

**DEVELOPMENT AGREEMENT**

Dated September 20<sup>th</sup>, 2017

BY AND AMONG

BUTCHERTOWN DEVELOPMENT DISTRICT, LLC,

LOUISVILLE CITY STADIUM, LLC,

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, AND

METRO DEVELOPMENT AUTHORITY, INC.

## DEVELOPMENT AGREEMENT

20<sup>th</sup> THIS DEVELOPMENT AGREEMENT (“**Agreement**”) is made and entered into this day of September, 2017 (the “**Effective Date**”) by and among (i) **BUTCHERTOWN DEVELOPMENT DISTRICT, LLC**, a Kentucky limited liability company, with its principal office located at 127 South 6th Street, Louisville, Kentucky 40202 (“**BDD**”); (ii) **LOUISVILLE CITY STADIUM, LLC**, a Kentucky limited liability company with its principal office located at 127 South 6th Street, Louisville, Kentucky 40202 (“**Louisville City Stadium**”) (BDD and Louisville City Stadium are sometimes hereinafter referred to collectively as the “**LCFC Parties**”); (iii) **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**, a Kentucky consolidated local government, acting by and through its Economic Development Department, 444 S. Fifth Street, Suite 600, Louisville, Kentucky 40202 (“**Metro**”); and (iv) **METRO DEVELOPMENT AUTHORITY, INC.**, a Kentucky non-profit, non-stock corporation, with its principal office located at 444 S. Fifth Street, Louisville, Kentucky 40202 (“**Authority**”) (the Metro Parties are sometimes hereinafter referred to collectively as the “**Metro Parties**”, and BDD, Louisville City Stadium, Metro, and Authority being hereinafter referred to individually as a “**Party**” and collectively as the “**Parties**”).

### WITNESSETH:

**WHEREAS**, Metro commissioned a feasibility study which was completed by Conventions, Sports & Leisure International (“**CSL**”) in August 2016, and which resulted in the identification of several contiguous tracts in the Butchertown area that, if assembled, could serve as an ideal site for the location of a major sports venue such as a soccer stadium;

**WHEREAS**, the parcels so identified in such CSL study have been designated as Brownfields, and the elimination of the same by Metro is a high priority when considering economic development sites;

**WHEREAS**, land assembly has proven to be critical to Metro when attempting to effectuate large economic development projects;

**WHEREAS**, Metro believes that this consolidated site comprising approximately 40+/- acres could serve as an ideal site for the location of a soccer stadium for the immediate future of hosting Louisville City FC in the United Soccer League (“**USL**”), and which stadium could also be expanded to host a future MLS team should Metro be granted a franchise in the coming years, with the remainder of the site being well situated to promote commercial development in the Butchertown area;

**WHEREAS**, even in the event that a soccer stadium is not built on the consolidated site, Metro believes that the purchase of the land is an excellent investment that would lead to important future commercial development at a strategic location in the central business district;

**WHEREAS**, the option agreements more fully described on Exhibit A attached hereto and incorporated herein (collectively, the “**Option Agreements**”), have been assigned to

Authority pursuant to a certain Assignment Agreement of even date herewith (the “**Assignment Agreement**”); and

**WHEREAS**, upon receiving the necessary approvals from Louisville Metro Council (“**Metro Council**”), Authority will purchase the real property subject to the Option Agreements (the “**Redevelopment Property**”, and with each individual parcel being hereafter referred to as a “**Redevelopment Parcel**”); and

**WHEREAS**, the LCFC Parties have presented to the Metro Parties a conceptual plan for the redevelopment of the Redevelopment Property for mixed-use purposes, including (i) the construction of a soccer stadium and related parking by Louisville City Stadium and/or affiliates thereof upon a portion of the Redevelopment Property which is anticipated to comprise approximately 15 acres as contemplated by Article II of this Agreement (the “**Stadium**”), and (ii) the development of the remaining usable portions of the Redevelopment Property for other potential commercial uses as may be determined by BDD from time to time as contemplated in Article III of this Agreement (the “**Commercial Uses**”) (the Stadium and the Commercial Uses are hereinafter referred to collectively as the “**Project**”); and

**WHEREAS**, Authority is a non-profit corporation established by Metro pursuant to KRS Chapter 58 to act as an agency and instrumentality of Metro and is the agency of release, pursuant to the Act; and

**WHEREAS**, Metro has determined that it is in the best interests of Metro that BDD and Louisville City Stadium develop and construct the Stadium and have the opportunity to develop the remainder of the Project, and that the development of the Project shall be in furtherance of the public purposes of Metro in that the Project, when completed, will enhance the economic vitality of the Butchertown area of Metro (the “**Butchertown Area**”), increase property values and employment, tourism and convention business and attract additional investment to the Butchertown Area; and

**WHEREAS**, because of the expense and risk involved in the development of the Project, BDD and Louisville City Stadium are unwilling to make the required investments to construct the Project without support from the Metro Parties to induce BDD and Louisville City Stadium to make such investments; and

**WHEREAS**, because of the importance of the Project to the economic vitality of the Butchertown Area, the Metro Parties agree to provide support to BDD and Louisville City Stadium in accordance with the terms of this Agreement and to undertake the obligations set forth in this Agreement to induce BDD and Louisville City Stadium to undertake the Project;

**NOW THEREFORE**, in consideration of foregoing premises, which are hereby incorporated within this Agreement, and for the mutual covenants and undertakings contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties hereto hereby agree as follows:

## ARTICLE I

### FINANCIAL COMMITMENTS

#### Section 1.01. Metro's Financial Contributions.

A. The Metro Parties have requested that Metro Council approve a contribution of \$30,000,000 (the "**Metro Contribution**") to (a) fund the cost of closing the purchase of the Redevelopment Property, (b) provide additional funding toward the costs of (i) demolition, clearing and land preparation of, and other Site Work (as hereafter defined) on, the Redevelopment Property, and (ii) Environmental Testing and Environmental Remediation (as such terms are hereafter defined) of the Redevelopment Property, and (c) fund a portion of the payment of the costs of work for the Project which would qualify as public infrastructure and other qualified costs related to the Project under the TIF (as hereafter defined), including for the Public Infrastructure as further described in Section 4.10 below.

B. Should Metro Council fail to so approve the proposed Project and the Metro Contribution by September 28, 2017 (the "**Metro Approval Deadline**"), then the LCFC Parties shall within thirty (30) days thereafter elect upon written notice to the Metro Parties one of the following options:

(i) To terminate this Agreement; or

(ii) To terminate this Agreement and elect to have Authority thereupon assign the Option Agreements to the LCFC Parties, or a designee thereof, as applicable, in exchange for reimbursement to the Metro Parties of the option payments paid thereby.

C. Should the Metro Contribution prove to be insufficient to fund the entirety of the costs intended to be funded thereby under this Agreement, the LCFC Parties may elect to fund, or to cause affiliates thereof to fund, such excess costs (hereafter referred to as the "**Excess Infrastructure Costs**"), and the Metro Parties will cooperate therewith and agree that any such Excess Infrastructure Costs shall be eligible costs to be reimbursed to the LCFC Parties from the TIF.

#### Section 1.02. Stadium Financial Commitment.

A. It is anticipated that upon satisfaction of the applicable Conditions Precedent (as hereafter defined), Louisville City Stadium will expend at least \$45,000,000.00, and likely in excess of \$50,000,000.00, in financing and capital to fund the construction of the Stadium and the development of the Stadium Parcel beyond the work to be performed or funded by the Metro Parties from the Metro Contribution pursuant to this Agreement, such funds to be secured in a form and on terms to chosen by Louisville City Stadium, which will include, upon approval by Metro Council, an application to Kentucky Economic Development Finance Authority ("**KEDFA**") for a Mixed-Use Redevelopment pursuant to KRS 154.30-060 (the "**TIF**"). It is expected that additional private investment in excess of \$100 million will be spent with respect to the development of the Commercial Property, as defined in Section 3.01.

B. After Metro Council approval, the LCFC Parties shall, with the assistance of the Metro Parties, cause an application for the TIF to be submitted for the purpose of funding the costs permitted thereunder for the Stadium and other Project costs, including as referenced in Section 4.03 below. The LCFC Parties agree that the local, ad valorem real property tax shall not be pledged by Metro under, or requested in the application for, the TIF, as Metro's participation in the Project is through funding the Metro Contribution. The revenue generated by the tax revenues to be retained by Metro and excluded from the TIF is expected to be approximately \$12,000,000.00 over the twenty (20) year term of the TIF.

Section 1.03. Reimbursement Amount.

A. Once the development of the Project has commenced and the Stadium is completed, the LCFC Parties agree to pay, and the Metro Parties agree to accept the receipt of, an aggregate amount of \$14,500,000.00 (the "**Reimbursement Amount**"), as payment in full for, and for the release and conveyance of, the Stadium Parcel, the Lots developed from, and any remaining portion of, the Commercial Property (as hereafter defined), subject to the credits against the Reimbursement Agreement as hereafter provided. The LCFC Parties agree that the Reimbursement Amount shall be paid to the Metro Parties on or before the date falling twenty (20) years after the earlier of (i) the date upon which the Stadium opens to the public, or (ii) April 1, 2020.

B. The following amounts shall be credited against the Reimbursement Amount:

- (i) The aggregate amount of rentals paid to Metro or Authority (or any assignee thereof) under the Stadium Ground Lease (as defined in Section 2.10 below);
- (ii) The amount paid as the Stadium Purchase Price as defined and as contemplated under Section 2.11 below;
- (iii) The aggregate amount of rentals paid to Metro or Authority (or any assignee thereof) for the lease of any Lots (as hereafter defined) as contemplated under Section 3.02 below; and
- (iv) The aggregate amount paid to Metro or Authority for the sale and purchase of any Lots (as hereafter defined) or other portions of the Commercial Property (as hereafter defined in Section 3.02 below).

C. Subject to compliance with all applicable laws, rules, regulations and ordinances, once construction of the Stadium has commenced, Metro approval will not be required for any third-party purchasers or lessees of any Lot, including the purchase or lease of any Lot by BDD or any affiliate or designee thereof, provided that the Minimum Release Price is paid for any such sale, or the Minimum Lease Rate is payable under any such ground lease of a Lot, as applicable.

Section 1.04. Failure to Construct Stadium.

A. In the event that the Metro Parties have performed their obligations under this Agreement, the applicable Governmental Approvals and Stadium Permits (as hereafter defined) have been issued, the appropriate Conditions Precedent have been satisfied and Louisville City

Stadium nonetheless fails to commence construction of the Stadium as defined in Section 2.01 on or before January 1, 2019 (the “**Stadium Commencement Deadline**”), then this Agreement may be terminated by any Party upon written notice given to all of the other Parties within thirty (30) days thereafter; provided, that the Stadium Commencement Deadline shall be extended by delays due to Force Majeure (as hereafter defined), and as may be elected by the LCFC Parties to permit the issuance of necessary Governmental Approvals and Stadium Permits, and the satisfaction of all applicable Conditions Precedent related to the obligations of the Metro Parties.

B. Upon any such termination of this Agreement pursuant to Section 1.04(A) above, then (a) the LCFC Parties shall have the right upon written notice to the Metro Parties given within sixty (60) days after such termination (the “**Section 1.04 Purchase Notice**”) to elect to purchase the Redevelopment Property from Metro or Authority, as applicable, for an aggregate amount equal to the amount of the Metro Contribution actually expended by Metro in accordance with this Agreement and the related out-of-pocket and financing costs incurred by the Metro Parties with respect to the performance of this Agreement (collectively, “**Metro’s Project Costs**”), or (b) if the LCFC Parties do not timely give the Section 1.04 Purchase Notice to the Metro Parties, then the Metro Parties shall have the right and ability to assume control of and to deal with the Redevelopment Property as desired thereafter in the sole discretion thereof, including, without limitation to convey any and all of the Redevelopment Property to another developer, or to hold the property free and clear of any obligation to construct a stadium or other athletic venue.

