

AGENDA

*Village of Hoffman Estates
Special Meeting of the Month
Village Board of Trustees*

*1900 Hassell Road
Hoffman Estates, IL 60169
847-882-9100*

Board Room

October 8, 2018

(Immediately Following Special Finance Committee)

1. **CALL TO ORDER/ROLL CALL**
2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
3. **ADDITIONAL BUSINESS**
 - A. Request Board approval of an Ordinance authorizing approval of a Naming Rights Agreement between the Village of Hoffman Estates and Sears, Roebuck and Co.
4. **ADJOURNMENT**

(Further details and information can be found in the agenda packet attached hereto and incorporated herein and can also be viewed online at www.hoffmanestates.org and/or in person in the Village Clerk's office).

The Village of Hoffman Estates complies with the Americans with Disabilities Act (ADA). For accessibility assistance, call the ADA Coordinator at 847/882-9100.

VILLAGE OF HOFFMAN ESTATES

**AN ORDINANCE AUTHORIZING APPROVAL OF A
NAMING RIGHTS AGREEMENT BETWEEN THE
VILLAGE OF HOFFMAN ESTATES AND SEARS, ROEBUCK AND CO.**

WHEREAS, the Village of Hoffman Estates is a home rule unit of local government as defined in Section 6(a), Article VII of the 1970 Constitution of the State of Illinois and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Village of Hoffman Estates is the owner in fee simple of the real property located at 5333 Prairie Stone Parkway in Hoffman Estates, on which there is located a multi-purpose sports and entertainment arena, commonly known as the "Sears Centre Arena"; and

WHEREAS, on December 16, 2009, MadKatStep Entertainment, LLC, a Delaware limited liability company, ("MadKatStep") executed its Quit Claim Deed in Lieu of Foreclosure (Illinois) conveying to the Village of Hoffman Estates all of MadKatStep's interest in and to that real property and the Sears Centre Arena that were then owned by MadKatStep; and

WHEREAS, at all times since being deeded the real property on December 16, 2009, the Village of Hoffman Estates has continued to operate the Sears Centre Arena for that purpose; and

WHEREAS, effective July 21, 2005, Sears, Roebuck and Co., MadKatStep and CCO Entertainment, LLC, a Delaware limited liability company, had entered into an exclusive ten (10) year "Naming Rights Agreement" granting Sears, Roebuck and Co, its successors and assigns, the right and opportunity to designate the name of the arena and to require the use of the registered Sears Centre name and logo in connection with advertising, signage and promotions of the arena.

WHEREAS, effective September 1, 2016, Sears, Roebuck and Co. and the Village of Hoffman Estates had entered into an exclusive three (3) year "Naming Rights Agreement" granting Sears, Roebuck and Co, its successors and assigns, the right and opportunity to designate the name of the arena and to require the use of the registered Sears Centre name and logo in connection with advertising, signage and promotions of the arena.

WHEREAS, Sears, Roebuck and Co. and the Village of Hoffman Estates desire that these parties enter into an exclusive three (3) year agreement granting Sears, Roebuck and Co. the further right and opportunity to continue to designate "Sears Centre Arena" and "Sears Centre Arena Powered by Shop Your Way" as the name of the arena upon Sears, Roebuck and Co.'s payment of an annual naming rights fee to the Village of Hoffman Estates commencing September 1, 2019, as provided in Exhibit "A", and its sublicensing to the Village of Hoffman Estates the use of the registered "Sears Centre" name, logo, trademark and/or service mark, and the domain name and website associated therewith, at locations and in such manner as are more fully set forth therein, in all public advertising, specialty advertising, signage, promotions, and other Arena designations used within or in connection with the Sears Centre Arena and the events occurring at or within the Sears Centre Arena.

WHEREAS, it is in the best interests of the Village of Hoffman Estates to enter into a naming rights agreement with Sears, Roebuck and Co. for the Arena located at 5333 Prairie Stone Parkway in Hoffman Estates, on property belonging to the Village.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Hoffman Estates, Cook and Kane Counties, Illinois, as follows:

Section 1: The Village President and Village Clerk are duly authorized to execute the 2019 Sears Naming Rights Agreement, attached as Exhibit "A", between the Village of Hoffman Estates and Sears, Roebuck and Co. for the naming rights to the Arena belonging to the Village of Hoffman Estates and located at 5333 Prairie Stone Parkway, and by this action, the Board of Trustees approves, accepts and ratifies the 2019 Sears Naming Rights Agreement.

Section 2: The Village Clerk is hereby authorized to publish this Ordinance in pamphlet form.

Section 3: This Ordinance shall be in full force and effect immediately from and after its passage and approval.

PASSED THIS _____ day of _____, 2018

VOTE	AYE	NAY	ABSENT	ABSTAIN
Trustee Karen V. Mills	_____	_____	_____	_____
Trustee Anna Newell	_____	_____	_____	_____
Trustee Gary J. Pilafas	_____	_____	_____	_____
Trustee Gary G. Stanton	_____	_____	_____	_____
Trustee Michael Gaeta	_____	_____	_____	_____
Trustee Karen Arnet	_____	_____	_____	_____
President William D. McLeod	_____	_____	_____	_____

APPROVED THIS _____ DAY OF _____, 2018

Village President

ATTEST:

Village Clerk

Published in pamphlet form this _____ day of _____, 2018.

AMENDED AND RESTATED SEARS NAMING RIGHTS AGREEMENT

This Amended and Restated Sears Naming Rights Agreement (the "**Agreement**") is made and entered into effective as of the [REDACTED] day of [REDACTED], 2018 ("**Effective Date**"), by and among the VILLAGE OF HOFFMAN ESTATES, an Illinois home-rule municipal corporation (the "**Village**" or "**Arena Owner**"), and SEARS, ROEBUCK AND CO., a New York corporation ("**Sears**") for the purposes set forth herein.

PREAMBLE

WHEREAS, the Arena Owner owns and the Arena Manager operates the Arena, as defined in this Agreement.

WHEREAS, on December 16, 2009, MadKatStep Entertainment, LLC, a Delaware limited liability company, ("**MadKatStep**") executed its Quit Claim Deed in Lieu of Foreclosure (Illinois) conveying to the Village all of MadKatStep's interest in and to certain real property owned by MadKatStep, which property is commonly known as the "Sears Centre Arena" or "Arena", located at 5333 Prairie Stone Parkway, in Hoffman Estates, Illinois 60192.

WHEREAS, at all times since being deeded the Sears Centre Arena on December 16, 2009, the Village has operated the Sears Centre Arena and presently has contracted with Global Spectrum LP d/b/a Spectra, to act as the Village's arena manager ("**Arena Manager**") for that purpose.

WHEREAS, on February 1, 2005 and on June 28, 2005, respectively, Sears Brands, LLC ("**Sears Brands**"), located at 3333 Beverly Road, Hoffman Estates, IL 60179, filed its registration applications with the United States Patent and Trademark Office for the standard character mark "Sears Centre" and the design plus words "Sears Centre", which registrations (arena services) were granted July 24, 2007.

WHEREAS, effective July 21, 2005, Sears, MadKatStep and CCO Entertainment, LLC, a Delaware limited liability company, entered into an exclusive "Naming Rights Agreement" granting Sears, its successors and assigns, among other things, the right and opportunity to designate the name of the Arena and to require the use of such name and a designated logo in connection with advertising, signage and promotions of the Arena.

WHEREAS, effective May 2, 2016, Sears and the Village entered into an exclusive agreement granting Sears the further right and opportunity to designate "Sears Centre Arena" as the name of the Arena upon Sears' payment to the Village of the annual naming rights fee commencing September 1, 2016 (the "**2016 Agreement**").

WHEREAS, Sears has made all required payments to the Village under the 2016 Agreement.

WHEREAS, Sears and the Village desire that the parties amend and restate the 2016 Agreement in its entirety and thereby grant Sears the right and opportunity to rename the Arena to "Sears Centre Arena Powered by Shop Your Way" in consideration of Sears' payment to the Village of the annual naming rights fee ("**Naming Rights Fee**").

WHEREAS, in furtherance of that agreement, Sears shall sublicense herein the Village's use of Sears Brands' registered "Sears Centre", "Sears Centre Arena", "Sears Auto Center", and

"Shop Your Way" names, logos, trademarks and/or service marks related thereto (collectively "Sears IP"), permit its use of Sears' domain name and website associated therewith, at locations and in such manner as more fully set forth herein and the same shall be utilized by the Village in all public advertising, specialty advertising, signage, promotions, and other Arena designations used within or in connection with the Arena and the events occurring at or within the Arena, all as more fully specified in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which are herewith acknowledged, Sears and the Village agree as follows:

AGREEMENT

1. PREAMBLE/PRIOR AGREEMENT: The recitals set forth in the Preamble hereof are incorporated herein by this reference. Except as otherwise set forth in this Agreement, as of the Effective Date this Agreement will supersede, in its entirety, the 2016 Agreement and the expiration of the 2016 Agreement will not affect any liabilities or obligations of either party arising out of events taking place prior to the Effective Date, and the provisions of the 2016 Agreement will control any questions or disputes with respect to such obligations. The parties acknowledge and agree that the Village's and its Arena Manager's use of the Arena Name and Arena Logo in the operation of the Sears Centre Arena prior to the Effective Date of this Agreement was permitted by Sears for the purposes stated, and that the first Naming Rights Fee under this Agreement will be due September 1, 2019.
2. DEFINITIONS: The following terms shall have the following meanings in this Agreement:
 - 2.1 **Additional Marketing Rights**: Has the meaning ascribed in **Section 5**.
 - 2.2 **Agreement**: This "Amended and Restated Sears Naming Rights Agreement", or "Agreement", as may be from time to time amended.
 - 2.3 **Arena or Sears Centre Arena**: That certain Arena in the Prairie Stone Business Park located at 5333 Prairie Stone Parkway in Hoffman Estates, Illinois, on land legally described in **Exhibit A**, which accommodates approximately 11,000 patrons, including approximately 1,000 club seats, approximately 67 suites, and approximately 3,300 parking spaces.
 - 2.4 **Arena Logo**: The logotypes registered by Sears Brands, LLC and designated by Sears for use in connection with the Arena, as depicted on **Exhibit B**, as may be from time to time amended.
 - 2.5 **Arena Manager**: Global Spectrum LP d/b/a Spectra as the entity charged by the Village with managing the day-to-day operations of the Arena.
 - 2.6 **Arena Owner or Village**: The Village of Hoffman Estates, an Illinois home-rule municipal corporation, as owner of fee title to the Arena.
 - 2.7 **Arena Name**: Sears Centre Arena Powered by Shop Your Way.
 - 2.8 **Automatic Limited Exclusion**: Has the meaning ascribed in **Section 9**.

