

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made as of June 4, 2010 by and between Bottom 9 Baseball, LLC, a Delaware limited liability corporation ("Team"), and the Ramapo Local Development Corporation, a New York Not-For-Profit Corporation ("RLDC").

Team is an entity which will hold the rights to a professional baseball team. The RLDC will construct a ballpark to serve as the home venue for Team, in return for Team's willingness to locate its professional franchise in the Town of Ramapo, New York.

### BASIC TERMS

1. Binding Nature of MOU; Basic Terms to be Included in Agreement. The parties intend for this MOU to be binding in nature, except as may be otherwise expressly set forth herein. The parties agree and understand that while negotiation of the complete terms of the relationship between the parties is still under discussion, the key terms set forth in this MOU are to be included as the basic framework of a definitive ballpark use agreement, which the parties shall be obligated to complete promptly and in good faith following execution of this MOU.
  
2. Exclusivity; Expiration. In exchange for Team's willingness to locate its professional baseball franchise in the Town of Ramapo, NY and RLDC's willingness to construct a ballpark to serve as the home venue for Team, the parties agree that for a period of eighteen (18) months from the date of this MOU, or until such time as this MOU or the definitive ballpark use agreement is terminated by either party:
  - a. RLDC shall not engage in negotiation or other discussion with other individuals or entities other than Team regarding construction and use of a ballpark by a professional baseball team as its primary user; and
  - b. Team shall not engage in negotiation or other discussion with other local governments or private entities regarding location of its professional baseball franchise anywhere other than RLDC.

Unless otherwise agreed by the parties in writing, this MOU shall terminate upon the earlier of: (i) the execution of a definitive agreement on the subject matter noted herein by the parties, or (ii) eighteen (18) months from the date noted above.

3. Conditions Precedent to RLDC's Obligation to Move Forward With Definitive Agreement. Notwithstanding the binding nature of this MOU as set forth in Section 1, above, RLDC shall not be obligated to move forward with

the definitive ballpark use agreement or comply with its other obligations as set forth in this MOU in the event any of the following conditions, circumstances or events occurs or exists on or before August 15, 2010:

- a. At least one of either RLDC or Town is unable to obtain all required permits or approvals necessary for the development or construction of the Project;
- b. At least one of either RLDC or Town is unable to secure funds to pay for the design, permitting or construction of the Project; or
- c. Litigation is commenced against RLDC or the Town which prevents the initiation, continuation or completion of the construction of the ballpark.

In the event any of the conditions, circumstances or events set forth in subsections (a) or (b) of this Section 3 occurs or exists after August 15, 2010, then RLDC shall still be obligated to move forward with the definitive ballpark use agreement and comply with its other obligations as set forth in this MOU.

In the event any of the conditions, circumstances or events set forth in subsection (c) of this Section 3 occurs or exists after August 15, 2010, the parties agree to meet within ten (10) business days of August 15, 2010 or the date on which either party first learns of such occurrence or existence, whichever is earlier, to review the events and circumstances surrounding such matters and negotiate in good faith to determine the best manner in which to proceed with the project in the parties' mutual best interests. If thirty (30) days after August 15, 2010 or the date on which either party first learns of such occurrence or existence, whichever is earlier, the parties are unable to determine mutually the best manner in which to proceed, then either party may terminate any agreement between them regarding this project (including without limitation this MOU) without penalty – monetary or otherwise – to the terminating party. In case of such termination, each party shall indemnify and hold harmless the other party and its members, officers, directors, and their affiliates and other representatives, from and against any liabilities, damages, costs and expenses, including reasonable attorneys' fees, arising out of or in connection with such termination.

RLDC (or Town, as applicable) shall use best efforts to obtain all required permits, approvals and funding in a timely fashion. RLDC shall keep Team informed regularly as to the status of its (or Town's, as applicable) efforts to obtain such permits, approvals and funding, particularly in advance of August 15, 2010.

In addition to the foregoing, the RLDC shall not be obligated to move forward with the definitive ballpark use agreement or comply with its other obligations

as set forth in this MOU (including, without limitation, its obligations to pay damages as set forth in Section 8, herein) in the event an "Excusable Delay" occurs at any time during the term of this MOU. For purposes of this MOU, an "Excusable Delay" shall mean any delay due to terrorism, war, natural catastrophe, strikes, lockouts or other labor or industrial disturbance, blockage, embargo, failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority or order of any government or regulatory body, storm, flood, or washout. An Excusable Delay shall be deemed to exist only so long as the party relying on such delay to excuse its performance promptly and specifically notifies the other party in writing of such delay and exercises due diligence to remove or overcome it.