C. The closing of any purchase of the Redevelopment Property pursuant to this Section 1.04 shall occur at a location within Louisville Metro specified, and on date elected, by the LCFC Parties, and falling within 60 days after the Section 1.04 Purchase Notice from the LCFC Parties. At such closing, Metro shall cause Authority to convey the Redevelopment Property to the purchaser thereof designated by the LCFC Parties by Special Warranty Deed, free and clear of any liens or encumbrances, except for the lien of ad valorem taxes not yet due and payable, and otherwise subject to only the easements, covenants, conditions and restrictions of record with respect to the Redevelopment Property as of the Effective Date or thereafter recorded or imposed with the consent of the LCFC Parties during the Term (as hereafter defined), upon payment of the amount due for such purchase, with other costs of closing to be borne by and/or prorated between the purchaser and Authority in accordance with customary practice in the Louisville Metro area.

## ARTICLE II

### UNDERTAKINGS OF LOUISVILLE CITY STADIUM

Section 2.01. The Stadium Development. Louisville City Stadium agrees to construct, or cause to be constructed, at its sole cost and expense (except as otherwise set forth in this Agreement), the Stadium upon (i) the full execution of the Stadium Ground Lease and the lease thereunder of the applicable area of the Redevelopment Property as described in Section 2.02 hereof by Authority to Louisville City Stadium as contemplated by this Agreement, (ii) the issuance of the Governmental Approvals and of all other permits and approvals necessary to commence and complete construction and/or operation of the Stadium as contemplated by this

Agreement (collectively, the “**Stadium Permits**”), with the exception of permits that are normally and customarily obtained in the ordinary course following commencement and/or completion of construction, such as certificates of occupancy and/or any other permits which by their nature are unable to be issued other than during the course of construction, such as plumbing, electrical and sprinkler permits, and (iii) the satisfaction of the applicable Conditions Precedent.

Section 2.02. Stadium Description.

A. The “Stadium” shall consist of the construction of the improvements as illustrated on the conceptual design drawings, attached hereto as **Exhibit B**, subject to approval of all applicable agencies and governmental authorities, approval of the USL, and the satisfaction of all applicable Conditions Precedent contemplated by this Agreement.

B. The approximate area of the Redevelopment Property which will comprise the Stadium and related parking, amenities and improvements to be constructed by Louisville City Stadium is depicted on **Exhibit C** attached hereto and incorporated herein (the “**Stadium Parcel**”). The final boundaries of the Stadium Parcel will be determined by Louisville City Stadium in conjunction with seeking all necessary approvals of the construction of the Stadium thereon, and shall be subdivided as a separate legal parcel from the remainder of the Redevelopment Property pursuant to an appropriate minor or other subdivision plat (the “**Stadium Parcel Plat**”) to be prepared by an engineering firm or surveyor selected by the LCFC Parties. Metro and/or Authority, as applicable, shall support the approval by the Louisville Metro Planning Commission (the “**Planning Commission**”) and all other applicable agencies and authorities of, and shall join in and execute as required, such Stadium Parcel Plat and all other applications and documentation necessary and appropriate to create the Stadium Parcel as a separate legal parcel.

C. The Metro Parties agree that Louisville City Stadium shall have the right to cause the sidewalks and rights of way abutting the Stadium Parcel to be improved with outdoor seating areas, bicycle racks, landscaping enhancements, signs, awnings, and similar improvements for the benefit of the Stadium and Stadium Parcel, all at no cost other than the cost of installation and maintenance of the applicable improvements, subject to obtaining the usual and customary permits or licenses. Louisville City Stadium and all invitees of the Stadium shall have a right of ingress and egress over such sidewalks and other rights of way for the purpose of vehicular and pedestrian access to the Stadium Parcel and to all loading/unloading areas serving the Stadium pursuant to usual and customary permits issued by Metro.

Section 2.03. Stadium Plans and Construction.

A. Louisville City Stadium anticipates that the Stadium will be completed within twenty-four (24) months from the commencement of construction thereof, subject to performance by the Metro Parties of the respective obligations thereof under this Agreement, the satisfaction of all applicable Conditions Precedent (including the required approval from the Planning Commission and issuance of all required permits) and the other provisions of this Agreement, and to delay due to Force Majeure.

B. The final plans and specifications for the Stadium (the “**Stadium Plans**”) shall be developed by Louisville City Stadium to be in compliance with applicable laws, rules, regulations, codes and ordinances applicable to everyone on a general basis with respect to such matters, and in no event may Metro or Authority be permitted to require any alterations, additions or changes to the Project Plans without the prior approval of Louisville City Stadium in the sole discretion thereof. Louisville City Stadium shall (a) deliver to the Metro Parties a copy of the Stadium Plans and changes thereto during construction of the Stadium, and (b) display to the Metro Parties and their counsel under condition of confidentiality (i) itemized projections of the costs of the Stadium and of the initial operations thereof, (ii) an itemized accounting of the funding sources from which Louisville City Stadium will pay the costs of the Stadium and the costs of the initial operations thereof, and (iii) any approved term sheets/financing commitments from lending institution(s) agreeing to fund construction costs of the Stadium, as all of the same are developed and finalized by Louisville City Stadium from time to time.

C. Louisville City Stadium shall ensure that all construction on the Stadium is of a high quality and workman-like manner.

D. Metro, its agents and employees, shall be granted a right of entry upon the Stadium Parcel at reasonable times upon twenty-four (24) hours' notice during construction of the Stadium to enable Metro to inspect construction of the Stadium through the course of construction, although Metro shall have no obligation to do so. In exercising the foregoing right, Metro, its agents and employees shall not in any way interfere with the construction of the Stadium and shall abide by reasonable safety precautions required by Louisville City Stadium's construction manager.

Section 2.04. Design of the Stadium.

A. The Metro Parties acknowledge and agree that no approval of the Stadium or Stadium Plans is required from either the Waterfront Development Corporation (“**WDC**”) or under the Downtown Review Overlay District (“**DROD**”). Once Louisville City Stadium completes the Stadium Plans and elects to proceed with the construction thereof, then provided that all applicable Conditions Precedent have been satisfied, Louisville City Stadium shall proceed in a commercially reasonable manner to apply for all permits and approvals required for construction of the Stadium, and the Metro Parties shall assist and support Louisville City Stadium in these efforts, including, without limitation, in obtaining approval of the Stadium and Stadium Plans from all applicable agencies, utility providers and governmental authorities, including the Planning Commission. Louisville City Stadium will meet periodically with the City Representative, upon the reasonable prior request thereof and during regular business hours, to discuss each successive version of the Stadium Plans.

B. At the time Louisville City Stadium applies for the preliminary building permit for any construction work, Louisville City Stadium shall, for informational purposes only, notify the City Representative of the availability of, and make available during regular business hours to the City Representative, a set of the Stadium Plans for such construction work.

Section 2.05. Stadium Costs. Louisville City Stadium will bear the costs to construct the Stadium, including the costs of designing, constructing, furnishing, and opening the Stadium (but



excluding the costs funded by the Metro Contribution); provided, that Louisville City Stadium will be entitled to proceeds from the TIF over the term thereof as recovery of such costs. Louisville City Stadium shall further be solely responsible for obtaining financing (whether from institutional lender(s) or otherwise) adequate to complete the Stadium (excluding the costs funded by the Metro Contribution). Louisville City Stadium shall be permitted to mortgage and pledge its interests under the Stadium Ground Lease as collateral security for such Stadium construction financing, the closing and funding of which financing shall be one of the Conditions Precedent under this Agreement.

Section 2.06. Codes. Notwithstanding any provision of this Agreement to contrary, the Project shall comply, in all material respects, with all federal, state and local laws, codes, ordinances, statutes and regulations (as modified by any applicable variance or special exceptions).

Section 2.07. Employment Regulations.

A. The LCFC Parties intend to make a good faith effort to achieve the goals set forth in Louisville Metro Code of Ordinances Section 37.75 with respect to minority participation, women participation and residents within the Louisville MSA during the construction of the Project.

B. In accordance with the requirements of applicable law, Louisville City Stadium shall not refuse to hire or employ, or bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of sex, race, creed, color, national origin, sexual orientation or disability. At all times during the construction of the Stadium and in accordance with applicable law, Louisville City Stadium shall take reasonable steps to ensure that its employees and the employees of its contractors and subcontractors are treated during employment, without regard to their sex, race, creed, color and national origin, sexual orientation or disability, and that its contractors and subcontractors that are constructing the Stadium do not refuse to hire or employ, or bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions, or privileges of employment because of sex, race, creed, color, national origin, sexual orientation or disability.

Section 2.08. Indemnification. Except as may otherwise be provided herein and except for claims arising as a result of a default hereunder by Metro and/or Authority, Louisville City Stadium agrees to indemnify the Metro Parties against any filing of any third-party claims or liens on any part of the Stadium Parcel as a result of Louisville City Stadium's construction of the Stadium, and shall hold the Metro Parties harmless from any and all such claims or liens, except to the extent any such claim or lien is caused by the negligent act or omission or intentional or willful misconduct of the Metro Parties or any of their employees or agents acting within the scope of their employment or agency.

Section 2.09. Requirement for Reporting. Louisville City Stadium agrees to use commercially reasonable efforts to require all applicable taxpayers with respect to the Stadium, including tenants, businesses, employers, contractors and subcontractors, to obtain separate tax

identification numbers for all State and City taxes paid or collected by them for activities occurring within the Stadium, and to report all required information concerning taxes paid or collected to Authority on a timely basis, including:

A. A completed Tax Increment Financing Business Questionnaire for Louisville City Stadium and any lessees operating within the Stadium throughout the life of the TIF;

B. Completed, signed, and notarized information sharing agreements (e.g. KY Department of Revenue Form 51A.290 and any other applicable form agreements) between each contractor or subcontractor and each vendor from which materials are purchased, and which Kentucky sales or use tax is paid;

C. A periodic capital expenditure report evidencing all capital expenditures made in relation to the Stadium to date as and when required from time to time under applicable law, rule or regulation. Such capital expenditure report shall continue to be submitted as and when required until the substantial completion of the Stadium. Each capital expenditure report shall include copies of paid invoices or receipts related to the capital expenditures to the extent required by Authority. All capital expenditure reports shall clearly identify each capital expenditure item and the specific facility and/or improvement to which the expenditure was related; and

D. A periodic tax report, for Louisville City Stadium's own operations as well as for any lessee operating within the Stadium, no later than sixty (60) days after the end of each calendar year, evidencing the following taxes generated within the Stadium and paid during the previous calendar year:

(i) Total state income taxes withheld from employees working within the Stadium or on the Stadium Parcel and remitted to the Kentucky Department of Revenue during the previous calendar year; and

(ii) Total state sales taxes collected and remitted to the Department of Revenue during the previous calendar year on sales transacted within the Stadium or on the Stadium Parcel.

E. If the TIF is activated prior to completion of construction of the Stadium, Louisville City Stadium shall require each contractor and sub-contractor to also complete and sign a Tax Increment Financing Business Questionnaire, and to also submit periodic payroll reports displaying state income taxes withheld from or paid employees for work performed related to the Stadium through substantial completion of construction.