- 2.9 **Category Exclusivity:** Has the meaning ascribed in **Section 6**.
- 2.10 **Effective Date:** The date last in time that this Agreement is signed by both parties.
- 2.11 **Event of Default:** Has the meaning ascribed in **Section 14**.
- 2.12 **Exclusive Negotiation Period:** Has the meaning ascribed in **Section 12.2**.
- 2.13 **Force Majeure:** Any of the following: an act of God, strike, war, public rioting, lightning, fire, unforeseeable inability to obtain materials or supplies, landslide, lightning storm, earthquake, flood, storm, washout, civil disturbance, explosion, breakage or accident to machinery or utility lines or equipment, temporary failure of equipment and any other cause whether of the kinds specifically enumerated above or otherwise which is not reasonably within the control of the party whose performance is to be excused and which by the exercise of due diligence could not be reasonably prevented or overcome (it being acknowledged that under no circumstances shall a failure to pay amounts due and payable under this Agreement be excusable due to a Force Majeure), the consequence of which is to prevent substantial performance of a material obligation arising under this Agreement.
- 2.14 **Going Dark:** Has the meaning ascribed in **Section 12.3**.
- 2.15 **Home Appliance Exclusive:** Has the meaning ascribed in **Section 6.3**.
- 2.16 **Hospitality Rights:** Has the meaning ascribed in **Section 4**.
- 2.17 **Interactive Display Area:** Has the meaning ascribed in **Section 3.3.1**.
- 2.18 **Naming Rights:** Has the meaning ascribed in **Section 3**.
- 2.19 **Naming Rights Assets:** Has the meaning ascribed in **Section 10.1**.
- 2.20 **Naming Rights Fee:** \$600,000.00 per year, as provided in **Section 8**.
- 2.21 **Exclusive Negotiation Period:** Has the meaning ascribed in **Section 12.2**.
- 2.22 **Non-Ticketed Sears Event:** Has the meaning ascribed in **Section 7.1.2**.
- 2.23 **2016 Agreement:** Has the meaning ascribed in the **Preamble**.
- 2.24 **Retail Exclusive:** Has the meaning ascribed in **Section 6.1**.
- 2.25 **Right of First Negotiation:** Has the meaning ascribed in **Section 12.2**.
- 2.26 **Sears:** Sears, Roebuck and Co., a New York corporation and its permitted successors and assigns, as provided in **Section 13**.
- 2.27 **Sears Affiliates:** Has the meaning ascribed in **Section 13**.
- 2.28 **Sears Brands:** Sears Brands, LLC, an Illinois limited liability company

- 2.29 **Sears Events:** Has the meaning ascribed in **Section 7**.
- 2.30 **Sears Suite:** Has the meaning ascribed in **Section 4.1**.
- 2.31 **Short Notice Sears Event:** Has the meaning ascribed in **Section 7.1.3**.
- 2.32 **Team:** Has the meaning ascribed in **Section 9**.
- 2.33 **Term:** Has the meaning ascribed in **Section 12**.
- 2.34 **Ticketed Sears Event:** Has the meaning ascribed in **Section 7.1.1**.
- 2.35 **Tool and Lawn and Garden Products Exclusive:** Has the meaning ascribed in **Section 6.2**.
- 2.36 **Sears Brands, LLC:** Owner of the "Sears Centre" USPTO serial nos. 78557517 and 78660159 for the Arena Name and the Arena Logo.
- 2.37 **Sears Centre Domain Name:** www.SearsCentre.com
- 2.38 **Sears Auto Center Logos:** The logotypes registered by Sears Brands, LLC and designated by Sears for use in connection with the Arena, as depicted on **Exhibit C**, as may be from time to time amended.
- 2.39 **Shop Your Way Logos:** The logotypes registered by Sears Brands, LLC and designated by Sears for use in connection with the Arena, as depicted on **Exhibit D**, as may be from time to time amended.
- 2.40 **Intellectual Property:** All trademarks, copyrights, and all rights and forms of protection of a similar nature or having equivalent effect subsisting from time to time in any jurisdiction worldwide.
- 2.41 **MadKatStep:** Has the meaning ascribed in the **Preamble**.
- 2.42 **Sears IP:** Has the meaning ascribed in the **Preamble**.
- 2.43 **2016 Agreement:** Has the meaning ascribed in the **Preamble**.
- 2.44 **SYW Lounge:** Has the meaning ascribed in **Section 3.3**.
- 2.45 **Budget:** Has the meaning ascribed in **Section 3.3**.
- 2.46 **Photo Zone:** Has the meaning ascribed in **Exhibit E**.
- 2.47 **Windy City Bulls:** Has the meaning ascribed in **Section 3.3**.
- 2.48 **Co-Branded Partner:** Has the meaning ascribed in **Section 3.9**.
- 2.49 **IP Indemnities:** Has the meaning ascribed in **Section 3.10**.
- 2.50 **SYW Mastercard:** Has the meaning ascribed in **Section 5.4**.

- 2.51 **SYW Card Holders:** Has the meaning ascribed in **Section 5.4.**
- 2.52 **Auto Center Desk:** Has the meaning ascribed in the **Section 5.5.**
- 2.53 **Updates:** Has the meaning ascribed in the **Section 11.**
- 2.54 **Completion Date:** Has the meaning ascribed in the **Section 11.**
3. **NAMING RIGHTS:** In consideration of payment to the Arena Owner of the Naming Rights Fee, Sears shall receive the following naming, marketing, and other rights and assets (collectively referred to herein as the "**Naming Rights**"):
- 3.1 **Name Selection:** Sears has heretofore designated "SEARS CENTRE ARENA POWERED BY SHOP YOUR WAY", registered by Sears Brands, LLC, as the name by which the Arena shall be known hereafter and referred to for all purposes (the "**Arena Name**") during the Term, and Sears represents and warrants that it has been duly licensed by Sears Brands, LLC to use and to sublicense to the Village the "Sears Centre Arena Powered by Shop Your Way" registration owned by Sears Brands, LLC for the Arena Name, Arena Logo, Sears Auto Center Logos, and Shop Your Way Logos. Any actual costs (other than costs related to the SYW Lounge defined in Section 3.3) associated with changing the Arena Name from "The Sears Centre Arena" to "Sears Centre Arena Powered by Shop Your Way" shall be split between Arena Owner and Sears with each party contributing 50% of such costs, and the total of such costs shall not exceed \$25,000. Sears reserves the right to change the Arena Name from "Sears Centre Arena Powered by Shop Your Way", subject to the approval of Village which is not to be unreasonably withheld, provided that Sears is responsible for any and all actual costs resulting from such change.
- 3.2 **Signage:** All signage at the Arena shall conform to local signage ordinances, laws, and regulations unless a valid waiver or variance therefrom has been granted by local governmental authorities having jurisdiction over signage at the Arena, in which case, the signage at the Arena shall comply with the conditions of such waiver or variance. The Arena Name, Arena Logo, and/or Shop Your Way Logos, as designated by Sears, shall be included on all Arena signage in accordance with the terms of this Agreement. Prior to the change or modification of, or addition to, any signage in existence at the Arena on the Effective Date the Arena Owner will secure and provide an estimated cost for such change within five (5) days of the Effective Date and Sears shall prepay its portion of such estimate to Arena Owner within thirty (30) days of receiving such estimate.
- 3.2.1 **Existing Signage to Remain:** All signage identified on **Exhibit F** that is in existence at the Arena on the Effective Date will be permitted to be displayed as-is.
- 3.2.2 **Existing Signage to be Update:** Signage identified on **Exhibit G** that is in existence on the Effective Date shall be updated by Arena Owner to include the Shop Your Way Logos. The depictions on **Exhibit G** are for illustrative purposes only. Final artwork shall be approved by Sears.
- 3.2.3 **Signage to be Added:** Signage identified on **Exhibit G** that is not in existence on the Effective Date shall be installed by Arena Owner and shall include

the Arena Name, Arena Logo, Shop Your Way Logos, and/or Sears Auto Center Logos as indicated on the depiction. The depictions on **Exhibit G** are for illustrative purposes only. Final artwork shall be approved by Sears.

3.2.4 Exterior Signage on Prairie Stone Parkway: Notwithstanding anything to the contrary in this Agreement, the exterior sign on the Arena identified on **Exhibit H** shall be replaced by the Arena Owner at its sole cost and shall include the Arena Name and Shop Your Way Logo. Final artwork shall be approved by Sears. Said signage is exempted from the penalty provisions of Section 11 of this Agreement provided that any delays in installing such signage are a result of weather conditions.

