreement when, as and if the Tournament is sold or transferred to another party. City will be promptly notified in writing of any assignment by DC of the rights or obligations under this Agreement.

21. Approval Standard. Unless otherwise provided, in this Agreement a party's right to approve any action or thing, or to take any action, or to make a unilateral determination shall be exercised in its sole and absolute discretion.

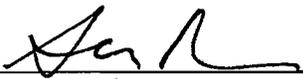
22. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original instrument and all of which together shall constitute the same instrument.

If the foregoing numbered paragraphs accurately set forth the understanding, please sign the enclosed copy of this letter and return it to me and this letter will then set forth our agreement.

Very truly yours,

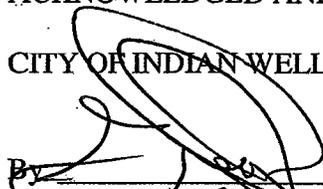
DESERT CHAMPIONS LLC

By: Indian Wells Tennis Tournament,  
LLC, a Nevada limited liability company,  
Member

By 

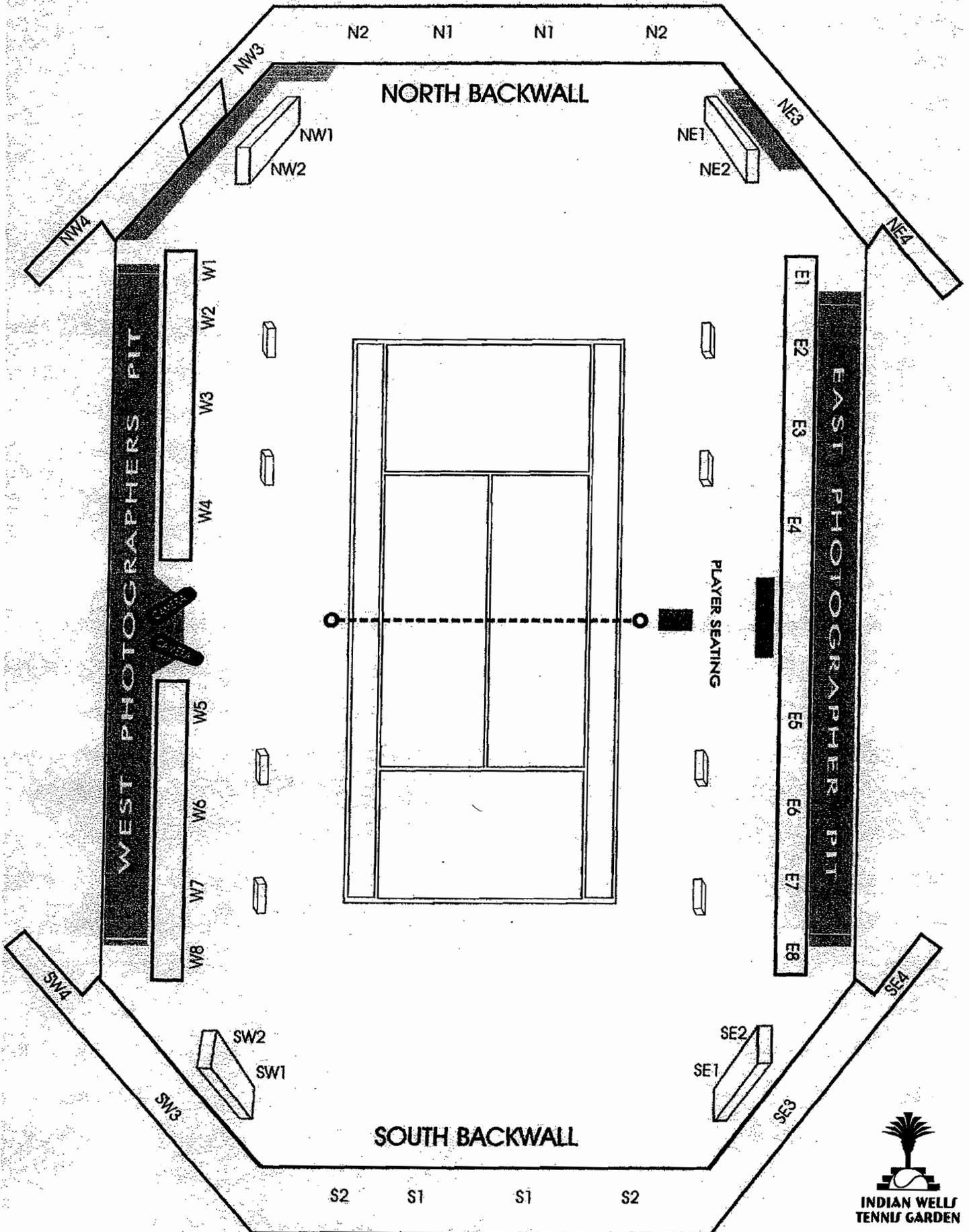
ACKNOWLEDGED AND AGREED

CITY OF INDIAN WELLS

By   
Name: G. Johnson  
Title: City Manager

# Exhibit "A"

NW3 and SE3 City of IW Signage Stadium Court



# Exhibit "A"

E1 and W8 City of IW Signage Stadium 2&3