Section 2.10. Stadium Ground Lease. Authority shall lease the Stadium Parcel to Louisville City Stadium, or an affiliate thereof, pursuant to a ground lease (the "**Stadium Ground Lease**") in a form to be agreed by the Parties as a Condition Precedent and which will provide for (a) an initial term of 20 years, with up to two (2) consecutive 15-year extensions to be exercised at Louisville City Stadium's option, and (b) a triple-net annual ground rent commencing upon construction completion and equal to the product of (i) the then current Ground Rent Multiplier (as hereafter defined), and (ii) the product of (A) \$300,000.00, and (B)

the number of acres comprised by the Stadium Parcel (e.g. if the Stadium Parcel comprises 15 acres and the then current Ground Rent Multiplier is two percent (2%), then the annual rent under the Stadium Ground Lease will be the product of 2% x [\$300,000.00 x 15 acres] = \$90,000.00). The annual rent due under the Stadium Ground Lease may be paid monthly, or annually upon the commencement of each lease year, as elected by Louisville City Stadium, and shall be credited against the Reimbursement Amount as and when paid.

Section 2.11. Option to Purchase Stadium Parcel. Louisville City Stadium shall have an option to purchase the Stadium Parcel (the “**Stadium Purchase Option**”) at any time during the term of the Stadium Ground Lease, as extended, for an aggregate purchase price (the “**Stadium Purchase Price**”) equal to the lesser of (a) the product of (i) \$300,000.00, and (ii) the number of acres comprised by the Stadium Parcel, or (b) the balance of the Reimbursement Amount as of the date of closing pursuant to the Stadium Purchase Option. Upon exercise of the Stadium Purchase Option, the ground rent payable under the Stadium Ground Lease shall be prorated to the date of closing of the purchase, the Stadium Ground Lease will terminate as of such closing and the Stadium Purchase Price shall be credited against the Reimbursement Amount as and when paid; provided, that if the Reimbursement Amount has been paid in full prior to such closing, then the Stadium Purchase Price shall be \$1.00. The closing of such a conveyance of the Stadium Parcel pursuant to the foregoing shall occur at a location within Louisville Metro specified, and on date elected, by Louisville City Stadium. At the closing pursuant to the Stadium Purchase Option, Metro shall cause Authority to convey the Stadium Parcel by Special Warranty Deed free and clear of any liens or encumbrances, except for the lien of ad valorem taxes not yet due and payable, and otherwise subject to only the easements, covenants, conditions and restrictions of record with respect to the Stadium Parcel as of the Effective Date or thereafter recorded or imposed with the consent of the LCFC Parties during the Term, with other costs of closing to be borne by and/or prorated between Louisville City Stadium and Authority in accordance with customary practice in the Louisville Metro area.

Section 2.12. Audit of Expenditures. In order to ensure that the construction of the Stadium complies fully with Metro and State reporting requirements, including but not limited to TIF reporting requirements, Metro shall select a City Auditor, at its sole expense, to review all financial records related to the construction of the Stadium. Louisville City Stadium agrees to provide full and complete access to the City Auditor of all of its records and accounts related to the Stadium at all times during the construction and a reasonable time after completion. Subject to KRS Chapter 131, the complete work product of the City Auditor shall be made available to Louisville City Stadium and may be used by Louisville City Stadium for other compliance purposes.

Section 2.13. Stadium Completion Covenant and Guaranty.

A. Provided that this Agreement is not earlier terminated in accordance with the terms hereof, and subject to (a) satisfaction of all applicable Conditions Precedent and issuance of appropriate Governmental Approvals and Stadium Permits, (b) the timely performance by the Metro Parties of the respective obligations thereof under this Agreement, and (c) delays due to Force Majeure, Louisville City Stadium shall construct the Stadium in accordance with the terms and conditions of this Agreement, for a cost anticipated to be at least \$45,000,000 (the “**Stadium**

**Costs**”). As used in this Section, the costs included in the determination of the Stadium Costs are the Project costs incurred by Louisville City Stadium and others in connection with designing, constructing, furnishing and opening the Stadium, including, without limitation, hard costs, soft costs, development rights, legal and professional fees, furniture, fixtures and equipment, applicable Excess Infrastructure Costs, and pre-opening operating supplies and expenses; provided, however, the following costs shall be excluded from the Stadium Costs: the cost of the acquisition of the Stadium Parcel; any development fee or percentage management fee payable to Louisville City Stadium or BDD, or to any affiliated entities controlled thereby; and any interest costs to Louisville City Stadium of financing the Stadium.

B. Soccer Holdings, LLC, a Kentucky limited liability company and the parent of the LCFC Parties (“**Soccer Holdings**”), joins in this Agreement and hereby (a) guarantees the performance of the obligations of Louisville City Stadium under Section 2.13(A) in the completion of the construction of the Stadium after the commencement thereof, and (b) agrees to be bound by the covenants thereof set forth in Sections 2.14(E) and (F) below.

Section 2.14. Additional Representations and Covenants of Louisville City Stadium and Soccer Holdings. Each of Louisville City Stadium and Soccer Holdings, as applicable, represents and covenants as follows:

A. Louisville City Stadium is a limited liability company duly formed and validly existing under the laws of Kentucky with the power and authority to enter into this Agreement.

B. Louisville City Stadium is not a “foreign person” as that term is defined in Section 1445 of the Internal Revenue Code and applicable regulations.

C. The execution of this Agreement and of the Stadium Ground Lease, and the construction of the Stadium by Louisville City Stadium, will not violate any applicable statute, law, ordinance, code, rule or regulation or any restriction or agreement binding upon or otherwise applicable to Louisville City Stadium.

D. During the term of the Stadium Ground Lease, or until such earlier date as the Reimbursement Amount has been paid in full, Louisville City Stadium shall not, without the prior written consent of Metro or Authority, which consent will not be unreasonably delayed, withheld or conditioned, become a party to or the subject of any agreement, transaction or related series of transactions which results in a Stadium Change of Control. For the purpose of this Section 12.14(D), “**Stadium Change of Control**” means the occurrence of one or more of the following events: (a) any sale, lease, exchange or other transfer (in a single transaction or a series of related transactions) of all or substantially all of the assets of Louisville City Stadium to any person or entity, either individually, or acting in concert with one or more other persons or entities; or (b) the sale, exchange, assignment or other transfer to any person or entity, either individually, or acting in concert with one or more other persons or entities, by any shareholder, partner, member or owner of any units of ownership of Louisville City Stadium representing 50% or more of the combined voting power of all outstanding units of ownership of Louisville City Stadium; provided, that transfers among the existing members or managers of Louisville City Stadium and/or entities under common control therewith, and/or persons having a marital or

family relationship therewith and any trusts for the benefit thereof, shall be excluded from the definition of a Stadium Change of Control.

E. During the term of the Stadium Ground Lease, or until such earlier date as the Reimbursement Amount has been paid in full, Soccer Holdings shall not, without the prior written consent of Metro or Authority, which consent will not be unreasonably delayed, withheld or conditioned, become a party to or the subject of any agreement, transaction or related series of transactions which results in a SH Change of Control. For the purpose of this Section 12.14(E), "**SH Change of Control**" means the occurrence of one or more of the following events: (a) any sale, lease, exchange or other transfer (in a single transaction or a series of related transactions) of all or substantially all of the assets of Soccer Holdings to any person or entity, either individually, or acting in concert with one or more other persons or entities; or (b) the sale, exchange, assignment or other transfer to any person or entity, either individually, or acting in concert with one or more other persons or entities, by any shareholder, partner, member or owner of any units of ownership of Soccer Holdings representing 50% or more of the combined voting power of all outstanding units of ownership of Soccer Holdings; provided, that transfers among the existing members or managers of Soccer Holdings and/or entities under common control therewith, and/or persons having a marital or family relationship therewith and any trusts for the benefit thereof, shall be excluded from the definition of a SH Change of Control.

F. In the event that, during the term of the Stadium Ground Lease, Soccer Holdings sells its interest in Louisville City FC to a third party ("**Successor FC Owner**"), said sale agreement shall include a provision that thereafter during the term of the Stadium Ground Lease, or until such earlier date as the Reimbursement Amount has been paid in full, Successor FC Owner shall not move or relocate Louisville City FC from Louisville Metro, and Successor FC Owner shall assume the terms of, and the rights and liabilities of Louisville City Stadium under, the Stadium Ground Lease. For purposes hereof, a "third party" shall be a person or entity which is not an existing member or manager of Soccer Holdings, or an entity under common control therewith and/or persons having a marital or family relationship therewith.

G. None of the LCFC Parties or Soccer Holdings has made any untrue statement of a material fact or failed to state a material fact in this Agreement.

To Louisville City Stadium's knowledge, there are no actions, suits or proceedings pending or threatened against Louisville City Stadium which would, if adversely determined, affect Louisville City Stadium's ability to enter into this Agreement or construct the Stadium in accordance with this Agreement.

#### Section 2.15. Louisville City Stadium Percentage Payment.

A. Louisville City Stadium agrees to pay to Louisville Metro a percentage payment equal to ten percent (10%) of Louisville City Stadium's Operating Cash Flow (as defined below) for each calendar year ("Louisville City Stadium Percentage Payment") in excess of \$750,000 (the "OCF Hurdle"); provided, however, that the Louisville City Stadium Percentage Payment shall be subject to a cap of \$2,000,000 in the aggregate (the "Louisville City Stadium Percentage Payment Cap"). Louisville City Stadium shall pay the Louisville City Stadium Percentage Payment (subject to the Louisville City Stadium Percentage Payment Cap) beginning

in the first calendar year of the operation of the Stadium and ending at the end of the fifteenth calendar year thereafter.

B. As used herein and with respect to the applicable accounting period, the term "Operating Cash Flow" shall mean the Net Income of Louisville City Stadium for each such calendar year, calculated on an accrual basis and consistent with Generally Accepted Accounting Principles, and (i) adding back any deduction for depreciation and amortization expense taken for such year, (ii) adding back any deduction for expenses taken for such year for any amounts paid to any shareholder, partner, member or owner of any units of ownership of Louisville City Stadium, or to any affiliate thereof, or to any shareholder, partner, member or owner of any units of ownership of Soccer Holdings, BDD or Louisville City FC, LLC ("Louisville City Team"), which are not ordinary and necessary in the normal course of business, and (iii) deducting therefrom any required and scheduled principal payments due during such calendar year to any third party lender which is not a shareholder, partner, member or owner of any units of ownership of Louisville City Stadium, or of an affiliate thereof, or a shareholder, partner, member or owner of any units of ownership of Soccer Holdings, BDD or Louisville City Team.

C. If a shareholder, partner, member, or owner of any units of ownership of Louisville City Stadium or an affiliate thereof, or a shareholder, partner, member or owner of any units of ownership of Soccer Holdings, BDD or Louisville City Team extends capital debt or equity in excess of \$15 million dollars to be contributed to the Stadium, the Parties agree to re-negotiate this Section 2.15.

### ARTICLE III

#### UNDERTAKINGS OF BDD

Section 3.01. Commercial Property. For purposes of this Agreement, the area of the Redevelopment Property remaining after the subdivision of the Stadium Parcel therefrom and less the dedication of portions thereof necessary for rights-of-way and/or easements for the construction/relocation of roadways, sidewalks, drainage facilities and other improvements appropriate for the Project in accordance with the Project Development Plan (as hereafter defined), shall be referred to as the "**Commercial Property**". The Parties agree as follows with regard to the Project:

A. BDD and Louisville City Stadium shall create a preliminary site and development plan for the Project (the "**Project Development Plan**") to include (i) a conceptual site and development plan for the Stadium and Stadium Parcel, (ii) a conceptual site and development plan for the Commercial Property, and (iii) the anticipated work related to the Project to be constructed or completed by directly by the Metro Parties and the LCFC Parties, as applicable.