3.3 SYW Lounge: A space in the Arena has been designated to build an interactive lounge featuring the Shop Your Way program (the "**SYW Lounge**"). Notwithstanding Section 3.1, Arena Owner and Sears will each pay fifty percent (50%) of the cost to build and furnish (including signage) the SYW Lounge up to one hundred thousand dollars (\$100,000) (i.e. \$50,000 cost to Sears and \$50,000 cost to Arena Owner) (the "**Budget**"), and Arena Owner will pay one hundred percent (100%) of any costs to build and complete the SYW Lounge above the Budget. Sears will pay an advance of \$50,000 to Village within thirty (30) days of the Effective Date. If, upon completion of the SYW Lounge, the actual cost of such build and furnish is less than the Budget, then 50% of the difference between such actual cost and the Budget will be, at Sears' sole discretion, either (a) refunded to Sears by Arena Owner; or (b) credited towards other entitlements at the Arena as the parties may mutually agree. The location, design, furnishings, and signage for the SYW Lounge are included in **Exhibit E**. The Photo Zone (defined in Exhibit E) in the SYW Lounge will serve as the preferred location for any autograph signings or special appearances at the Arena, with the exception of Northwest Sports LLC ("**Windy City Bulls**") events, and Arena Manager may relocate such signings or appearances only when they present significant safety and capacity issues in the reasonable judgment of the Arena Manager. Except as provided herein, Arena Owner will allow Sears to place representatives in the SYW Lounge at Arena events for promotion and support at Sears' sole expense and Arena Manager may, upon timely notices to Sears, prohibit said representatives from appearing at Arena private events including graduation ceremonies, religious celebrations, memorial services and other similar events where such representatives would be less appropriate. Said representatives shall defer to the direction of the Arena Manager should their presence or location within the SYW Lounge need to be limited or restricted during an Arena event. Sears' representatives shall be prohibited from appearing at all events of the Windy City Bulls without the express written consent of the Windy City Bulls.

3.4 Reserved.

3.5 Printed Material and Publicity: The Arena Name, Arena Logo, and Shop Your Way Logos shall appear on all printed material and publicity used in connection with the Arena, including, without limitation; Arena tickets and marketing collateral; contracted event tickets and marketing collateral; public and media relations materials; uniforms of employees of the Arena and any concessionaire selling or distributing concessions at the Arena; parking tickets /coupons/passes, and any media advertising or other advertising, whether printed or electronically

reproduced, relating to any events at the Arena. Arena Owner shall not be responsible for any error or omission by third parties; provided, however that Arena Owner shall use its best efforts to make such third parties aware of and cause such third parties to comply with this requirement.

- 3.6 Protection of Goodwill: The Arena Manager and Arena Owner acknowledge that Sears has a valuable proprietary stake in protecting and defending the goodwill associated with the Arena Name, Arena Logo, and Shop Your Way Logos and all associations with the name "Sears" and "Sears, Roebuck and Co.," generally. The Arena Manager and Arena Owner agree to at all times act in a diligent and good faith manner to protect the goodwill associated with the Arena Name and the reputation of the Arena, and its association with the name "Sears" and "Sears, Roebuck and Co." and its permitted successor or assigns to the interest of Sears arising under this Agreement. Arena Manager and Arena Owner will diligently seek to address and amicably resolve legitimate complaints of patrons, vendors, public officials, and others arising out of the operation of the Arena or attendance at events hosted at or sponsored by the Arena.
- 3.7 Insurance: The Arena Owner shall maintain in full force and effect policies of commercial public liability insurance in commercially reasonable amounts, insuring against loss or damage to persons and property, or either of them, in connection with the operation of the Arena. Such policies shall name Sears, Roebuck and Co. as an additional insured, and shall include an endorsement that the same may not be cancelled or amended with less than thirty (30) days advance written notice to Sears. Reasonable evidence of such insurance shall be delivered to the holder of the Naming Rights promptly upon request.
- 3.8 The undertakings of the Arena Owner as set forth in **Sections 3.6 and 3.7** are material terms of this Agreement. However, isolated, inadvertent omissions of the Arena Name, Arena Logo, and/or Shop Your Way Logos by Arena Owner or any other person shall not be deemed a violation of this Agreement.
- 3.9 Homepage and Emails: The Arena home page (searscentre.com) will contain a promotion of and link to shopyourway.com, which shall have a position substantially in accord with other major event promotions featured on the Arena home page and subject to change at the request of Sears. The web page that provides parking and directions information will feature a promotion for and a link to shopyourway.com and a co-branded partner, as designated by Sears (e.g. GasBuddy) and consented to by Arena Manager (the "**Co-branded Partner**"), whose consent may only be withheld if such promotion conflicts with a marketing obligation of Arena Owner, substantially in accordance with **Exhibit I** and subject to change at the request of Sears. Prior to each Arena event, Arena Owner will send out a "welcome" email to ticket purchasers that provides directions, parking, and will feature promotion for and a link to shopyourway.com and the Co-branded Partner, as designated by Sears, which shall have a prominent position agreed to by Sears and Arena Manager and subject to change at the request of Sears. Following each Arena event, Arena Owner will send out a "thank you" email to ticket purchasers that contains a promotion for and a link to shopyourway.com, which shall have a prominent position agreed to by Sears and Arena Manager and subject to change at the request of Sears.

3.10 Intellectual Property Indemnification: To the fullest extent permitted by law, Sears shall indemnify, defend, and hold harmless Arena Owner, Arena Manager and their respective officers, directors, trustees, employees, agents and contractors, and their respective heirs, successors and assigns (collectively "**IP Indemnitees**") from and against all claims, actions, liabilities, losses, costs, and expenses, including attorneys' fees, arising out of any actual or alleged damage or loss, resulting or claimed to result, in whole or in part, from any actual or alleged infringement, misappropriation or otherwise by the IP Indemnitees related to the uses set forth in this Agreement of Sears IP or of any Intellectual Property of a Co-branded Partner, regardless of whether it is caused in part by one or more IP Indemnitee.

4. HOSPITALITY: As an additional inducement to Sears to enter into this Agreement, the Village and the Arena Manager agree that so long as this Agreement shall remain in effect, Sears shall be entitled to the following hospitality rights (the "**Hospitality Rights**").

4.1 Sears Suite, Tickets, Parking Passes: Sears shall be entitled to continued access to the Sears Suite which is located on the suite level of the Arena and accommodates twelve (12) guests ("**Sears Suite**").

4.1.1 Sears shall be entitled to twelve (12) complimentary tickets for all public events at the Arena for use in connection with the Sears Suite.

4.1.2 Sears and the Arena Manager shall agree upon a mutually acceptable number of parking passes in the suite lot for use in connection with the Sears Suite.

4.1.3 MadKatStep constructed and built out the Sears Suite to not less than the quality of fittings and furnishings as the other standard suites in the Arena.

4.2 Premium Seating Tickets: In addition to the Sears Suite tickets referred to in **Section 4.1.1**, upon request and, if available at the time of the request, Sears shall be entitled to forty (40) premium seating non-suite tickets for all public events at the Arena (up to ten (10) of which shall be club level seats).

4.3 Non-Suite Parking Passes: In addition to the parking passes referred to in **Section 4.1.2**, if free general parking is not otherwise automatically included with each event ticket, Sears shall be entitled to thirty (30) parking passes for all public events at the Arena. The parking passes referred to in this section shall be in the general parking area serving the Arena, and may be included with the complimentary tickets.

4.4 Charitable Donation Seating: Tickets for certain events to be agreed by Sears and the Arena Manager, in quantities and locations to be likewise determined (such as one hundred (100) tickets to a circus, including an agreed upon proportion to be located in "high quality" seating locations as determined by the Arena Manager in accordance with industry standards) and consistent with Arena policies on charitable ticketing shall be made available to Sears without additional cost for distribution to charities for direct use by such charity or for charitable fundraising purposes.

4.5 Additional Ticket Purchases: Sears shall have the right and option (but not the obligation) to purchase reasonable quantities of additional tickets for events at the Arena at the most favorable prices offered to others.

4.6 Club Memberships: If the Arena shall establish memberships or preferred/special access clubs at the Arena, Sears shall be entitled to memberships in such clubs as is mutually agreeable to Sears and the Arena Manager.

4.7 Limitation: Anything herein to the contrary notwithstanding, the parties agree to comply with all rules and requirements promulgated or imposed by the NBA, NCAA, all USA Olympic sports such as USA Volleyball and USA Gymnastics, the B1G®, the IHSA, or any other governing body or league with respect to display of corporate names and logos during events sanctioned by such body or league being held at the Arena.

4.8 Substitute Hospitality Rights: The parties understand that many of the provisions of this Agreement will require cooperation and negotiation on an ongoing basis during the Term. The parties therefore agree to cooperate and to use their best efforts to negotiate substitute and alternative promotions, signage and/or rights of equal or comparable value if any existing or planned promotion, signage, or right is no longer possible or desirable. In each such case, Arena Manager will suggest an alternative to Sears. If the parties cannot agree on an alternative promotion, sign, or right, the dispute resolution provisions of **Section 15** will apply.

4.9 Facility Expansion: In the event the Arena is materially expanded such as to create new naming rights opportunities, Sears shall be offered a right of first refusal for same.

5. ADDITIONAL MARKETING RIGHTS: As an additional inducement to Sears to enter into this Agreement, the Arena Owner and the Arena Manager agree that so long as this Agreement shall remain in effect, Sears shall enjoy the following additional marketing rights (the "**Additional Marketing Rights**").

5.1 Advance Purchase Rights: With event promoter approval, Sears shall have the right and opportunity to offer to Sears credit card holders and to Sears employees the opportunity to purchase tickets for certain public events, to be agreed upon by Sears and the Village and its Arena Manager, in advance of ticket sales for those events being offered to the general public. The public events intended to be covered by this provision are "Tier 1" public events, for which premium tickets may be sold out or in high demand.

5.2 Sears Vendors: Sears may submit to the Village a list of Sears' approved vendors for the Village to consider when bidding or otherwise seeking services related to the Arena. The Village shall consider such vendors as part of the statutory bidding process for selecting vendors, the selection of which shall be reserved exclusively to the Village in its sole discretion.

5.3 Point of Sale Ticket Sales: Sears shall have the right and opportunity (but not the obligation) to market and sell tickets for public events held at the Arena through Sears store locations so long as such sales do not violate exclusive ticket handling arrangements established through a professional ticket vendor (such as Ticketmaster); provided, Sears shall be granted the opportunity to negotiate directly with any such professional ticket vendor for the right and opportunity to place ticket terminals in Sears store locations for sale of Arena event tickets.