4. Conditions Precedent to Team's Obligation to Move Forward With Definitive Agreement. Team shall use best efforts to formally acquire the right to a professional baseball franchise at the earliest possible time following the execution of this MOU. In addition, notwithstanding the binding nature of this MOU as set forth in Section 1, above, Team shall not be obligated to move forward with the definitive ballpark use agreement or comply with its other obligations as set forth in this MOU in the event that, despite its best efforts, it is not formally awarded the right to a professional baseball franchise by October 8, 2010. In the event that Team fails to formally acquire the right to a professional baseball franchise by October 8, 2010 without first terminating this (in such event, non-binding) MOU, then Team shall be obligated to pay RLDC damages in the amount of Six Hundred Seventy-Five Thousand Dollars (\$675,000). Such damages shall be offset to the extent that RLDC or Town receives a commitment from another professional baseball franchise to play its home games at the ballpark. In addition to such damages, if Team fails to formally acquire the right to a professional baseball franchise by October 8, 2010, RLDC shall have the right to terminate any agreement with Team regarding this project, without penalty – monetary or otherwise – to RLDC and RLDC shall have until December 31, 2010 to exercise such right of termination. In the event that Team formally acquires the franchise within the timeframe set forth above, but fails to play at least half of its home games at the ballpark for the 2011 season and such failure was not caused by RLDC fault (e.g., failure to reach Substantial Completion in the timeframe noted herein) or an Excusable Delay, RLDC shall have the right to terminate any agreement with Team regarding this project, without penalty – monetary or otherwise – to RLDC and RLDC shall have until December 31, 2011 to exercise such right of termination
  
5. Site. The proposed development site, which will include the ballpark, is approximately sixty-one (61) acres owned by the Town of Ramapo and located off of Exit 12 of the Palisades Parkway to the northwest of the intersection of Pomona Road and Firemen's Memorial Drive (the "Site"). Approximately twenty-seven (27) acres of the Site will be dedicated to the

ballpark and associated parking, and shall include necessary and customary infrastructure improvements, including but not limited to electric, telephone, cable, water, and sewer access and connections, as well as appropriate and efficient road access.

6. Ballpark. The ballpark proposed to be constructed at the Site shall be an open-air, natural grass, state-of-the-art facility, designed primarily for baseball but also for multiple public assembly uses. The ballpark will have approximately three thousand five hundred (3,500) fixed seats and up to twenty (20) suites. In addition to the spectator seating areas, parking and a professional playing field with lights, the ballpark shall also include picnic areas, concourses, restrooms, a press box, Team offices, concessions areas, ticket offices, a merchandise store, scoreboard/PA systems, clubhouses/locker rooms, administrative offices, storage areas, batting cages, pitching tunnels, bullpens, exterior grounds and other areas typical of similar state-of-the-art facilities.
7. Land Acquisition; Ballpark Design and Construction. RLDC shall be responsible for acquisition of the land on which the ballpark is to be constructed and all related costs. RLDC shall also be responsible for the design and construction of the ballpark on the site and all related costs. Design shall include architectural services and all necessary zoning, planning, environmental and other required approvals. Construction shall include infrastructure improvements to accommodate the new ballpark, including without limitation all utilities, traffic and road planning. Ballpark design and construction shall meet Team's governing body or other league specifications.
8. Ballpark Construction Completion Timing. RLDC and Team agree that time is of the essence if the ballpark project contemplated herein is to be successful. Accordingly, RLDC understands and acknowledges that Team's ability to participate in this project hinges substantially upon Team's ability to play its home games at the proposed ballpark (and thus generate revenue therefrom) for the 2011 baseball playing season. Therefore, the ballpark must be "Substantially Complete" by June 6, 2011. For purposes of this MOU, "Substantially Complete" shall mean (a) ability to play games, in front of public crowd at capacity, with all basic operating systems functional, without incurring any additional cost, and (b) equivalent of "temporary certificate of occupancy" with known punch-list for permanent certificate of occupancy. If the ballpark is not "Substantially Complete" by June 6, 2011, RLDC agrees to pay damages to Team in the amount of Two Thousand Five Hundred Dollars (\$2,500) per day after June 6, 2011, up to a maximum aggregate of One Hundred Seventy-Five Thousand Dollars (\$175,000). Such damages may be paid by RLDC to Team in the form of an abatement of Team's initial \$175,000 "rent" guarantee hereunder; *provided, however*, that RLDC shall make such damages payment to Team in cash if the ballpark is still not Substantially Complete on September 30, 2011. Moreover, if Team is unable

to play at least half of its home games at the ballpark for the 2011 season, then RLDC shall pay further damages to Team in the amount of Five Hundred Thousand Dollars (\$500,000), payable to Team no later than October 31, 2011. If the ballpark is still not "Substantially Complete" on September 30, 2011, then Team, in addition to the damage payments noted herein, shall have the right to terminate any agreement with RLDC regarding this project, without penalty – monetary or otherwise – to Team. Team shall have until December 31, 2011 to exercise such right of termination.