B. The site and development plan for the Commercial Property (the "**Commercial Property Development Plan**") shall be developed and modified by BDD from time to time during the Term so as to be in compliance with applicable laws, rules, regulations, codes and ordinances applicable to everyone on a general basis with respect to such matters, and in no event may the Metro Parties be permitted to require any alterations, additions or changes to the

Commercial Property Development Plan without the prior approval of BDD in its sole discretion. BDD will serve as the exclusive developer of the Commercial Property, with the exclusive right to manage, plan and develop the Commercial Property, and the exclusive option to purchase the Commercial Property and all Lots (as hereafter defined) developed within the Commercial Property, in accordance with the terms of this Agreement.

C. During the Term, and for so long as BDD is not in default under this Agreement beyond any applicable grace or curative period, the Metro Parties may cooperate with BDD as requested in the marketing of the Lots, including referral of potential tenants and purchasers, but shall not, and shall not permit any agency thereof, without the prior consent of BDD, to (i) separately market all or any portion of the Commercial Property, (ii) engage in discussions or negotiations with prospective purchasers, tenants or joint venturers of or with respect to any portion of the Commercial Property, and (iii) accept any offers with respect to any portion of the Commercial Property, whether for lease, purchase, exchange or otherwise.

D. The Metro Parties acknowledge and agree that no approval of the Project Development Plan or of the Commercial Property Development Plan is required from either the WDC or under the DROD. BDD shall proceed in a commercially reasonable manner in seeking any permits and approvals for development of the Commercial Property and each Lot to be developed therefrom, and the Metro Parties shall assist and support BDD in these efforts, including, without limitation, in obtaining approval of Project Development Plan and the Commercial Property Development Plan, and the detailed district development plan and all other applicable plans and submissions applicable to each Lot, from all applicable agencies, utility providers and governmental authorities, including the Planning Commission.

Section 3.02. Lot Sales; Lot Leases.

A. During the Term, Authority will hold title to the Commercial Property for the benefit of BDD until BDD makes a request to Authority for conveyance of all or a portion of the Commercial Property pursuant to the terms of this Agreement. Each such request for a conveyance submitted by BDD to Authority will (i) be in writing with a copy to Metro, (ii) describe a subdivided lot from or other portion of the Commercial Property (a "**Lot**") to be conveyed to BDD, its designee or a designated third-party purchaser, (iii) specify the purchase price to be paid for the Lot (a "**Lot Purchase Price**"), and (iv) include the form of special warranty deed (a "**Lot Deed**") to be executed and delivered for the Lot by Authority, which Lot Deed will specify the grantee designated by BDD; provided, that each Lot shall be subject to a Minimum Release Price (as hereafter defined).

B. The minimum Lot Purchase Price for any Lot (the "**Minimum Release Price**") shall be an amount equal to the product of (a) the number of acres comprised by the subject Lot to be sold, and (b) a per acre amount determined by dividing the then current unpaid balance of the Reimbursement Amount, net of the amount which would be the then applicable Stadium Purchase Price if the Stadium Purchase Option were exercised, by the total area in acres of the Commercial Property then owned by Authority; provided, however, that no real estate sales commissions or other marketing or development fees or charges shall be paid from the sale proceeds of any Lot to the extent that the amount to be paid to Authority from such sale would be reduced below the agreed upon Minimum Release Price for such Lot. Once the

Reimbursement Amount has been paid in full, Authority shall within ten (10) days after written request from BDD, convey to BDD or its designee the remaining unsold Commercial Property and Lots which are not subject to a Lot Lease (as hereafter defined) for a purchase price of \$1.00 per Lot or tract, as applicable. The closing of such a conveyance pursuant to the foregoing shall occur at a location within Louisville Metro specified, and on date elected, by BDD. At such closing, Metro shall cause Authority to so convey such remaining Commercial Property and Lots to BDD or its designee by Special Warranty Deed free and clear of any liens or encumbrances, except for the lien of ad valorem taxes not yet due and payable, and otherwise subject to only the easements, covenants, conditions and restrictions of record with respect to such property as of the Effective Date or thereafter recorded or imposed with the consent of the LCFC Parties during the Term, with other costs of closing to be borne by and/or prorated between the purchaser and Authority in accordance with customary practice in the Louisville Metro area.

C. In lieu of purchasing a Lot as contemplated above, during the Term BDD or its designee shall have the option to lease the Lot from Authority on a triple-net basis (a "Lot Lease"), with the closing on a Lot Lease to be subject to the applicable closing conditions hereafter set forth in this Agreement, and with the form of Lot Lease to be agreed by the Parties as a Condition Precedent. Each Lot Lease shall provide for an initial term of 20 years, with up to two consecutive 15-year extensions to be exercised at tenant's option, and provide for a triple-net annual ground rent ("Lot Rent") equal to at least (the "Minimum Lease Rate") the product of (a) the then current Ground Rent Multiplier, and (b) the Minimum Release Price which would be applicable to such Lot at the time of the Lot Lease (e.g. if the Minimum Release Price for a Lot at the time of the Lot Lease is \$2,250,000 and the then current Ground Rent Multiplier is two percent (2%), then the Minimum Lease Rate for such Lot will be \$45,000.00 per year [i.e.  $2\% \times \$2,250,000 = \$45,000.00$ ]). Such annual Lot Rent may be paid monthly or annually upon the commencement of each lease year as elected by the subject tenant. Each Lot Lease shall provide that the tenant thereunder shall have the exclusive right to purchase the Lot upon written notice to Authority and the payment of the Minimum Release Price which would then be applicable thereto as calculated under Section 3.02(B) above. Such sale and purchase of a Lot so subject to a Lot Lease shall otherwise be made in the same manner as a sale and purchase of a Lot under this Agreement as contemplated in Sections 3.02(A) and (B) above. Once the Reimbursement Amount has been paid in full, Authority shall upon at least ten (10) days' prior written notice by the lessee thereunder, convey the Lot subject to a Lot Lease to such lessee thereof for a purchase price of \$1.00. Each closing of such a conveyance pursuant to the foregoing shall occur at a location within Louisville Metro specified, and on date elected, by the applicable Lot lessee. At each such closing, the applicable Lot Lease will terminate and Metro shall cause Authority to so convey the subject Lot to the lessee thereof or its designee by Special Warranty Deed free and clear of any liens or encumbrances, except for the lien of ad valorem taxes not yet due and payable, and otherwise subject to only the easements, covenants, conditions and restrictions of record with respect to the applicable Lot as of the Effective Date or thereafter recorded or imposed with the consent of the LCFC Parties or lessee of such Lot during the Term, with other costs of closing to be borne by and/or prorated between the purchaser and Authority in accordance with customary practice in the Louisville Metro area. For purposes of this Agreement, the "Ground Rent Multiplier" shall mean: (i) two percent (2%) during the initial ten (10) years of the term of the Stadium Ground Lease and of any Lot Lease; and (ii) four percent (4%) for the remainder of the term of the Stadium Ground Lease and of any Lot Lease, as extended. The Parties can amend the Ground Rent Multiplier applicable to the Stadium



Ground Lease and any current or future Lot Lease by separate letter agreement if the circumstances so dictate.

D. As a prerequisite to the execution of a Lot Lease and if required by Metro, BDD or the designated lessee under the Lot Lease shall enter into a Payment in Lieu of Taxes Agreement (a "**PILOT Agreement**") with Metro, which shall require the tenant under the Lot Lease, in addition to the rent payable thereunder, to make payments to Metro for applicable ad valorem real estate taxes, and/or other applicable service district taxes or fees applicable to the area of the Commercial Property, including but not limited to Urban Service District taxes, which PILOT Agreement shall be in the normal and customary form utilized by Metro.

E. The Metro Parties shall cooperate with BDD in, and execute all applications and other documents incident to, obtaining all necessary approvals for the subdivision of a Lot from the remainder of the Commercial Property, and will execute, acknowledge and deliver the subject Lot Deed, or the Lot Lease thereof, as applicable, to BDD or its designee once such approvals, including any approved subdivision plat(s), have been obtained by BDD.

F. Subject to the satisfaction of all applicable Conditions Precedent and the other applicable provisions of this Agreement, and to the approval of a subdivision plat creating the subject Lot, the closing (a "**Closing**") of the sale and purchase of a Lot, or of a Lot Lease, shall occur at such time and place, and from time to time, as requested by BDD by written notice to the Metro Parties. At each Closing:

(i) The subject Lot shall be conveyed to BDD or its designee by Lot Deed or Lot Lease, free and clear of all liens and encumbrances other than the lien of ad valorem taxes and assessments not yet due and payable, if any, and subject only to governmental laws and regulations (including applicable zoning regulations) affecting the Lot, and to easements, covenants, conditions and restrictions of record with respect to such Lot as of the Effective Date or thereafter recorded or imposed with the consent of BDD during the Term (collectively, the "**Permitted Exceptions**").

(ii) The ad valorem property taxes assessed against the subject Lot, if any, and due and payable in the year of Closing, shall be prorated on a calendar year basis to date of Closing.

(iii) Any Urban Services District ad valorem taxes shall be prorated from the July 1 preceding the date of Closing.

(iv) Metro or Authority shall pay the transfer tax, if any, on the conveyance of the Lot, and the grantee under the Lot Deed shall pay the recording fees therefor.

(v) All utilities and other operating expenses, if any, associated with the subject Lot shall be prorated as of the date of the Closing, and each party shall bear its own legal and other expenses associated with the Closing.

Section 3.03. Indemnification. Except as may otherwise be provided herein and except for claims arising as a result of a default hereunder by Metro and/or Authority, BDD agrees to

indemnify the Metro Parties against any third-party claim or filing of any lien on any part of the Commercial Property owned by Authority as a result of BDD's actions under this Agreement, and shall hold the Metro Parties harmless from any and all such claims or liens, except to the extent any such claim or lien is caused by the negligent act or omission or intentional or willful misconduct of the Metro Parties or any of their employees or agents acting within the scope of their employment or agency.

Section 3.04. Requirement for Tax Reporting. As and when appropriate during the Term after KEDFA approval of the TIF and funding of the Metro Contribution, BDD agrees to thereafter use its commercially reasonable efforts to require, by inclusion of appropriate covenants in each applicable contract, all applicable taxpayers with respect to each Lot with which BDD has a contractual relationship, including tenants, businesses, employers, contractors and subcontractors, to obtain separate tax identification numbers for all State and City taxes paid or collected by them for activities occurring within the Commercial Property, and to report all required information concerning taxes paid or collected to Authority on a timely basis as shall be appropriate or required with regard to and during the term of the TIF, including:

A. A completed Tax Increment Financing Business Questionnaire for BDD and any businesses operating within the Commercial Property throughout the term of the TIF;

B. Completed, signed, and notarized information sharing agreements (e.g. KY Department of Revenue Form 51A.290 and any other applicable form agreements) between each contractor or subcontractor and each vendor from which materials are purchased, and which Kentucky sales or use tax is paid;

C. A periodic capital expenditure report evidencing all capital expenditures made by the applicable person or entity in relation to the Commercial Property to date as and when required from time to time under applicable law, rule or regulation, and requiring that such capital expenditure report shall continue to be submitted as and when required from time to time under applicable law, rule or regulation until the substantial completion of the Commercial Property. Each capital expenditure report shall include copies of paid invoices or receipts related to the capital expenditures to the extent required by Authority. All capital expenditure reports shall clearly identify each capital expenditure item and the specific facility and/or improvement to which the expenditure was related.