5.4 Preferred Credit Card: The Sears Mastercard with Shop Your Way ("**SYW Mastercard**") will become the "preferred credit card" (but not the exclusive credit card) for the Arena. Village will not promote, in connection with the Arena, any other credit, debit or

charge card as the official, preferred or any similar designated card of the Arena. Sears may promote the SYW Mastercard as "the preferred card of the Sears Centre" and other similar designations. Card holders of the Shop Your Way Mastercard ("**SYW Card Holders**") will receive the following benefits at the Arena:

a) Concession stands located at the south end of the Arena near Section 116 and the west end of the Arena near Section 110 will include an express lane to service SYW Card Holders if and when such concession stands are open, subject to the Arena Manager's discretion only when space is limited well beyond typical event standards.

b) All SYW Card Holders with a paid parking fee will be granted access to the east parking lot (the Suite lot). In addition, ten (10) premium parking spaces will be reserved specifically for the SYW Card Holders in the east parking lot. Such parking spaces will be closer in proximity to the Arena than most other spaces in the east parking lot, as agreed to by the parties, and as marked by appropriate signage in front of each space. Arena Owner and Arena Manager shall not be responsible for ensuring that the designated premium parking spaces are being used by a SYW Card Holder.

5.5 Sears Auto Center: The guest services desk will be cobranded the "Sears Auto Center" (the "**Auto Center Desk**"). The Auto Center Desk will be staffed one hour before event start times, during, and one hour after Arena events. In addition, the Village will provide jumpstarting assistance for Arena patrons (e.g. dead batteries). The Village will provide such jumpstarting assistance during and one hour after Arena events. Such assistance will be delivered by individuals driving vehicles that feature the Sears Auto Center Logo. Arena Owner will provide such trucks (and the maintenance of such trucks), and materials for such assistance at Arena Owner's expense; provided, however that Sears will pay the cost of branding the trucks with the Sears Auto Center Logo.

6. EXCLUSIVITY: Sears shall have the exclusive right to, and, no other party may, advertise for, at or with respect to the Arena for the following goods and services ("**Category Exclusivity**") during the Term of this Agreement.

6.1 Retail Exclusive: Unless Sears shall expressly consent otherwise in writing (which consent Sears may withhold in its sole, absolute, and arbitrary discretion, for any reason or no reason whatsoever), no retailer other than Sears shall be entitled to advertise its products, goods, and services in or about the Arena (the "**Retail Exclusive**"). This exclusivity restriction shall apply to all retailers, regardless of whether such retailer's business is national, regional, or local in scope, and whether such other retailer promotes or sells merchandise or services through physical locations, or via catalogs, telephone, mail order, the Internet, or any other electronic or other media. Without limitation, the Retail Exclusive shall apply to the following retailers of tools and hardware, electronics and home appliances, home furnishings/decorating, lawn and garden products and supplies, or specialty clothing, whether national, regional or local in scope including Walmart, Target, Dollar General, Costco, Kohl's, J.C. Penney, Carson's, Home Depot, Lowe's, Ace Hardware, Menards, True Value, Best Buy, Pier 1 Imports, Crate and Barrel, Bed, Bath and Beyond, The Gap and Foot Locker.

6.2 Tool and Lawn and Garden Products Exclusive: Unless Sears shall expressly consent otherwise in writing (which consent Sears may withhold in its sole, absolute, and

arbitrary discretion, for any reason or no reason whatsoever), no store or distributor other than Sears offering hand tools, power tools, and accessories (e.g. Mac, Snap-On, Black and Decker, Stanley, DeWalt, etc.) and/or lawn mowers, tractors, and/or other lawn and garden equipment (e.g. John Deere, Toro, Lawn Boy, etc.) shall be entitled to advertise its products, goods, and services in or about the Arena (the "**Tool and Lawn and Garden Products Exclusive**"). This exclusive restriction shall apply to all such stores and/or distributors, regardless of whether such their business is national, regional, or local in scope, and whether such other retailer promotes or sells merchandise or services through physical locations, or via catalogs, telephone, mail order, the Internet, or any other electronic or other media.

6.3 **Home Appliance Exclusive:** Unless Sears shall expressly consent otherwise in writing (which consent Sears may withhold in its sole, absolute, and arbitrary discretion, for any reason or no reason whatsoever), no brand of home appliance which at that time competes with a Kenmore® brand home appliance shall be entitled to sponsor any event at the Arena, nor may any brand of home appliance competitive with the Kenmore® brand be advertised in or about the Arena (the "**Home Appliance Exclusive**"). This exclusivity restriction shall apply to all home appliances for which a Kenmore® brand home appliance exists at the relevant time. Without limitation, the Home Appliance Exclusive would currently apply to appliances used for laundry (e.g. clothes washers and clothes dryers, irons), dishwashers, freestanding and built-in cooking appliances (e.g. wall ovens, ranges, cook tops, microwave ovens, and counter top cookers, indoor grills), vacuum cleaners, water softeners and purifiers, room air conditioners and small kitchen appliances (e.g. blenders, can openers, and toasters), etc. Notwithstanding the provisions of this **Section 6.3**, if the Arena Manager enters into an advertising contract to advertise a home appliance brand at the Arena which does not at the time of execution of such advertising contract compete with a Kenmore® brand home appliance, the Arena Manager shall not be in violation of this **Section 6.3** by extending or renewing the advertising contract upon substantially the same terms as the expiring advertising contract even if, at the time of such extension or renewal, a Kenmore® brand home appliance exists that competes with the advertised home appliance.

6.4 **Event Sponsorship Exclusivity:** The Village may engage or permit its promoters or sponsors of events at the Arena to engage, national or regional sponsors or advertisers of one-time or limited engagement public events at the Arena (for example, if Walmart were to be a title sponsor or presenter of a nationwide concert tour). The related display of temporary banners, signs and similar event-specific materials for such sponsor or their products or services shall not be deemed a violation of the Village's grant of Category Exclusivity to Sears provided herein, and hospitality and associated promotional announcements at the Arena shall also be permitted. The Village shall, however, use commercially reasonable efforts to prevent a national or regional event sponsor from physically displaying actual products at the Arena in conjunction with such an event. Except in situations described in **Section 4.7** of this Agreement, in no event shall any temporary Event Sponsorship permitted hereunder afford any other sponsor, or the Arena Manager or the Village, any right, privilege, or entitlement to cover or otherwise obscure the Arena Name or Arena Logo, or interfere with or obscure the SYW Lounge.

6.5 **Bookings:** Except as specifically herein limited, Arena Manager may enter into advertising and sponsorship agreements for any portion of the Arena, or for any event in the Arena, with any business or entity. Booking contracts entered into for trade shows, conventions, or meetings at the Arena which allow for attendance and participation by

individual retailers shall not be subject to the foregoing limitations contained in this **Section 6**.

6.6 Local Sponsorships: Sears understands and acknowledges that local sponsorships are critical for midsize arenas to generate sufficient revenue to cover operating costs. On occasion, the Arena will seek to create smaller partnerships with businesses that are designated as retail, but do not directly compete with Sears. While it is possible these businesses may sell similar or competing products to Sears, these businesses do not represent significant competition and should be allowed under the spirit of this Agreement. The Arena Owner and Arena Manager understand that this flexibility will not otherwise extend to retailers of tools or appliances that directly compete with the Kenmore® and Craftsman® brands, and Sears will continue to have dominant position and size in all signage both inside and outside the Arena.

7. SEARS PROGRAMMING RIGHTS: Sears shall have the right to develop and stage events (the "**Sears Events**") at the Arena in number and on dates and times mutually agreed by Sears and the Village and the Arena Manager. The specific dates for Sears Events will be determined annually in advance; provided, additional Sears Events may be added, subject to the limitation set forth at **Section 7.1.3**, on dates when the Arena has no events scheduled sixty (60) days in advance. Examples of Sears Events which may be staged at the Arena include, but are not limited to, new appliance shows, Sears sponsored concert events, large retail sales, and promotional events.

7.1 Sears Events: Sears Events may be of three types and categories, as follows:

7.1.1 Ticketed Events: Ticketed Sears Events ("**Ticketed Sears Events**") open to the public and booked sixty (60) or more days in advance of the event date shall be treated like ticketed events booked by the third party professional event sponsor (e.g. JAM Productions, Clear Channel, 93XRT). For Ticketed Sears Events, Sears shall pay booking rates for the Arena equivalent to the best available rates charged to other professional event sponsors, based upon the Arena's established rate card for labor, equipment, ancillary services, incidental expenses and the like, as well as the direct operating costs (i.e., security and janitorial service) associated with the Event; and Sears shall receive ticket sale revenue and shall pay its own event expenses not typically included with an Arena booking, upon the same terms as other professional event sponsors, with Sears retaining all net ticket income generated from the Sears Event.

7.1.2 Non-Ticketed Internal Events: Sears shall be entitled to use the Arena for non-ticketed internal Sears Events ("**Non-Ticketed Sears Events**"), booked sixty (60) or more days in advance and not open to the general public, upon payment to the Arena of only the actual direct costs of labor and materials incurred in connection with the Non-Ticketed Sears Event and the direct operating costs (i.e., security and janitorial service) associated with the Non-Ticketed Sears Event, without being required to pay any amounts for rent, overhead, or other fixed costs that would be incurred by the Arena in all events, even if the Non-Ticketed Sears Event was not held. If, not less than sixty (60) days in advance of a scheduled Non-Ticketed Sears Event as described in this **Section 7.1.2**, the Arena Manager shall serve written notice upon Sears of a firm proposal from a prospective full paying event sponsor to use the Arena on the same date, Sears shall within seventy-two (72) hours have the option to either:

a. Reschedule or cancel its scheduled Non-Ticketed Sears Event so as to make the Arena available for the full paying event; or

b. Elect to pay for use of the Arena on the same basis as the third party event sponsor who would otherwise hold the full paying event at the Arena.