9. Team Contribution. Team and/or its designee(s) shall contribute up to \$1,000,000 toward the construction of the food and beverage concession areas of the ballpark, including related equipment. To the extent that the entire One Million Dollars is not used to fund food and beverage concessions, any remaining amounts may be used to fund any of the suites, offices, or the Kids' Zone, as determined in the reasonable, mutual discretion of the parties.
10. Term. It is anticipated that once the ballpark is constructed, Team shall occupy the ballpark pursuant to the terms of a definitive use agreement with RLDC, which will own the ballpark. The term of the use agreement shall be for twenty (20) years, with one (1) five-year renewal option at the mutual agreement of the parties. Such option must be exercised by Team and or RLDC before the beginning of the 20<sup>th</sup> year of the agreement. "Year One" of the term will be the first year in which a full season of baseball is played at the ballpark. The parties anticipate play to begin in June 2011, depending on "Substantial Completion" of the ballpark.
11. Fees. Team shall make a minimum annual payment of \$175,000 as "rent" to RLDC for Team's use of the ballpark. RLDC shall be entitled to the following revenues on an annual basis:
  - a. one dollar (\$1.00) for every fixed-seat ticket sold per professional baseball game up to 3,500 seats (excluding suite seats);
  - b. two dollars (\$2.00) for each car paid and parked on a professional baseball game day at the ballpark parking lots, net of sales taxes owed by Team on parking revenue;
  - c. ten percent (10%) of net sales of merchandise sold at the ballpark;
  - d. ten percent (10%) of Team's share of net sales of all food and beverage items sold at the ballpark;
  - e. Team controls and owns broadcast rights to its games and events in all media. Team may sell advertising inventory in its broadcasts of its games and other events. In such case, RLDC shall be entitled to fifty percent (50%) of the net revenue from such ad sales. Moreover, to the extent the units are not otherwise sold, RLDC shall receive up to twelve (12) thirty second units on radio and up to twelve (12) live reads on television;

- f. fifty percent (50%) of any ballpark naming rights sponsorship revenue (net of fulfillment costs); and
- g. fifty percent (50%) of revenue from the sale of suites (net of fulfillment costs).

All payments of rent and shared revenues shall be due to RLDC on a schedule to be mutually agreed to by the parties.

12. Priority Use. Team shall have use of the ballpark for up to fifty (50) dates per year for professional baseball games, as well as fifteen (15) additional dates for pre-season activities. Team shall also have use of the ballpark for twenty (20) additional dates each year for non-baseball events of Team. These eighty-five (85) total dates of use by Team shall be the "Team Priority Use Dates." Team shall notify RLDC of the Team Priority Use Dates promptly after receipt of the final schedule from the league in which Team plays. RLDC shall have the right to schedule use of the ballpark on all of the other 280 dates annually, although Team will have additional access (at no additional cost) on dates not already scheduled for RLDC or Town use. RLDC shall have the right to make multi-year commitments for recurring annual events at the ballpark, and Team shall use its best efforts to work with the league to avoid scheduling conflicts with such events. Neither RLDC nor Team shall reserve use of the ballpark (other than for Team Priority Use Dates) without a good faith, confirmed commitment for an event. Team Priority Use Dates shall take scheduling priority over all other uses, and RLDC's uses of the ballpark shall not compete with those of Team, nor shall RLDC's use damage or destroy the baseball-playing surface. RLDC shall not allow use of the ballpark by another professional baseball team without Team's consent.

RLDC shall receive all revenues from rental of the ballpark to entities other than Team (except for sublessees or other users of Team), subject to scheduling or any other limitations as set forth herein and any costs or expenses incurred by Team as a result. Such rentals shall subject the user to the same limitations and conditions on use of the ballpark to which RLDC or Town is subject pursuant to this Agreement. Moreover, RLDC shall receive all revenue from the use of the Community Room on days when the ballpark is not in use by Team or its authorized sublessees or other users, except for the percentage of food and beverage revenues that are earned by the concessionaire and any costs or expenses incurred by Team as a result of such use.

Team may, in its discretion, invite RLDC or Town to participate in the co-promotion of Team's non-baseball events at the ballpark.

Team acknowledges and agrees that it will use the ballpark for its events for no more than 450 hours annually.