D. A periodic tax report, for BDD's own operations, and an appropriate covenant as contemplated above requiring each other business operating within the Commercial Property, no later than sixty (60) days after the end of each calendar year, evidencing the following taxes generated within the Project and paid during the previous calendar year:

(i) Total state income taxes withheld from employees working within the Commercial Property and remitted to the Kentucky Department of Revenue during the previous calendar year; and

(ii) Total state sales taxes collected and remitted to the Department of Revenue during the previous calendar year on sales transacted within the Commercial Property.

E. If the TIF is activated prior to completion of construction in the Commercial Property, BDD shall by contract require each contractor, and require each contractor to so require each sub-contractor, to also complete and sign a Tax Increment Financing Business Questionnaire, and to also submit periodic payroll reports displaying state income taxes withheld from or paid employees for work performed related to the Commercial Property through substantial completion of construction.

Section 3.05. Audit of Expenditures. In order to ensure that construction with regard to the Commercial Property complies fully with Metro and State reporting requirements, including but not limited to TIF reporting requirements, the City Auditor selected with respect to the Stadium, or any other auditor retained by Metro at its sole expense, shall be entitled to review all financial records related to expenditures made by BDD with regard to the Commercial Property. BDD agrees to provide full and complete access to such auditor of all of its records and accounts related to the Commercial Property at all times during the Term. Subject to KRS 131, the complete work product of any such auditor shall be made available to BDD and may be used by BDD for other compliance purposes.

Section 3.06. Additional Representations and Covenants of BDD. BDD represents and covenants as follows:

A. BDD is a limited liability company duly formed and validly existing under the laws of Kentucky with the power and authority to enter into this Agreement.

B. BDD is not a "foreign person" as that term is defined in Section 1445 of the Internal Revenue Code and applicable regulations.

C. Until the earlier to occur of (a) the payment in full of the Reimbursement Amount, (b) the sale or lease of all Lots as contemplated by this Agreement, or (c) at least \$10,000,000.00 has been paid toward the Reimbursement Amount within the initial ten (10) year period of the TIF, BDD shall not, without the prior written consent of Metro or Authority, which consent will not be unreasonably delayed, withheld or conditioned, become a party to or the subject of any agreement, transaction or related series of transactions which results in a BDD Change of Control. Thereafter no such consent from Metro or Authority shall be required. For the purpose of this Section 3.06(C), "**BDD Change of Control**" means the occurrence of one or more of the following events: (a) any sale, lease, exchange or other transfer (in a single transaction or a series of related transactions) of all or substantially all of the assets of BDD to any person or entity, either individually, or acting in concert with one or more other persons or entities, or (b) the sale, exchange, assignment or other transfer to any person or entity, either individually, or acting in concert with one or more other persons or entities, by BDD or any shareholder, partner, member or owner of any units of ownership of the BDD representing 50% or more of the combined voting power of all outstanding units of ownership of BDD; provided, that transfers among the existing members or managers of BDD and/or entities under common control therewith, and/or persons having a marital or family

relationship therewith and any trusts for the benefit thereof, shall be excluded from the definition of BDD Change of Control.

D. The execution of this Agreement and the fulfillment by BDD of its obligations hereunder will not violate any applicable statute, law, ordinance, code, rule or regulation or any restriction or agreement binding upon or otherwise applicable to BDD.

E. BDD, in this Agreement, has not made any untrue statement of a material fact or failed to state a material fact.

F. To BDD's knowledge, there are no actions, suits or proceedings pending or threatened against BDD which would, if adversely determined, affect BDD's ability to enter into this Agreement or perform its obligations hereunder in accordance with this Agreement.

#### ARTICLE IV

##### UNDERTAKINGS OF METRO AND AUTHORITY

###### Section 4.01. Site Work; Remediation; Utility Extensions; Electrical Facilities.

A. Metro Contribution Disbursement. The remainder of the Metro Contribution after the closing of the purchase of the Redevelopment Property (the "**Post-Closing Metro Contribution**") will be deemed distributed to the LCFC Parties and be deposited into escrow by Metro with a federally-insured bank located in Metro Louisville, to be thereafter disbursed from such escrow for direct payment to third parties, and/or reimbursement to the LCFC Parties or affiliates thereof, as applicable, for payment of the other costs related to the Project and Redevelopment Property to be funded by the Metro Contribution under in this Agreement. Such funds shall be drawn and paid from escrow upon presentation of certified draws from the LCFC Parties as approved by Authority in the reasonable discretion thereof, and which approval shall be given by Metro for payment of all such expenditures made in accordance with this Agreement, when requested by the LCFC Parties so as to permit the Parties to meet the scheduling under the Project Development Plan and the deadlines otherwise imposed under this Agreement.

B. Site Work. Subject to expenditure of a maximum amount equal to the Post-Closing Metro Contribution:

(i) the Metro Parties shall be responsible for all (1) clearing and grubbing, (2) demolition of all structures, foundations and parking areas, and (3) grading, cut, fill and compaction with clean fill, and other related site and development work, determined necessary and appropriate by the LCFC Parties in order to bring the Stadium Parcel and the other buildable areas of the Redevelopment Property, including any areas thereof that are located within the 100-year floodplain which can and are approved by all necessary governmental authorities to be filled and elevated above the 100-year floodplain as determined necessary by the LCFC Parties, to a finished, level and compacted condition suitable for construction of improvements thereon as contemplated by this Agreement and as otherwise approved by all applicable agencies, utility providers and governmental

authorities and as acceptable to the LCFC Parties, as appropriate (collectively, the “**Site Work**”).

(ii) the Metro Parties shall use the respective best commercially reasonable efforts thereof, and shall cooperate with the LCFC Parties, in order to seek all necessary permits and approvals to fill and elevate the areas of the Redevelopment Property located within the 100-year floodplain or otherwise susceptible to floodwater retention, detention or presence related to the Ohio River and tributaries thereof, as a part of the Site Work and so as to maximize the area of the Redevelopment Property suitable for improvement and use as contemplated by this Agreement.

C. Environmental Remediation. The Metro Parties have been responsible for performing all testing, assessments and other examinations of the Redevelopment Property prior to the Effective Date of this Agreement (the “**Environmental Testing**”) in order to determine to what extent Hazardous Materials (as defined below) are present in, on, or under the Redevelopment Property, and have determined that any such presence is acceptable to the Metro Parties. Subject to expenditure of a maximum amount equal to the aggregate amount of the Post-Closing Metro Contribution, the Metro Parties shall conduct any remedial measures or management of any such Hazardous Materials disclosed by the Environmental Testing, or otherwise known to be present upon any portion of the Redevelopment Property, as may be required by the Commonwealth of Kentucky National Resources and Environmental Protection Cabinet or any other local or federal agency or authority, in order to permit the use of the Stadium Parcel and the Commercial Property for the purposes contemplated by this Agreement (collectively, the “**Environmental Remediation**”). As used herein, the term “**Hazardous Material**” means collectively (a) petroleum and the products and by-products thereof, (b) asbestos, and (c) any radioactive, hazardous or toxic substance, material or waste which is or becomes regulated by any applicable federal, state, or local governmental agency or authority, including, any material or substance which is (i) designated as a “hazardous substance” pursuant to Section 311 of the Federal Water Pollution Control Act (33 USC Section 1317), (ii) defined as “hazardous waste” pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act (42 USC Section 6903), (iii) defined as a “hazardous substance” pursuant to Section 101(14) of the Comprehensive Environmental Response Compensation and Liability Act (“**CERCLA**”) (42 USC Section 9601), and (iv) defined as a “pollutant” or “contaminant” pursuant to Section 101(33) of CERCLA.

D. Utility Extensions. Subject to expenditure of a maximum amount equal to the Post-Closing Metro Contribution, the Metro Parties shall be responsible for extending all public utility services (including electricity, potable water, natural gas, sanitary sewers and storm sewers/drainage) to the boundaries of the Stadium Parcel and the boundaries of the Commercial Property, with each such service to be in sufficient size and capacity to serve the Stadium and uses permitted to be constructed upon the Commercial Property (collectively, the “**Utility Extensions**”).

E. Electrical Transmission Facilities. The Metro Parties shall use the respective best commercially reasonable efforts thereof and cooperate with the LCFC Parties to seek the agreement of the utility providers which own or have authority over the above-ground electrical transmission lines and related facilities located on or adjacent to any portions of the

Redevelopment Property, or on or adjacent to rights-of-way abutting the exterior collective boundary of the Redevelopment Property, to bury such lines and related facilities, or to relocate such lines away from the Redevelopment Property to the maximum extent possible, so as to remove or lessen to the greatest extent possible the visual impact and appearance of such lines and related facilities when viewed from the Stadium Parcel and other Lots.

F. Excess Costs. The Parties agree to meet and confer prior to the commencement of any Public Infrastructure improvements for the purpose of planning a budget and timeline for the items of Public Infrastructure necessary to complete the Project. To the extent that the Post-Closing Metro Contribution is expended and is insufficient to cover the costs associated with the Site Work, Environmental Testing, Environmental Remediation, Utility Extensions and other work contemplated by Section 4.01(A) through (E) above, then the Parties shall seek to reach agreement on a budget and timeline for the completion of such work, with related deadlines under this Agreement being accordingly extended; provided, that LCFC Parties may elect from time to time, in the discretion thereof and in the absence of an agreement to the contrary reached among the Parties, to fund and assume completion of all or any portions of such work, in compliance with applicable laws, rules and regulations, as the LCFC Parties shall determine necessary or appropriate in order to permit the LCFC Parties to exercise rights and privileges granted thereto under this Agreement.

Section 4.02. Stadium Parcel Plat; Stadium Ground Lease Execution.

A. The Metro Parties shall cooperate with the LCFC Parties in preparation of and obtaining all necessary approvals for the Stadium Parcel Plat, which will subdivide the Stadium Parcel from the Redevelopment Property, and which will comprise all of the land necessary for the development and construction of the Stadium and to be subject to the Stadium Ground Lease.

B. When requested by Louisville City Stadium after the final approval of the Stadium Parcel Plat and the satisfaction of all applicable Conditions Precedent set forth in this Agreement and the issuance of applicable Governmental Approvals and Stadium Permits, Authority shall execute and deliver the Stadium Ground Lease and thereby lease the Stadium Parcel to Louisville City Stadium, or an affiliate thereof designated by Louisville City Stadium, pursuant to the terms thereof. Notwithstanding the foregoing, the LCFC Parties shall have free access to the Redevelopment Property from and after the Effective Date for purposes of performing the respective obligations, and exercising the respective rights, thereof under this Agreement.

Section 4.03. TIF. After obtaining the requisite approvals from Metro Council, and the receipt by Metro from the LCFC Parties of necessary and appropriate information regarding infrastructure and other costs for which the same are responsible under, or which each may incur pursuant to, this Agreement with respect to the Project, the City Representative, as defined in Section 4.07, will together with the LCFC Parties enter into negotiations with the Commonwealth of Kentucky, Cabinet for Economic Development (the "Cabinet") and KEDFA to reach the necessary agreements and to establish the TIF, to provide for (a) the release of all available state tax revenues, including sales tax refunds and including the projected state revenue to be generated by the TIF, to the LCFC Parties for the use thereby as permitted under the such agreements and pursuant to the TIF, and (b) the retention by Metro of the projected local ad

valorem property tax incremental revenues to be generated under the TIF in order to assist in the payment of costs and obligations to be incurred by the Metro Parties under and pursuant to this Agreement. the LCFC Parties agree to fully cooperate with the City Representative in such negotiations.