7.1.3 Short Notice Sears Events: Sears Events booked at the Arena less than sixty (60) days in advance of the scheduled event ("**Short Notice Sears Events**") date, whether a Ticketed Sears Event open to the general public as described in **Section 7.1.1** or a Non-Ticketed Sears Event as described in **Section 7.1.2**, shall be charged to Sears on the same basis as a Non-Ticketed Sears Event described in **Section 7.1.2**.

8. **NAMING RIGHTS FEE/DOMAIN NAME RENEWAL:**

8.1 Naming Rights Fee: Sears agrees to pay to the Arena Owner, or as the Arena Owner may designate, the Naming Rights Fee in the sum of Six Hundred Thousand and No/100 Dollars (\$600,000.00) per year, throughout the Term of this Agreement, for the rights granted hereunder.

8.2 Payment Schedule: The Naming Rights Fee shall be due and payable in full on or in advance of the first day of each September during the Term of each year, commencing September 1, 2019.

8.3 Late Payments: If a party fails to timely pay any amount due under this Agreement, interest shall be imposed and payable at the rate of one and one-half percent (1-1/2%) per month or a portion of the month from the date such payment was due until paid in full.

8.4 Sears Centre Domain Name: Sears currently has contracted with and maintains the Sears Centre domain name (searscentre.com) with CSC. That domain name is on an automatic renewal with Sears paying the annual fee, most recently effective 1/31/2016. Sears agrees to maintain and pay for the Sears Centre domain name annual renewal throughout the Term of this Agreement.

9. **TEAM SPONSORSHIPS**: Notwithstanding the Retail Exclusive, the Tool and Lawn and Garden Products Exclusive, the Home Appliance Exclusive and the other rights granted to Sears under this Agreement, a sports team or performing arts group (in either case a "**Team**") may, with the prior written consent of Sears determined in the sole discretion of Sears on a case-by-case basis, sell sponsorships that include temporary advertising in the Arena. Sears agrees that the restrictions arising from the Retail Exclusive, the Tool and Lawn and Garden Products Exclusive, and the Home Appliance Exclusive shall not be applied to ads placed upon uniforms (provided such ads are on the uniform jersey only and do not take up more than ten percent (10%) of the visible surface area of such jersey), programs and the Internet websites of the home Teams (provided the name of a home Team does not include a reference to a competitor in the Retail Exclusive, Tool and Lawn and Garden Products Exclusive or the Home Appliance Exclusive) and all visiting Teams performing at the Arena unless Sears reasonably determines that such ads are intentionally abusive, in poor taste, or are otherwise likely to be perceived as detrimental to the reputation or goodwill of the Arena or Sears or the Naming Rights granted under this Agreement in violation of **Section 3.6**, "Protection of Goodwill", (the "**Automatic Limited Exclusion**"). Notwithstanding the Automatic Limited Exclusion, the Category Exclusivity shall continue to apply

during the Term of this Agreement unless expressly waived by Sears in writing, and shall be enforced by the Arena Manager as to all temporary advertising, including dashers, dasher pads, in ice signage, on field signage, banners, matrix, and public address announcements and commercials on video boards that are used only when the Team is playing its game or performing at the Arena and for a reasonable period before and after such game or performance.

10. OWNERSHIP OF NAMING RIGHTS ASSETS:

10.1 The Naming Rights granted hereunder, including without limitation the Arena Name and the Arena Logo which were registered with the USPTO by Sears Brands, LLC and its registrations approved July 24, 2007, which have been duly transferred to or licensed by Sears from Sears Brands, LLC and from Sears to the Village hereunder, and all intellectual property associated with any of the foregoing, and the sole right to use the name "Sears" (collectively the "**Naming Rights Assets**"), are the exclusive property of Sears and shall at all times remain the exclusive property of Sears during the term of this Agreement and after expiration or termination of this Agreement by any means. Upon expiration or termination of Sears' authority to use and to sublicense to the Village the use of the Naming Rights Assets, Sears shall have the obligation and authority, at the expense of Sears, to promptly cause the same to be removed from the Arena and all uses associated with the Arena. If this Agreement shall terminate by lapse of time and non-renewal or extension, the Arena Manager and the Arena Owner shall promptly discontinue use of the Naming Rights Assets and, at the direction of Sears, shall promptly cause all Naming Rights Assets to be removed from use in connection with the Arena, without cost or expense to Sears. In each such event, the Village shall be permitted continued use of the Arena Name and Arena Logo, and the Sears Centre Domain Name for a reasonable period of time thereafter, not to exceed twelve (12) calendar months following expiration or termination of this Agreement, during which time Village shall continue to perform its obligations under **Section 3.6** (Protection of Goodwill).

10.2 During the entire Term of this Agreement, Sears hereby grants to Arena Owner and Arena Manager a restricted, exclusive (except as to Sears), non-transferable (except as specifically herein otherwise provided) license to use the Naming Rights Assets and the Sears Centre Domain Name for purposes of identifying the Arena, promoting the Arena and all third party sponsored events and activities at or in the Arena.

10.3 Arena Owner acknowledges the critical importance of exercising quality control over use of the Naming Rights Assets so as to preserve the continued integrity and validity of the Naming Rights Assets. Sears shall retain the right to exercise quality control over the use of the Naming Rights Assets by Arena Owner. Arena Owner shall use the Naming Rights Assets only in the form approved by Sears. Arena Owner shall follow all use guidelines provided by Sears. Sears reserves the right to modify such use guidelines from time to time. Sears approves of the nature of Arena Owner's use and requirements of quality and production in its use of the Naming Rights Assets as they exist as of the Effective Date, and Arena Owner shall continue to use the Naming Rights Assets under substantially the same or greater standards and requirements. Sears reserves the right to modify the standards and requirements of quality and production from time to time. Arena Owner shall permit Sears the right to inspect the Arena and any other use of the Naming Rights Assets upon receipt of notice of a request to conduct an inspection at least two business days prior to the date inspection is requested. Arena Owner shall comply with all notice and marking requirements of any law or regulation applicable to or necessary for the protection of the Naming Rights Assets.

10.4 Sears represents and warrants that it has all rights necessary to sublicense the Naming Rights Assets to the Village in accordance with this Agreement, and that Sears shall provide Sears Brands with a copy of this Agreement upon its passage and execution.

11. **NAMING UPDATE:** Except as provided herein, all changes resulting from the changes required by Section 3.1 (Name Selection), Section 3.2 (Signage) and all of its subsections, Section 3.3 (SYW Lounge), Section 3.4.3, Section 3.5 (Printed Material and Publicity), Section 3.9 (Homepage and Emails), Section 5.4 (Preferred Credit Card), Section 5.5 (Sears Auto Center) and all other changes in this Agreement (including Exhibits) resulting from the change in the Arena Name from "Sears Centre Arena" to "Sears Centre Arena Powered by Shop Your Way" (the "**Updates**") shall be implemented by the Arena Owner as soon as practicable (after receiving Sears' prepayment of estimated expenses) using reasonable efforts but not later than three (3) months from the later of the Effective Date or the date final approved artwork is received by Arena Manager from Sears. (the "**Completion Date**"). All Updates will occur at the expense of the Arena Owner, except as expressly provided for in this Agreement. Arena Owner shall credit Sears \$1,500 for each Arena event that occurs after the Completion Date where all of the Updates are not completed. The parties agree that such payment is not intended as a penalty payment, but instead intended as liquidated damages to compensate Sears should Village fail to meet its obligations under this Amendment. The existing signage identified or depicted on **Exhibit F** shall be excluded from the Updates and be permitted to be displayed as in existence on the Effective Date.

12. **DURATION:** Unless otherwise terminated as permitted herein, this Agreement, and the rights and obligations arising hereunder, shall remain in full force and effect for the following term (the "**Term**"):

12.1 **Term:** This Agreement shall be in effect from and after the Effective Date and shall expire August 31, 2022.

12.2 **Right of First Negotiation:** In the event that Sears is not in default of this Agreement, then from March 1, 2021 to March 31, 2021 ("**Exclusive Negotiation Period**") Sears shall have the exclusive right to negotiate in good faith with Arena Owner with respect to the purchase of the Arena's Naming Rights that would become effective upon expiration of this Agreement (the "**Right of First Negotiation**"). In the event the parties do not reach an agreement for the extension of this Agreement or for the continued purchase of the Arena's naming rights during the Exclusive Negotiation Period, Arena Owner shall be free to solicit, negotiate, receive and accept third party offers regarding the purchase of the Arena's naming rights to become effective upon the expiration of this Agreement. At all times during the Term prior to the end of the Exclusive Negotiation Period, each of the Arena Owner and Arena Manager shall not engage in discussions or negotiations with any third parties with respect to the Arena naming rights to become effective upon the expiration of this Agreement.

12.3 **Right of Sears to Terminate Upon Arena "Going Dark":** If, at any time after the date upon which the Naming Rights Fee is first due hereunder, the Arena shall cease operations on a regular basis for a continuous period of one (1) year ("**Going Dark**") during the Term, Sears shall have the right to terminate this Agreement, including all of its rights and obligations hereunder, upon written notice to the Arena Owner and the Arena Manager.

12.4 Transition: Except in the event of termination for breach by the Arena Manager or the Arena Owner, Sears agrees that, following termination hereof for any reason, it will reasonably cooperate with the Village in its efforts to transition to a new or replacement Naming Rights sponsor, provided such cooperation shall not entail any financial cost to Sears. In such event, the Village shall be permitted continued use of the Arena Name and/or Arena Logo, and the Sears Centre Domain Name, for a reasonable period of time thereafter not to exceed twelve (12) calendar months after expiration or termination of this Agreement, during which time Village shall continue to perform its obligations under **Section 3.6** (Protection of Goodwill).