13. Operation, Maintenance and Repair. RLDC shall be responsible, at its sole expense, for the operation, maintenance and repair (including capital repairs and improvements) of the ballpark. On days when Team is using the ballpark, however, Team shall have control over all “front-of-house” operations, including all customer-contact and baseball-related personnel functions. These functions shall include, by way of example only and without limitation, ushers, ticket takers and salespersons, parking lot attendants, concession workers and merchandise store workers. Team shall have control of its dedicated areas of the ballpark at all times (not just on dates when Team is using the ballpark), including offices, merchandise store and Team’s storage areas. Maintenance and repair of these Team-exclusive areas, including utilities for same, shall be provided by RLDC at no additional charge to Team beyond the “rent” noted herein.
14. Maintenance of Ballpark. The RLDC, at its own expense, shall maintain the ballpark (including all of the buildings, improvements, enclosed areas and surrounding areas) in the same condition and repair as on opening day of the ballpark (reasonable wear and tear excepted), and in a neat and orderly condition. Such maintenance may include the undertaking of any repair which is necessary to maintain the ballpark in the same condition as of the opening day except for reasonable wear and tear and the useful life of the ballpark. Notwithstanding the foregoing, RLDC agrees and understands that maintenance of the ballpark in a first-class condition is critical to the success of Team’s business, and that RLDC shall strive in good faith to assist Team in meeting Team’s customer service and satisfaction goals by keeping the ballpark in a first-class condition and by agreeing to perform maintenance and repairs requested from time-to-time by Team, in Team’s commercially reasonable discretion. Moreover, Team and Town shall meet at least annually in order to determine areas of the ballpark in need of repair or maintenance, or capital improvements.
15. Concessions. Team shall provide for food and beverage concessions, either on its own or via a third party. Team shall be responsible for expenses associated with food and beverage concessions, and shall share revenues with the RLDC as further described in Section 11 above. Such concessions services shall be exclusive to the ballpark, and RLDC shall use these services for its own events and use of the ballpark. RLDC and Team will negotiate commercially reasonable terms governing such RLDC use of the concessions services, with the idea that RLDC would be entitled to a negotiated percentage of the profits from concessions in such instances.
16. Ticketing. Team shall provide for ticketing services for the ballpark. Team shall be responsible for expenses associated with ticketing, and share revenues

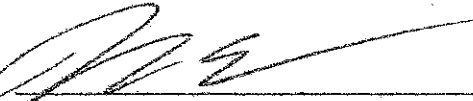
with the RLDC as further described in Section 11 above. The ticketing services shall be exclusive to the ballpark, and RLDC shall use these services for its own events and use of the ballpark. RLDC and Team will negotiate commercially reasonable terms governing such RLDC use of the ticketing services.

17. Sponsorship; Media; Intellectual Property. Team shall have the rights to all sponsorship at the ballpark (including ballpark "naming rights"), as well as any and all media (including Internet) relating to the Team and to the ballpark. Notwithstanding the above, the Team shall share all revenues relating to "naming rights" as further described in Section 11 above. Team shall control its own intellectual property, and RLDC shall not have any rights to use Team's intellectual property without Team's prior consent. RLDC shall not associate sponsorship with its events at the ballpark (or the ballpark itself) which could be interpreted to conflict with any sponsorship category exclusivity granted by Team at the ballpark. RLDC shall not remove, cover or otherwise obscure Team's sponsorship displays at the ballpark. Team shall control broadcasts relating to its games and events at the ballpark, in any format, including without limitation television, radio and Internet. Such media control extends to both the content and the advertising inventory associated with any such broadcasts.
  
18. Parking. Team shall be responsible for parking at the ballpark and on the Site. Team shall share all revenue with the RLDC associated with parking on a baseball game day at the ballpark as further described in Section 11 above and shall keep all revenue associated with parking at Team non-game day events held at the ballpark and on the Site. RLDC shall be entitled to revenue from parking for non-Team events at the ballpark and on the Site, and such revenue shall be on a net basis to account for Team's management and operation of the parking if Team personnel or equipment is utilized. The exact net expense to RLDC shall be determined by Team on an event-by-event basis, in its commercially reasonable discretion. RLDC shall not allow any other persons or entities to manage or operate parking at the Site at any time, without the prior consent of Team.

SIGNATURE PAGE FOLLOWS

In witness whereof, the parties to this MOU through their duly authorized representatives have executed this MOU as of the date first written above and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

**RAMAPO LOCAL DEVELOPMENT CORPORATION**

By: 

Name: Aaron Troodler  
Title: Executive Director

**BOTTOM 9 BASEBALL, LLC**

By: 

Name: Shawn Reilly  
Title: Executive Vice President