Section 4.04. Reimbursement of Option Costs. Upon execution of the Assignment Agreement, the LCFC Parties shall be reimbursed by the Metro Parties for the option payments made by the LCFC Parties or affiliates thereof under the Option Agreements.

Section 4.05. General Assistance.

A. Commencing on the Effective Date and continuing for the Term, the Metro Parties shall use all commercially reasonable efforts to assist the LCFC Parties, to the extent requested thereby, in obtaining all permits and approvals, that are sought by the LCFC Parties in connection with the development, construction, operation and maintenance of their respective projects as contemplated by this Agreement. In addition, the Metro Parties, as applicable, and to the extent necessary, shall:

(i) Execute all necessary and appropriate applications and other documentation for, and otherwise assist the LCFC Parties in pursuing, any changes to or variances of the zoning ordinance, or other land use ordinances, deemed necessary or appropriate by the LCFC Parties in order to accommodate the development of the Project as contemplated by this Agreement; and

(ii) Execute all necessary and appropriate applications and other documentation for, and otherwise assist the LCFC Parties in, applying for any and all governmental approvals or permits that are necessary or desirable to carry out the development of the Project as contemplated by this Agreement.

B. Metro shall provide security and police protection to the Project in the same manner and at the same level as Metro provides police protection to comparable facilities located in the Louisville Central Business District (the "CBD"). Metro shall cause the Project and the streets around the Project to be patrolled by uniformed police on a regular basis. In addition, Metro agrees to assist the LCFC Parties with scheduling periodic meetings with the commanders of the police district or districts in which the Project is located to discuss security needs and concerns.

C. The Metro Parties shall cooperate with the efforts of Louisville City Stadium to promote the Stadium as it may request from time to time, and shall encourage convention, visitors and tourism entities that promote the Butchertown Area and the CBD to market and promote the Project.

D. Upon completion of the Project, Metro shall maintain all public rights-of-way adjacent to and/or abutting the Project in the same manner as provided for other similar rights-of-way in the CBD.

Section 4.06. Compliance with TIF and related Agreements. The Metro Parties agree to comply with all material requirements and obligations of applicable law and all agreements applicable to the TIF and not to permit any event of default to occur that is not cured in a reasonable time during the term of this Agreement or the terms of such other respective agreements, as appropriate.

Section 4.07. Additional Representations and Covenants of Metro Parties. The Metro Parties represent and covenant as follows:

A. Metro is a Kentucky consolidated local government possessing the requisite authority to enter into this Agreement and to grant the rights provided for herein.

B. Authority is a Kentucky non-profit corporation in good standing possessing the requisite authority to enter into this Agreement.

C. Neither Metro nor Authority, in this Agreement nor in any schedule, exhibit, document or certificate delivered in accordance with the terms hereof, has made any untrue statement of a material fact or failed to state a material fact.

D. From and after the Effective Date, there shall be no mortgages, debt, mechanic liens or other encumbrances on the Stadium Parcel or any Lot due to the acts of Metro or Authority; provided, that this representation and covenant shall not apply to ad valorem tax liens which may apply or be filed as a result of non-payment of ad valorem taxes.

Section 4.08. Representative of Metro. Metro agrees that the General Counsel of Metro, or his/her designee shall act as its agent (the "**City Representative**") to receive any and all submissions and to grant any and all approvals, consents and/or permissions required to be given by Metro (except for regulatory approvals), pursuant to this Agreement and/or with respect to the Project.

Section 4.09. Access. From and after the Effective Date, the Metro Parties shall permit the LCFC Parties, and their respective contractors, consultants and invitees, to enter upon the Redevelopment Property for all desired inspections of the Redevelopment Property and otherwise in connection with matters relating to the Project.

Section 4.10. Public Infrastructure. For purposes of this Agreement, "**Public Infrastructure**" shall include, but not be limited to, the following costs related to the Project and the Redevelopment Property: (a) demolition of existing structures/improvements on the Redevelopment Property, (b) Site Work, (c) Environmental Testing, (d) Environmental Remediation, (e) Utility Extensions, (f) the costs related to the following as called for under the Project Development Plan and Commercial Property Development Plan: (i) installation of street lighting, benches, planters and other public amenities, (ii) construction of parking and additional public areas upon and adjacent to the Redevelopment Property, and (iii) the widening, alteration, relocation and/or improvement of streets and roadways and sidewalks adjacent thereto, and (g) infrastructure costs with regard to the Project as permitted to be included with respect to the TIF. Notwithstanding the foregoing, the obligation of the Metro Parties with regard to funding the



costs of the Public Infrastructure shall not exceed the amount of the Post-Closing Metro Contribution.

## ARTICLE V

### GOVERNMENTAL APPROVALS; CONDITIONS PRECEDENT

#### Section 5.01. Governmental Approvals.

A. The obligations of the LCFC Parties under this Agreement with regard to the Project shall be contingent upon the Metro Parties issuing or obtaining, as applicable, the following approvals and/or eliminating or causing the elimination of the following conditions (collectively, the “**Governmental Approvals**”):

(i) If required under applicable law as a condition precedent to the ability of the Metro Parties to perform their respective obligations under this Agreement, Metro Council, by resolution duly enacted on or before September 28, 2017, approve the Assignment Agreement and this Agreement, authorize the Metro Contribution, and declare the Redevelopment Property surplus to the needs of Metro and authorize the conveyance of the respective parcels thereof as contemplated by this Agreement.

(ii) After the Metro Council approvals under Section 5.01(A)(i) above, KEDFA and all other applicable governmental authorities shall have given all necessary approvals and executed all necessary and appropriate agreements to establish the TIF as contemplated by this Agreement.

B. The Governmental Approvals must be obtained by the specified deadlines set forth above, provided however that if any legislative or administrative approval has not been formally obtained by that date but is pending before the appropriate legislative or administrative body and the City Representative reasonably anticipates that final approval will be obtained in a reasonable time, the LCFC Parties will extend the time for such Governmental Approval until the expected date of final approval and in such event all other dates and deadlines in this Agreement, including those dependent upon such Governmental Approval as well as the Stadium Commencement Deadline, shall be extended on a day for day basis until all Governmental Approvals have actually been obtained.

Section 5.02. Conditions Precedent. The obligations of the LCFC Parties under this Agreement shall be subject to the satisfaction or waiver by the LCFC Parties of the following conditions (collectively, the “**Conditions Precedent**” and each, a “**Condition Precedent**”), as determined and evidenced in writing thereby in the respective sole discretion thereof:

A. All representations and warranties of the Metro Parties shall remain true and correct, and the Metro Parties shall have duly performed all of their respective obligations to be performed by that time under this Agreement, including funding of the Metro Contribution as contemplated by Section 1.01, and completion of any work undertaken by the Metro Parties

under Article IV above or otherwise pursuant to this Agreement, to the full satisfaction of the LCFC Parties;

B. The Parties shall have agreed upon the form of the Stadium Ground Lease and the form to be utilized for a Lot Lease before the closing of the purchase of the Redevelopment Property by the Metro Parties;

C. The Governmental Approvals shall have been obtained and shall remain in full force and effect, and the TIF shall be established and the other agreements contemplated by Section 4.03 shall be in effect to the satisfaction of the LCFC Parties, by the applicable deadlines therefor;

D. The rezoning of all portions of the Redevelopment Property to an EZ-1 or other classification(s) as requested by the LCFC Parties consistent with the initial Project Development Plan and Commercial Property Development Plan, shall be final and non-appealable before the Stadium Commencement Deadline;

E. Louisville City Stadium shall have received approval of the Stadium from the USL, shall have secured financing for the construction of the Stadium and funding of development costs of the Stadium Parcel to be paid by Louisville City Stadium hereunder, satisfactory to Louisville City Stadium in all respects, and shall have received the Stadium Permits and all necessary and appropriate permits and approvals with respect to the Stadium Plans and the Stadium Parcel from the Planning Commission and from all applicable utility providers, agencies and all other governmental authorities, within such period as shall be necessary or appropriate in order for Louisville City Stadium to commence construction of the Stadium by the Stadium Commencement Deadline;

F. The LCFC Parties shall have received such other documents in Metro's or Authority's possession or control as either may reasonably request for the purpose of (a) evidencing the accuracy of any of the representations and warranties of the Metro Parties under this Agreement, or (b) evidencing the performance by Metro or Authority of, or the compliance by Metro or Authority with, any covenant or obligation required to be performed or complied with by each, prior to closing on the financing for, or commencing construction of, the Stadium, or evidencing the satisfaction of any Condition Precedent referred to in this Section;

G. Louisville City Stadium shall have received reports, prepared by an engineer satisfactory to Louisville City Stadium, confirming that all Site Work and Environmental Remediation undertaken by the Metro Parties pursuant to this Agreement with respect to the Stadium Parcel has been completed to the satisfaction of Louisville City Stadium and to all applicable governmental agencies and authorities within such period as shall be necessary or appropriate in order for Louisville City Stadium to commence construction of the Stadium by the Stadium Commencement Deadline;

H. BDD shall have received an environmental report, prepared by an engineer satisfactory to BDD, confirming that all Environmental Remediation undertaken by the Metro Parties with respect to the Commercial Property pursuant to this Agreement has been to the satisfaction of BDD and to all applicable governmental agencies and authorities; and

I. On or prior to the closing of the purchase of the Redevelopment Property by the Metro Parties, Metro shall have delivered to the LCFC Parties legal opinions from the County Attorney, in forms reasonably acceptable to the LCFC Parties, regarding the power and authority of the Metro Parties to (i) enter into this Agreement and to grant the rights and perform the obligations provided for herein, (ii) lease and convey the Stadium Parcel without further Metro Council approvals or actions; and (iii) convey and/or lease the Lots without further Metro Council approval as contemplated by this Agreement.

In the event each of the Conditions Precedent have not been satisfied, or waived in writing by the LCFC Parties, by such date or within such period as set forth above, or within such period which by implication would otherwise normally apply, with respect to any Condition Precedent, then the LCFC Parties may terminate this Agreement upon written notice to the Metro Parties, in which event the LCFC Parties or the designee thereof shall for a period of sixty (60) days after such termination have an exclusive option to purchase the Redevelopment Property from Authority (the "**LCFC Purchase Option**") for the amount of the Metro Project Costs expended by Metro to such date of termination. The LCFC Purchase Option is in addition to any purchase options or rights of purchase reserved or established under the Assignment Agreement. The closing pursuant to the LCFC Purchase Option shall occur at a location within Louisville Metro specified, and on date elected, by the LCFC Parties, and falling within 60 days after written exercise of the LCFC Purchase Option. At such closing, Metro shall cause Authority to convey the Redevelopment Property to the designee of the LCFC Parties by Special Warranty Deed free and clear of any liens or encumbrances, except for the lien of ad valorem taxes not yet due and payable, and otherwise subject to only the easements, covenants, conditions and restrictions of record with respect to the Redevelopment Property as of the Effective Date or thereafter recorded or imposed with the consent of the LCFC Parties during the Term, upon payment of the amount due for such purchase, with other costs of closing to be borne by and/or prorated between the purchaser and Authority in accordance with customary practice in the Louisville Metro area.