13. ASSIGNABILITY OF NAMING RIGHTS: Except as otherwise prohibited by law, Sears shall have the right to assign all of its interests and obligations arising under this Agreement to any entities directly or indirectly controlled by Sears Holdings Corporation ("**Sears Affiliates**").

14. EVENTS OF DEFAULT; REMEDIES:

14.1 Event of Default: Except as otherwise provided herein, an event of default ("**Event of Default**") shall occur if any party hereto shall fail to fulfill any material obligation arising under this Agreement and such failure shall continue for a period of thirty (30) business days after written notice of such failure; provided, however, if such failure to fulfill a material obligation hereunder is other than failure to pay any amount due and owing under this Agreement, and is of a type that cannot reasonably be cured within thirty (30) days, such failure shall not constitute an Event of Default if substantial steps to cure are commenced within the thirty (30) day period and diligently pursued to completion. In the event of the occurrence of an Event of Default, each party shall have all remedies available at law or in equity. The successful party in any litigation arising by reason of a claimed Event of Default shall be entitled to recover from the unsuccessful party all of the successful party's reasonable attorneys' fees, costs, and expenses incurred in enforcing this Agreement and/or incurred in seeking to enforce or collect any judgment or order rendered. The parties hereto recognize that the rights granted pursuant to this Agreement are valuable property rights for which there may be no adequate remedy at law. In the event a temporary restraining order or temporary or permanent injunction is entered to enforce this Agreement, each party stipulates that the same may be entered without the need to post a bond.

14.2 Arena Remedies: The Arena Remedies in the event of Sears' default shall include (but not be limited to) the right to terminate this Agreement, or any of Sears' rights hereunder, seek monetary damages, the right to remove, or cover or replace all signage, written and other references to the Arena Name. In addition, in such event Sears shall be responsible for all costs associated with removing or changing the Arena Name and Arena Logo, and the Village shall be permitted continued use of the Arena Name and Arena Logo, and the Sears Centre Domain Name for a reasonable period of time thereafter not to exceed twelve (12) calendar months after expiration or termination of this Agreement, during which time Village shall continue to perform its obligations under **Section 3.6** (Protection of Goodwill).

14.3 Sears Remedies: Sears shall have the right to seek specific performance or injunctive relief without resorting to **Section 15** solely in the event of an imminent and material breach hereof which is a threat to the value of the Naming Rights Assets where

irreparable injury is likely to result and for which monetary damages would not be a sufficient remedy.

14.4 Limitations: Neither party shall be liable under any circumstances for any consequential, indirect, or punitive damages.

14.5 Insolvency: The insolvency or bankruptcy of Sears or the initiation of any bankruptcy or assignment for the benefit of creditors or other insolvency proceedings by or against Sears, or the appointment of a receiver or trustee for Sears or Sears' property shall constitute a material breach of this Agreement.

15. DISPUTE RESOLUTION: Except under those limited circumstances entitling either party to seek and obtain an injunction or order of specific performance or other equitable relief as provided in **Section 14**, any claimed Event of Default or the failure of the parties to agree upon a matter that must be mutually acceptable may be resolved in the manner set forth in this **Section 15**.

15.1 Prior to the initiation of any further proceedings with respect to such dispute or matter, the parties will discuss the dispute or matter among one (1) or more representatives of the parties who has the power to resolve such dispute or matter and who will endeavor in good faith to resolve such dispute or matter. Such discussions will commence within ten (10) days after either party gives the other notice that it wishes to commence such discussions and be concluded within thirty (30) days after such notice.

15.2 If any dispute or matter between the parties has not been resolved pursuant to **Section 15.1**, either party may seek any further remedy allowed by law.

16. NOTICE TO PARTIES: Except for any notice required under applicable law to be given in another manner, any notice, demand, request, or other communication which any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed to have been properly given (i) if hand delivered, effective upon receipt or refusal, or (ii) if delivered by overnight courier service, effective on the day following delivery to such courier service, or (iii) if mailed by United States certified mail, postage prepaid, return receipt requested, effective on the second (2nd) business day after deposit in the United State mails; addressed in each case as follows:

If to Sears: Sears, Roebuck and Co.
 3333 Beverly Road
 Hoffman Estates, IL 60179
 ATTN: Vice President of Real Estate

And to: Sears, Roebuck and Co.
 3333 Beverly Road
 Hoffman Estates, IL 60179
 ATTN: Director, Specialty Marketing

If to Arena Owner: Village of Hoffman Estates
 1900 Hassell Road
 Hoffman Estates, IL 60169
 ATTN: Village Manager

And to: Village of Hoffman Estates
1900 Hassell Road
Hoffman Estates, IL 60169
ATTN: Village Clerk

And with copy to: Village of Hoffman Estates
1900 Hassell Road
Hoffman Estates, IL 60169
ATTN: Owner's Representative

With copy to: Global Spectrum LP d/b/a Spectra
5333 Prairie Stone Parkway
Hoffman Estates, IL 60192
ATTN: General Manager

17. **BINDING EFFECT:** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns, and said parties do hereby agree for themselves and their respective successors and assigns to be bound hereby and to execute any and all instruments in writing, and to do any and all acts which may be necessary, convenient, or expedient to carry out the purposes and intent of this Agreement.

18. **GOVERNING LAW; VENUE:** This Agreement, and all of the obligations of the parties arising hereunder, shall be governed, construed, and interpreted in accordance with the laws of the State of Illinois (without giving effect to any Illinois "choice of law" principles which would require construction under the laws of a different jurisdiction), and Cook County, Illinois, shall be deemed the proper venue for any action arising hereunder or in connection herewith.

19. **SEVERABILITY:** Each provision hereof is intended to be severable, and the invalidity or unenforceability of any portion of this Agreement shall not affect the validity or enforceability of the remainder hereof provided the overall intentions of the parties and the purposes of this Agreement, each as expressed herein, are not materially impaired.

20. **PARTIAL INVALIDITY:** If any term or provision of this Agreement, in whole or in part, shall be held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby and each such remaining term and provision shall be valid and enforceable to the fullest extent permitted by law.

21. **ENTIRE AGREEMENT:** This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof, supersedes any and all prior agreements and negotiations which may have heretofore been entered into or conducted relating to the subject matter hereof and shall not be modified or amended except in writing signed by the party sought to be charged with such modification or amendment.

22. **HEADINGS:** The headings set forth herein are for convenience of reference only and shall not be deemed to impair, enlarge, or otherwise affect the substantive meaning of any provision to which such heading may relate.

23. **COUNTERPARTS:** This Agreement may be executed in multiple counterparts, each one of which shall be deemed an original but all of which, taken collectively, shall be deemed a single instrument; provided, that this Agreement shall not be enforceable against any party hereto unless all parties hereto have executed at least one (1) counterpart.

24. **CONSENTS/APPROVALS:** Except where otherwise specifically provided, whenever the consent or approval of any party to this Agreement is required, such consent or approval shall not be unreasonably withheld, conditioned, or delayed.
25. **FORCE MAJEURE:**
- 25.1 No party will be liable or responsible to the other party for any delay, damage, loss, failure, or inability to perform caused by Force Majeure if notice is provided to the other party within ten (10) days of date on which such party gains knowledge of the event of Force Majeure that such party is unable to perform; provided, however, under no circumstances shall a failure to pay amounts due and payable under this Agreement be excusable due to a Force Majeure.
- 25.2 Failure in performance by any party under this Agreement due to an event of Force Majeure shall not be deemed a breach of this Agreement, provided that the party claiming an event of Force Majeure shall make reasonable efforts to meet its obligations throughout the duration of the Force Majeure and the suspension of any obligations of such party shall only last during the time the event of Force Majeure continues (and such reasonable time thereafter to allow such party to respond to such condition). No party hereto shall be under any obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the provision of any component necessary therefore shall be prohibited or rationed by any law.
26. **RUNNING WITH THE LAND:** The parties hereto intend that the rights granted to Sears hereunder are intended to constitute covenants running with the land and binding upon all subsequent owners of the Arena for the duration of the Term.
27. **NO THIRD PARTY BENEFICIARIES:** No other person shall be deemed a third party beneficiary to this Agreement.
28. **SURVIVAL:** The covenants, terms and conditions contained herein and imposed on these parties shall survive the expiration or earlier termination of this Agreement.
29. **CONSTRUCTION:** In the event of a dispute between the parties regarding this Agreement, this Agreement will be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against either party.
30. **EXHIBITS:** Each one of the lettered exhibits attached to this Agreement and identified herein is expressly made a part hereof as though fully stated herein.
31. **WAIVER:** No waiver shall be effective unless in writing and executed by the party to be charged with such waiver, and no waiver shall be deemed a continuing waiver in respect of any subsequent breach or default, whether similar or dissimilar in nature, unless expressly so stated in writing.
32. **CONFLICTING AGREEMENTS:** Notwithstanding anything to the contrary contained herein, to the extent the terms of this Agreement, but only to the extent such terms were changed for this Agreement against the 2016 Agreement, conflict with the terms of the existing agreement dated November 11, 2015 between Arena Owner/Arena Manager and