## ARTICLE VI

### TERM

Section 6.01. Term of Agreement. This Agreement has a term (the "**Term**") that commences on the Effective Date and, unless this Agreement is otherwise earlier terminated in accordance with the terms hereof, shall terminate on the later of (a) the date falling twenty (20) years after the date upon which the Stadium opens to the public, (b) the date upon which the approved term of the TIF expires, or (c) the date upon which the Stadium Ground Lease and all Lot Leases have terminated.

## ARTICLE VII

### EVENTS OF DEFAULT

Section 7.01. Events of Default by the LCFC Parties. Each of the following shall constitute an “**Event of Default by the LCFC Parties**”:

A. The failure of Louisville City Stadium or BDD to perform or to observe any covenant, obligation or requirement of this Agreement and the continuation of such failure for thirty (30) days after receipt of written notice from Metro and/or Authority specifying the nature and extent of any such default, or if such default cannot reasonably be cured within such thirty (30) day period, the failure of Louisville City Stadium or BDD to (i) commence to cure such default within such thirty (30) day period, and (ii) diligently continue to pursue such efforts to cure completion;

B. The failure of Louisville City Stadium to commence construction of the Stadium by the Stadium Commencement Deadline, subject to the conditions and as the same may be extended as contemplated by this Agreement, and the continuation of such failure for thirty (30) days after receipt of written notice from Metro and/or Authority, or if such default cannot be reasonably cured within such thirty (30) day period, the failure of Louisville City Stadium to (i) commence to cure such default within such thirty (30) day period, and (ii) diligently continue to pursue such efforts to completion.

C. The filing by any LCFC Party or Soccer Holdings of a voluntary proceeding, or the consent by any LCFC Party or Soccer Holdings to an involuntary proceeding, under the present or future bankruptcy, insolvency, or other laws respecting debtor's rights;

D. The entering of an order for relief against any LCFC Party or Soccer Holdings, or the appointment of a receiver, trustee, or custodian for all or a substantial part of the property or assets of any LCFC Party or Soccer Holdings, in any involuntary proceeding, and the continuation of such order, judgment or degree unstayed for any period of ninety (90) consecutive days.

Section 7.02. Events of Default by Metro or Authority. Each of the following shall constitute an “**Event of Default by Metro or Authority**”:

A. The failure of Metro or Authority to perform or to observe any covenant, obligation or requirement of this Agreement applicable thereto, and the continuation of such failure for thirty (30) days after receipt of written notice from Louisville City Stadium or BDD specifying the nature and extent of any such default, or if such default cannot reasonably be cured within such thirty (30) day period, the failure of Metro or Authority to (i) commence to cure such default within such thirty (30) day period, and (ii) diligently continue to pursue such efforts to cure completion;

B. The failure of Metro or Authority to perform or to observe any non-monetary covenant, obligation or requirement thereof under this Agreement, and the continuation of such failure for thirty (30) days after receipt of written notice from Louisville City Stadium and/or

BDD specifying the nature and extent of such default, or if such default cannot reasonably be cured within such thirty (30) day period the failure of Metro or Authority (i) to commence to cure such default within such thirty (30) day period and to diligently continue to pursue such efforts to cure to completion.

C. The filing by Metro or Authority of a voluntary proceeding or the consent by Metro or Authority to an involuntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtor's rights.

D. The entering of an order for relief against Metro or Authority or the appointment of a receiver, trustee, or custodian for all or a substantial part of the property or assets of Metro or Authority in any involuntary proceeding, and the continuation of such order, judgment or decree unstayed for any period of ninety (90) consecutive days.

Section 7.03. Remedies of the Metro Parties. Should an Event of Default by the LCFC Parties occur and not be cured within the applicable cure period, then (a) Metro or Authority may exercise any and all remedies available to it, at law or in equity, (b) all remedies shall be cumulative and not restrictive of other remedies, and (c) this Agreement shall terminate with respect to the LCFC Parties upon written notice to such parties by Metro and/or Authority.

Section 7.04. Remedies of the LCFC Parties. Should an Event of Default by the Metro Parties occur, and not be cured within the applicable cure period, then the LCFC Parties may terminate this Agreement upon written notice to the Metro Parties and, in addition, may exercise any and all remedies available to them at law or in equity. Upon any such termination, the LCFC Parties shall be entitled to exercise the LCFC Purchase Option in the same manner and for the same 60-day period as would apply upon a termination of this Agreement under Section 5.02 above.

Section 7.05. Damages. Notwithstanding any provision of this Agreement to the contrary, the parties hereby agree in any action hereunder against the other to seek recovery only of actual damages incurred as well as court costs and reasonable attorney's fees to and through trial and all levels of appeal, and each party waives any right to recover punitive and/or consequential damages as a result of any default or Event of Default by the other parties under this Agreement.

## ARTICLE VIII

### MORTGAGEE RIGHTS

Section 8.01. Right to Mortgage. Notwithstanding any other provisions of this Agreement, the LCFC Parties shall each individually at all times have the right to encumber, pledge, grant, or convey its respective rights, title and interest in and to the Project, or any portion or portions thereof, including, without limitation, in the Stadium Ground Lease or in any Lot Lease, and/or to this Agreement by way of a mortgage, pledge, assignment or other security agreement (a "**Mortgage**") to secure the payment of any loan or loans obtained by Louisville City Stadium and/or BDD to finance or refinance any portion or portions of the Project. The beneficiary of or mortgagee under any such Mortgage is hereby referred to herein as a

“Mortgagee”. Notwithstanding the above or any other provision of this Agreement, there shall be no right of Louisville City Stadium or BDD to encumber the fee title to any Redevelopment Property while owned by Metro and/or Authority.

Section 8.02. Notice of Breaches to Mortgagees. In the event Metro and/or Authority gives written notice to Louisville City Stadium or BDD of a breach of its respective obligations under this Agreement, Metro and/or Authority shall forthwith furnish a copy of the notice to the Mortgagees that have been identified to Metro and/or Authority by Louisville City Stadium or BDD, as applicable. To facilitate the operation of this Section 8.02, BDD shall at all times keep the Metro Parties provided with an up-to-date list of the respective Mortgagees thereof and of any affiliates thereof.

Section 8.03. Mortgagee May Cure Breach.

A. In the event that Louisville City Stadium or BDD receives notice from the Metro Parties of a breach thereby of any of its respective obligations under this Agreement and such breach is not cured by Louisville City Stadium or BDD, as applicable, pursuant to the provisions of this Agreement, the Metro Parties shall, in addition to the notice provided in Section 8.02 hereof, give notice of the failure to cure, on the part of Louisville City Stadium or BDD, as applicable, to the applicable Mortgagees at the expiration of the period within which Louisville City Stadium or BDD may cure as set forth in this Agreement. Any one of the Mortgagees may proceed to cure any such failure and such Mortgagee, if it elects to cure such default, shall give the Metro Parties written notice of its intention so to cure within thirty (30) days after the receipt of the additional notice herein set forth. In the event that any Mortgagee elects to proceed to cure any such default, such Mortgagee shall do so within the applicable cure period contained in this Agreement; provided, however, that the commencement of the cure period for the Mortgagee shall commence on the date the Mortgagee notifies the Metro Parties of the Mortgagee's election to cure such default and each applicable cure period shall be deemed doubled in length for Mortgagee.

B. In the event any Mortgagee elects to exercise its rights of foreclosure under a Mortgage (or appoint a receiver or accept a deed and/or assignment-in-lieu of foreclosure), after foreclosure of the applicable encumbered interest in and to the Project or any portion thereof (or after the appointment of a receiver or the obtaining of an encumbered interest in and to the Project or any portion thereof via deed and/or assignment-in-lieu of foreclosure), such Mortgagee may at its option:

(i) elect to assume the respective position of Louisville City Stadium or BDD under this Agreement, in which case, in the event the Metro Parties have terminated this Agreement, the Metro Parties agree that this Agreement shall be deemed reinstated and such Mortgagee shall cure the applicable defaults by Louisville City Stadium or BDD hereunder that the Mortgagee had received notice of in accordance with the provisions of Section 8.03 hereof within the timeframes contained in this Agreement; or

(ii) elect not to reinstate the provisions of this Agreement. The Mortgagee shall have the right so to elect (i) above of this Section 8.03.B only if it shall exercise

such right within six (6) months after the receipt by the Mortgagee of the notice given to the Mortgagee pursuant to Section 8.03A hereof.

Section 8.04. Rights and Duties of Mortgagee. In no event shall any Mortgagee be obliged to perform or observe any of the covenants, terms or conditions of this Agreement on the part of Louisville City Stadium or BDD to be performed or observed, or be in any way obligated to complete the improvements contemplated to be constructed in accordance with this Agreement, nor shall it guarantee the completion of any improvements, whether as a result of (a) its having become a Mortgagee, (b) the exercise of any of its rights under the instrument or instruments whereby it became a Mortgagee (including without limitation, foreclosure or the exercise of any rights in lieu of foreclosure), (c) the performance of any of the covenants, terms or conditions on the part of Louisville City Stadium or BDD to be performed or observed under this Agreement, or (d) otherwise, unless such Mortgagee shall either make the election set forth in Section 8.03.B.(i) of this Agreement or shall specifically elect under this Section 8.04 to assume the applicable obligations of Louisville City Stadium or BDD by written notice to the Metro Parties whereupon such Mortgagee, upon making any such election as aforesaid, shall then and thereafter for all purposes of this Agreement be deemed to have assumed all of the applicable obligations of Louisville City Stadium or BDD hereunder.

Section 8.05. Mortgagee's Rights Agreements. the Metro Parties covenant and agree with the LCFC Parties that Metro, acting by and through the City Representative, and Authority, shall, at the request of Louisville City Stadium or BDD made from time to time and at any time, enter into a lender's rights agreement with any Mortgagee (or potential Mortgagee) identified by Louisville City Stadium or BDD, which lender's rights agreement shall be consistent with the terms and provisions contained in this Article VIII of this Agreement that apply to Mortgagees and Mortgages. Within thirty (30) days of a request for a lender's rights agreement pursuant to the provisions of this Section 8.05, time being of the essence, Metro, acting through the City Representative, and Authority, shall execute and deliver to Louisville City Stadium or BDD, as applicable, such a lender's rights agreement benefiting the identified Mortgagee (or potential Mortgagee) and such Mortgagee's Mortgage (or potential Mortgagee's potential Mortgage), which executed lender's rights agreement shall be in a form and substance that are reasonably acceptable to such Mortgagee (or potential Mortgagee) and that is consistent with, and at the option of such Mortgagee (or potential Mortgagee) incorporates, the terms and provisions of this Article VIII that apply to Mortgagees and Mortgages (such as the Mortgagee notice provisions and the Mortgagee cure rights provisions of this Article VIII).

## ARTICLE IX

### MISCELLANEOUS

Section 9.01. Governing Law. This Agreement, the construction thereof and the rights and obligations of the parties hereunder, shall be governed in all respects by the laws of the Commonwealth of Kentucky.

Section 9.02. Severability. Each and every provision hereof, including Articles, Sections, and Subsections shall be separate, several and distinct from each other provision hereof, and the

invalidity, unenforceability or illegality of any such provision shall not affect the enforceability of any other provision hereof.

Section 9.03. Section Headings and Captions. The section headings and captions in this Agreement are for convenience of reference only and shall not affect the construction of the terms and provisions hereof.