EXHIBIT A

Legal Description of Arena

ALL OF LOT 4A5E TOGETHER WITH THAT PART OF LOT 4A5G IN THE FINAL PLAT OF RESUBDIVISION OF LOT 4A5 IN PRAIRIE STONE OF LOT 4A5 IN THE RESUBDIVISION OF LOTS 4A AND 4D IN THE RESUBDIVISION OF LOT 4 IN SEARS BUSINESS PARK, BEING A RESUBDIVISION OF PART OF SECTIONS 31 AND 32, TOWNSHIP 42 NORTH, AND SECTION 4, TOWNSHIP 41 NORTH, BOTH IN RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 11, 1998 AS DOCUMENT NUMBER 98779195, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID LOT 4A5G; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 4A5G THE FOLLOWING FIVE (5) COURSES AND DISTANCES: 1) NORTH 89 DEGREES 43 MINUTES 22 SECONDS WEST, 221.20 FEET; 2) NORTH 00 DEGREES 16 MINUTES 38 SECONDS EAST, 80.01 FEET; 3) ~~NORTH 89 DEGREES 41 MINUTES 27 SECONDS WEST, 325.45 FEET;~~ 4) NORTH 85 DEGREES 21 MINUTES 24 SECONDS WEST, 300.88 FEET; 5) NORTH 85 DEGREES 27 MINUTES 21 SECONDS WEST, 81.80 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 14 SECONDS WEST, 770.48 FEET TO THE NORTH LINE OF SAID LOT 4A5G, ALSO BEING THE SOUTH LINE OF HERETOFORE DEDICATED PRAIRIE STONE PARKWAY PER PLAT OF DEDICATION RECORDED SEPTEMBER 30, 1993 AS DOCUMENT NUMBER 93783210; THENCE EASTERLY ALONG SAID SOUTH LINE OF HERETOFORE DEDICATED PRAIRIE STONE PARKWAY, BEING AN ARC OF A CURVE CONCAVE TO THE NORTH AND NON-TANGENT TO THE LAST DESCRIBED LINE, HAVING A RADIUS OF 2480.00 FEET, HAVING A CHORD BEARING OF NORTH 78 DEGREES 45 MINUTES 28 SECONDS EAST, 529.23 FEET TO THE EASTERLY LINE OF SAID LOT 4A5G, SAID LINE ALSO BEING THE WESTERLY AND NORTHERLY LINE OF HERETOFORE DEDICATED COLUMBINE BOULEVARD PER PLAT OF DEDICATION RECORDED SEPTEMBER 26, 1998 AS DOCUMENT NUMBER 98738184; THENCE SOUTHERLY ALONG SAID EASTERLY LINE OF LOT 4A5G THE FOLLOWING EIGHT (8) COURSES AND DISTANCES: 1) SOUTH 87 DEGREES 41 MINUTES 13 SECONDS EAST, 48.65 FEET; 2) SOUTH 27 DEGREES 33 MINUTES 22 SECONDS EAST, 178.74 FEET TO A POINT OF CURVATURE; 3) ALONG AN ARC OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 949.62 FEET, HAVING A CHORD BEARING OF SOUTH 41 DEGREES 33 MINUTES 45 SECONDS EAST, 484.28 FEET TO A POINT OF TANGENCY; 4) SOUTH 55 DEGREES 34 MINUTES 07 SECONDS EAST, 5.45 FEET; 5) SOUTH 34 DEGREES 25 MINUTES 53 SECONDS WEST, 234.88 FEET; 6) SOUTH 00 DEGREES 16 MINUTES 38 SECONDS WEST, 191.73 FEET; 7) SOUTH 89 DEGREES 41 MINUTES 27 SECONDS EAST, 127.80 FEET; 8) SOUTH 17 DEGREES 28 MINUTES 43 SECONDS WEST, 82.89 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 01-32-302-019
01-32-302-014
01-32-302-021

Common Address: 5353 Prairie Stone Parkway
Hoffman Estates, IL

Seize Centre
Naming Rights Agreement
000029v0 Final

EXHIBIT B



EXHIBIT C

sears[®]
AUTO CENTER

EXHIBIT D

**SHOP
YOUR
WAY®**

SHOP YOUR WAY®

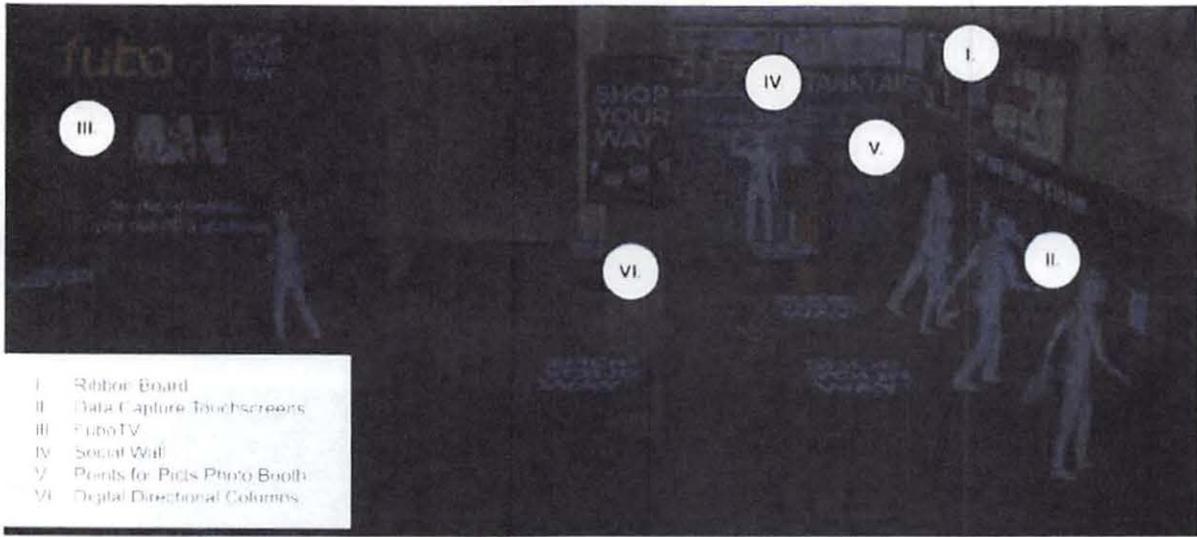
EXHIBIT E

Shop Your Way Lounge Buildout

- **Location**
 - The SYW Lounge will be located in the southeast corner of the Arena, outside of Sections 117 and 118.
- **Design**
 - The size of the SYW Lounge will be mutually determined by Village, Sears, and the Arena Manager, but in no event shall the SYW Lounge be less than two thousand (1,500) square feet in area.
- **Furnishings**
 - Village, Sears, and the Arena Manager will work together to provide and organize the furnishings for the SYW Lounge that should include, but not be limited to, the following:
 - Interactive (touch screen) digital displays or tablets to sign up users for the Shop Your Way program
 - Video wall of digital displays that provides curated social media content for the Shop Your Way program
 - Wall dedicated to a Shop Your Way co-branded partner with relevant signage and accessories (e.g., fubotv with appropriate signage and a large television featuring the product)
 - Photo area that features and (iii) an automated camera to be used in conjunction with the large screen to provide a custom photo are with rotating background (the “**Photo Zone**”).
 - Digital displays placed on support columns inside and outside of the SYW lounge to provide directions and signage for the SYW Lounge.
 - High top tables
 - **Appendix 1**, attached hereto, provides illustrations that would meet the Furnishings guidelines listed above.
 - Sears will provide video content for the digital media described above at Sears’ expense, but such digital media will be powered and maintained by Village, including the delivery system and automated curation used for any interactive and social media furnishings. Such delivery system and automated curation for any interactive and social media furnishings may be outsourced to third parties, provided such third party operates in accordance with industry standards. Any outsourcing costs may be included in the Budget. Sears retains the sole discretion to require Village to replace such third parties, provided that Village works in a commercially reasonable time and manner to replace such third parties.

- **Signage**
 - All signage at the SYW Lounge shall include only the Sears Centre Name, Sears Centre Logo, Shop Your Way Logos and promotion for the SYW Mastercard, shopyourway.com and any other co-branded partners of the Shop Your Way program, as determined by Sears. The signage will be featured prominently in all of the furnishings described above, including the various digital displays.

Appendix 1 to Exhibit E



Powered by
SHOP YOUR WAY sears centry



#TANKTAKEOVER SHOP YOUR WAY®

SAVE ON WHAT YOU NEED,
SPEND ON WHAT YOU WANT

GET MORE EVERY DAY YOUR W

fubo TV | **SHOP YOUR WAY**



**So many points,
you can fill a stadium**





EXHIBIT F

Existing Signage that will not be updated to include Shop Your Way logos



Highway Marquee



All Exterior Directional/Wayfaring- Parking Lot Location Signs



All Exterior Directional/Wayfaring - Property Signs (8)



Main Entrance – Exterior Fixed Sign



All Bike Rack Covers



All Arena Folding Chairs



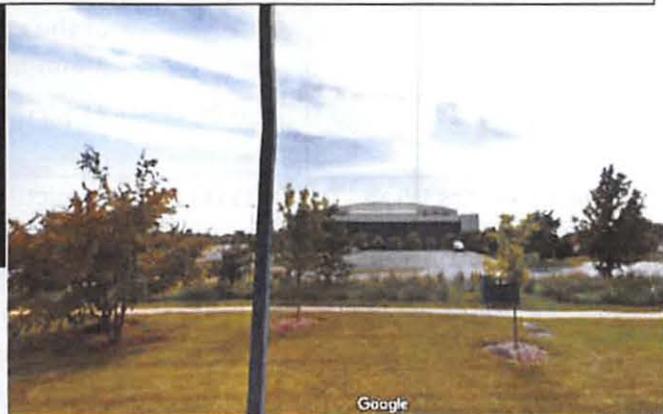
Team Banner



All Stanchions



Scoreboard – Fixed Signage



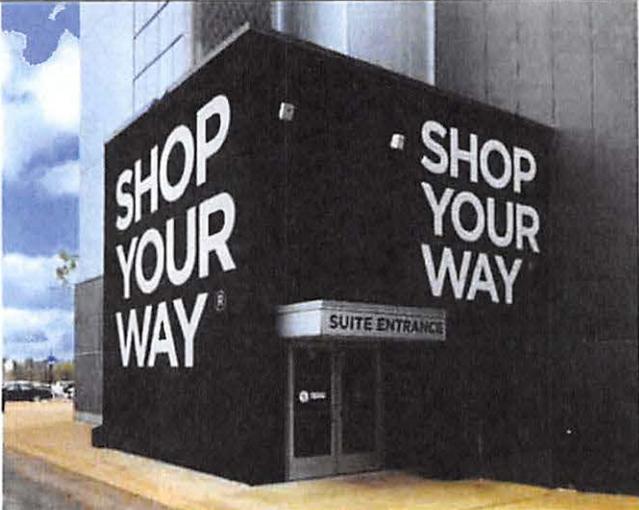
Exterior Signage – Pratum Avenue

EXHIBIT G
Existing Signage To Be Updated

Signage Need			
Element	Cost	Description	Size
Suite Exterior	\$1,500.00	As pictured	140"x140" (East facing), 90"x90 (North facing)
Suite Lobby Interior	\$525.00	As pictured	60"x60"
Suite Lobby Stairs	\$895.00	As pictured	Each stair is 127" x 6"
Basketball Court	\$155.00	As pictured	I will get measurement
Main Exterior Sign - Shop Your Way Addition	\$950.00	As pictured	Approx 20'x60"
Main Entrance Concrete Cover	\$675.00	As pictured	140" x 75"
Reserved Parking Signage	\$1,175.00	As pictured	24" x 36"
Concession POS Wall graphic	\$325.00	As pictured	60" x 60"
Concession POS Stickers	\$275.00	These will be stickers on the actual counter of the concession stand	10" x 10"
Concession Televisions Covers	\$850.00	This is signage installed at the bottom of the concession menu monitors	40" x 8"
Box Office POS	\$450.00	As pictured	Includes Windows 4-8, Each window is 57" wide x 9" high
Guest Services Wrap - Sears Auto	\$495.00	As pictured	74" x 24" (above door), 32" x 74" (window cling)
West Parking Lot - Sears Auto	\$1,250.00	These signs will not be installed on the light poles, but will be freestanding.	30" x 40"
East Parking Lot - Uber	\$595.00	As pictured – different location	24" x 36"
Wall Cover next to Guest Service	\$2,550.00	As pictured	14' x 14'

Execution Version

Front Entrance Window Clings	\$2,500.00	As pictured	Window 1: 54"w x 67.5"h Window 2: 77.5"w x 67.5"h Window 3: 77.5"w x 67.5"h Window 8: 77.5"w x 67.5"h Window 9: 77.5"w x 67.5"h Window 10: 65"w x 67.5"h
Misc: Concourse Directories, Exterior Doors, Glass Doors	\$2,000.00	As pictured	
Total	\$17,165.00+	Note: 80ft lift rental required for installation of Front Entrance window graphics	

	<p>Suite Exterior (East facing apron 140" x 140" & North facing approx 90" x 90") will be pressure sensitive vinyl applied to exterior brick and canopy over doors-\$1500.00</p> <p>(This material is made for this type of application so you don't need to paint the brick) Canopy approx 96" x 8" in black pressure sensitive vinyl</p>
	<p>Suite Interior Lobby 60" x 60" white pressure sensitive vinyl applied to walls after they are painted black.-\$525.00</p>
	<p>Suite Interior Lobby Stairs Stairs are 127" x 6" on pressure sensitive vinyl applied to risers on every other step.-\$895.00</p>



Basketball Court

Pressure sensitive vinyl with a non skid laminate approximately 6' wide x 1' tall applied to the floor-
\$155.00



Main Exterior Sign

20' wide x approx 60" high on black pressure sensitive vinyl applied to exterior under existing sign-\$950.00
(This application may require tree trimming to be seen from I-90)

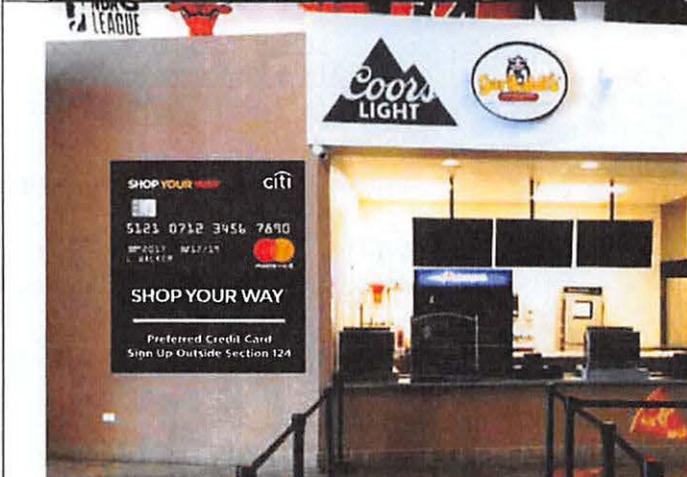


Main Entrance Concrete

140" x 75" pressure sensitive vinyl printed and applied to the concrete face-\$675.00



Reserved Parking Signage
Four (4) - 24"x 36" signs each installed on two on greenfield posts-\$1175.00



Concession POS Wall Graphic
One (1) 60" x 60" pressure sensitive vinyl printed and installed direct on wall-\$325.00



Concession POS Counter Stickers
30 copies 10" x 10" installed direct to the counter at ea POS-\$275.00

Concession POS TV Rider
30 copies 40" x 8" on foam core with VHB tape installed on video monitors-\$850.00



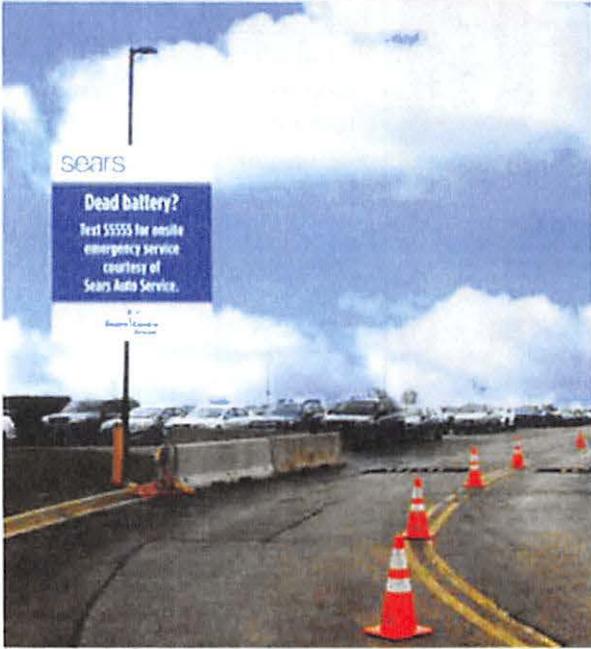
Box Office POS

9" tall across five (5) windows
(each window is 57" wide)
pressure sensitive vinyl installed to
glass-\$450.00



Guest Services Wrap

Header over the door 74" x 24" on
pressure sensitive vinyl and
window 32" x 74" on perforated
window vinyl (see out- but not in) -
\$495.00

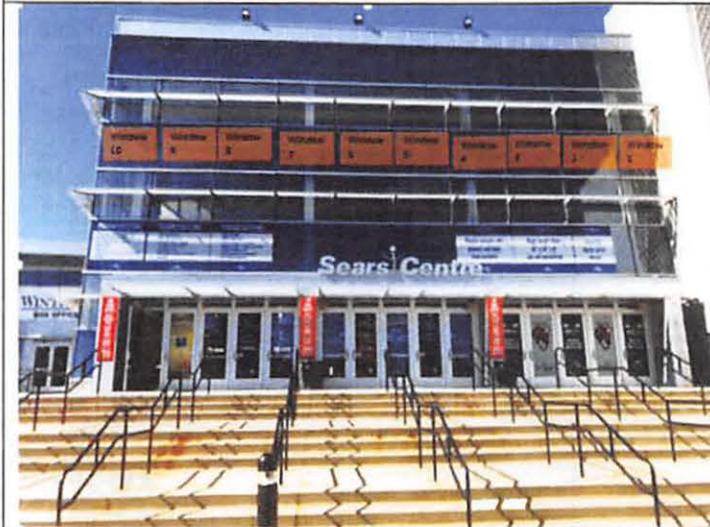
	<p>Sears Auto Parking Lot Signs Four (4) signs 30" x 40" each installed in the ground on two greenfield posts-\$1250.00</p>
	<p>East Parking Lot Uber Signs Two (2) 24" x 36" signs each in the ground on two greenfield posts-\$595.00</p>



Wallcovering for Guest Services

Wall

14' x 14' Class A Type II White Suede Wall covering 4/0 installed in 50" wide panels -\$2550.00



Front Entrance Window Clings

- Window 1: 54"w x 67.5"h
 - Window 2: 77.5"w x 67.5"h
 - Window 3: 77.5"w x 67.5"h
 - Window 4: 77.5"w x 67.5"h
 - Window 5: 77.5"w x 67.5"h
 - Window 6: 77.5"w x 67.5"h
 - Window 7: 77.5"w x 67.5"h
 - Window 8: 77.5"w x 67.5"h
 - Window 9: 77.5"w x 67.5"h
 - Window 10: 65"w x 67.5"h
- \$2,500 plus lift rental



Interior Directional/Wayfinding - Concourse directories – All levels



Interior Directional/Wayfinding - Concourse directories – All levels



Emergency Exit Doors



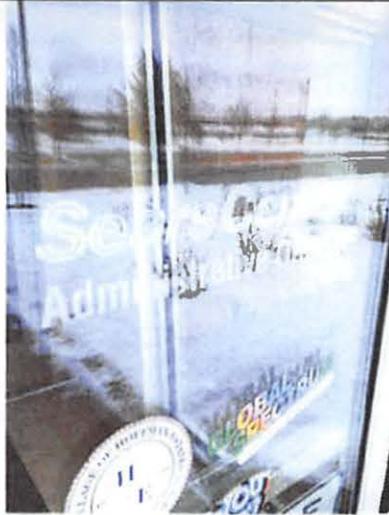
Club Entrance - Glass Doors



Box Office - Glass Doors



Main Entrance - Glass Doors



Admin Entrance - Glass Doors

EXHIBIT H

Prairie Stone Parkway Exterior Arena Sign



EXHIBIT I