Section 9.04. Time of the Essence; Mutual Extension; Diligent Performance. Time shall be of the essence with respect to the duties and obligations imposed on the parties hereto. Where any time for performance or otherwise is set forth herein, such time may be extended by mutual agreement of Metro, Authority, the LCFC Parties. With respect to any duty or obligation imposed on a party to this Agreement, unless a time is specified for the performance of such duty or obligation, it shall be the duty or obligation of such party to commence and perform the same in a diligent manner and to complete the performance of such duty or obligation as soon as reasonably practicable after commencement of performance thereof.

Section 9.05. Force Majeure. In the event that any of the Parties to this Agreement shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of any act of God, governmental action or inaction, severe or inclement weather conditions, earthquakes, floods, strikes, lock-outs, labor troubles, shortage of materials, failure of power, riots, insurrection, terrorism, war, litigation or for any other reason, condition or event not within the reasonable control of such Party in performing the acts required under the terms of this Agreement (“**Force Majeure**”), then performance of such shall be extended for a period equivalent to the period of such delay.

Section 9.06. Notices. Whenever a notice is required or permitted to be given to a Party hereunder, such notice shall be in writing and shall be deemed to have been made when hand delivered or two (2) business days after being deposited in the United States certified mail, postage prepaid, return receipt requested, or UPS Overnight, addressed to the Parties, or to such other address as the receiving Party shall have notified the sender, as follows:

If to Metro: Economic Development Department  
444 S. Fifth Street, Ste. 600  
Louisville, KY 40202  
Attn: E. Jeffrey Mosley

If to Authority: Metro Development Authority, Inc.  
444 S. Fifth Street, Ste. 600  
Louisville, KY 40202  
Attn: Laura Ferguson



With copy to: Mr. Matt Golden  
Jefferson County Attorney's Office  
Director, Civil Division  
9<sup>th</sup> Floor, Fiscal Court Building  
Louisville, Kentucky 40202

If to Louisville City Stadium: Louisville City Stadium, LLC  
127 South 6th Street  
Louisville, Kentucky 40202  
Attn: Manager

With copy to: Soccer Holdings, LLC  
127 South 6th Street  
Louisville, Kentucky 40202  
Attn: Manager

With copy to: Gregory A. Compton, Esq.  
Christopher M. George, Esq.  
Dinsmore & Shohl LLP  
4965 US Highway 42, Ste. 2800  
Louisville, KY 40222

If to BDD: Butchertown Development District, LLC  
127 South 6th Street  
Louisville, KY 40202  
Attn: Manager

With copy to: Soccer Holdings, LLC  
127 South 6th Street  
Louisville, Kentucky 40202  
Attn: Manager

With copy to: Gregory A. Compton, Esq.  
Christopher M. George, Esq.  
Dinsmore & Shohl LLP  
4965 US Highway 42, Ste. 2800  
Louisville, KY 40222

Section 9.07. Entirety of Agreement. This Agreement, together with all Exhibits attached hereto and referred to herein and which Exhibits are hereby incorporated in this Agreement, constitutes the entire understanding and agreement of the Parties with respect to the matters set forth herein, and all prior agreements and understandings, if any, among the Metro Parties, Louisville City Stadium and/or BDD are merged herein. The Exhibits to this Agreement constitute a material part hereof and are incorporated by reference herein. This Agreement may not be modified, amended or revoked, except in writing, executed by an authorized representative of Louisville City Stadium, BDD, Authority and Metro.

Section 9.08. Brokers and Finders; Fees and Expenses. Each Party represents and warrants to the others that it has engaged no broker or finder in connection with the negotiation of this Agreement, and each Party indemnifies and holds to the extent permitted by law the others harmless against any claims for fees for such services by any person or firm claiming under or through such Party. Each Party shall bear its own respective expenses and costs for legal, accounting and administrative services in connection with the negotiation of this Agreement and consummation of the transactions contemplated hereby, except as expressly provided otherwise in this Agreement or otherwise mutually agreed to in writing by the Parties. Each Party hereto indemnifies and holds the others harmless, to the extent permitted by law, against any claims for fees for such services any person or firm claiming under or through such Party.

Section 9.09. Successors and Permitted Assigns. This Agreement shall be binding on and shall inure to the benefit of the Parties named herein and their respective successors and assigns; provided, however, that neither Louisville City Stadium nor BDD shall assign all or any part of this Agreement without the prior written consent of Metro, which consent shall not be unreasonably withheld, delayed or conditioned, and which consent shall be deemed given by Metro if not denied in writing, with specificity of the full reasons for such denial together with a statement of the reasonable conditions upon which approval of assignment will be given, within thirty (30) days after written request for such approval from the LCFC Parties.

Section 9.10. Estoppels. Each of the Parties hereto agrees to provide to the others, or to such third parties as may be reasonably requested by the others, written estoppels from time to time certifying, among other matters, the continued viability of this Agreement, the absence of any defaults hereunder (or, if defaults exist, specifying in detail the nature of such defaults), the status of the obligations of the Parties each to the other, and such other matters as may reasonably be requested by the Party requesting such estoppel certificate(s).

Section 9.11. No Third Party Beneficiaries; No Partnership or Joint Venture Created. Each of the Parties hereto agrees that nothing contained in this Agreement shall be deemed or construed by any of them, or by any third party, as creating any relationship of third party beneficiary, principal and agent, general partnership or joint venture or any other association or relationship among Louisville City Stadium, BDD, Authority and Metro. The terms and provisions of this Agreement are solely for the benefit of each of the parties hereto, their successors and permitted assigns, and shall not benefit in any manner any person not a Party to this Agreement.

Section 9.12. No Abrogation of Legal Requirements. Nothing contained herein shall be construed to permit any Party to violate any applicable law, regulation or code.

Section 9.13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

Section 9.14. Binding Effect. Each of the Parties hereto covenants and warrants that (i) it is duly authorized to transact business in the Commonwealth of Kentucky, (ii) the person

executing this Agreement on behalf of a Party is duly authorized by such Party to sign and execute this Agreement on its behalf, (iii) this Agreement is a valid and binding obligation on the Party and enforceable in accordance with its terms, and (iv) it is the intention of each of the Parties to this Agreement that it shall be binding and legally enforceable in accordance with its terms.

Section 9.15. Provisions Not Merged with Deeds and Other Agreements. This Agreement shall not terminate upon any Closing, and the provisions of this Agreement shall not be deemed to be merged into any deeds or other agreements executed and delivered at a Closing.

Section 9.16. Right to Representation. Each Party to this Agreement has had the opportunity to have counsel of its choice review this Agreement and such Party's obligations hereunder on its behalf prior to such Party's execution and delivery of this Agreement. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any Party by any court or other governmental or judicial authority by reason of such Party having or being deemed to have drafted, structured or dictated such provision. All Parties have freely negotiated this Agreement.

Section 9.17. Further Assurances. Each Party hereto will, whenever and as often as they shall be requested so to do by another Party hereto, execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered, any and all such further assignments, continuations, instruments of further assurance, approvals, consents and any and all such further instruments and documents as may be necessary, expedient or proper in the reasonable opinion of such Party's counsel used in this transaction in order to complete any and all transfers, admissions and assignments provided for therein.

Section 9.18. Confidentiality. The Metro Parties acknowledge and agree that any information provided by the LCFC Parties concerning the cost of developing the Project, the terms of any financing of the Project, and information furnished pursuant to Sections 2.05, 2.09 and 3.04 constitute "**confidential financial information**" and may contain "**trade secrets**" and "**confidential information**". Accordingly, the Metro Parties, to the fullest extent permitted by applicable law, shall deny public inspection of such information. The parties acknowledge that the Metro Parties are public agencies and therefore subject to the open records law as set forth in KRS 61.870 through 61.884. the Metro Parties agree to deny the right to inspect the above described documents as exempt from inspection pursuant to KRS 61.878 unless ordered to disclose such documents by an opinion of the Kentucky Attorney General or a court of competent jurisdiction. the LCFC Parties each agrees to use commercially reasonable efforts to identify all documents furnished to Metro or Authority which it considers to be confidential or proprietary as "**CONFIDENTIAL AND PROPRIETARY INFORMATION**".

Section 9.19. Representatives Not Individually Liable. No member, official, representative, or employee of Metro and/or Authority (including but not limited to the City Representative) shall be personally liable to Louisville City Stadium or BDD or any successor in interest in the event of any default or breach by Metro and/or Authority for any amount which may become due to Louisville City Stadium or BDD or successor there of or on any obligations under the terms of this Agreement. No partner, member, representative, or employee of

Louisville City Stadium or BDD or any of their respective employees, representatives, managers or members shall be personally liable to Metro and/or Authority in the event any default or breach by Louisville City Stadium or BDD for any amount which may become due to Metro and/or Authority or on any obligations under the terms of this Agreement.

Section 9.20. Payment or Performance on Saturday, Sunday, or Holiday. Whenever the provisions of this Agreement call for any payment or the performance of any act on or by a date that is a Saturday, Sunday, or legal holiday of the Commonwealth, including the expiration date of any cure periods provided herein, then such payment or such performance shall be required on or by the immediately succeeding day that is not a Saturday, Sunday, or legal holiday of the Commonwealth.

Section 9.21. Incorporation into Agreement and Recitals. The recitals set forth above are true and correct and are incorporated herein by reference and made a part of this Agreement.

Section 9.22. Conflict of Terms. It is the intention of the Parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render a provision valid and enforceable, then the provision shall have the meaning which renders it valid and enforceable.

Section 9.23. No Waiver. No failure on the part of a Party to enforce any covenant or provision contained in this Agreement nor any waiver of any right under this Agreement shall discharge or invalidate such covenant or provision or affect the right of the other Party to enforce the same in the event of any subsequent default.

Section 9.24. No Representations or Warranties Not Expressly Made. Each Party hereby acknowledges that no representations or warranties have been made by any other party to this Agreement except as expressly set forth in this Agreement. Each party has had an ample opportunity to consult with advisors and consultants of its choosing, and has made an independent determination to undertake its obligations as set forth in this Agreement.

Section 9.25. Consent to Jurisdiction and Venue. Each Party hereby consents to the jurisdiction of any state or federal court located within the County of Jefferson, Commonwealth of Kentucky, and each waives any objection it may have based on improper venue or *forum non conveniens* to the conduct of any proceeding in any such court.

[SIGNATURES APPEAR ON NEXT PAGE]

IN TESTIMONY WHEREOF, witness the signatures of the authorized representatives of the parties hereto as of the day and year first written above.

**BDD:**

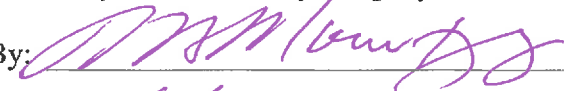
**BUTCHERTOWN DEVELOPMENT  
DISTRICT, LLC**, a Kentucky limited  
liability company

By: 

Title: Chair

**LOUISVILLE CITY STADIUM:**

**LOUISVILLE CITY STADIUM, LLC**, a  
Kentucky limited liability company

By: 

Title: Chair

Approved as to form and  
legality:



Assistant County Attorney

**METRO:**

**LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT**

By: 

Greg Fischer, Mayor

**AUTHORITY:**

**METRO DEVELOPMENT AUTHORITY,  
INC.**, a Kentucky non-profit, non-stock  
corporation

By: 

Title: President

JOINDER

The undersigned joins in this Agreement and agrees to be bound hereby for the purposes more fully set forth in Sections 2.13(B), 2.14(E) and 2.14(F) thereof.

**SOCCER HOLDINGS, LLC**, a  
Kentucky limited liability company

By: 

Title: Co Chair