

STADIUM DEVELOPMENT AGREEMENT

by and between

**THE SPORTS AUTHORITY OF THE COUNTY OF KNOX AND THE CITY OF
KNOXVILLE, TENNESSEE**

and

RR LAND LLC

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Agreement**”) is made and entered into effective as of _____, 202_ (the “**Execution Date**”) by and between The Sports Authority of the County of Knox and the City of Knoxville, Tennessee, a public nonprofit corporation (“**Authority**”) which was organized by permission granted by the Council of the City of Knoxville (the “**City**”) and the Commission of Knox County, Tennessee (the “**County**”), and RR Land LLC, a Tennessee limited liability company (“**Developer**”).

RECITALS

WHEREAS, Authority is a public, nonprofit corporation formed pursuant to Chapter 67, Title 7, Tennessee Code Annotated, as amended (the “Act”);

WHEREAS, Boyd Sports, LLC, a Tennessee limited liability company (“**Tenant**”) is an affiliate of Developer and is the owner of a Minor League Baseball team (sometimes referred to as the “**Club**”) which operates pursuant to a license granted by Major League Baseball (“**MLB**”);

WHEREAS City and County recognize the presence of Club and the playing of the home games of Club in Knoxville, especially in its downtown area, provides a unique value to City and County, including generating new jobs, additional revenue sources and economic development and increased tourism for City and County;

WHEREAS, the MLB has required that a new ballpark be constructed as a condition to Club’s re-location of Club to Knoxville, and Authority has agreed to finance and own and, through the engagement of Developer, to design, develop and construct a new, first-class, state-of-the-art, natural or artificial turf, open-air Stadium and related facilities that will serve as the home of the Club and will also host concerts, other sporting events and community-oriented events (the “**Stadium**”);

WHEREAS, Developer or an affiliate has contemporaneously herewith granted and conveyed to Authority title to the real property described on Exhibit A attached hereto and incorporated herein by reference (the “**Real Property**”);

WHEREAS, concurrently with the execution of this Agreement, Authority and Tenant entered into that certain Stadium Lease Agreement (the “**Lease**”), whereby Authority has agreed to lease to Tenant and Tenant has agreed to lease from Authority, the Stadium; and

WHEREAS, the Parties desire to enter into an agreement that establishes the process and schedule for the design, development and construction of the Stadium.

AGREEMENTS

NOW, THEREFORE, for and in consideration of the respective covenants and agreements of the Parties herein set forth, and other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged, the Parties, each intending to be legally bound, do hereby agree as follows:

ARTICLE I. GENERAL TERMS

1.1 Definitions and Usage. Unless the context shall otherwise expressly require, capitalized terms used in this Agreement shall have the meanings assigned to them in the Glossary of Defined Terms attached hereto at Appendix A and incorporated herein by reference, which also contains rules as to usage that shall be applicable herein. Terms used but not defined herein shall have the meaning ascribed to such terms in the Lease.

ARTICLE II. REPRESENTATIVES

2.1 Authority Representative. Authority shall designate one or more Persons to be the representative(s) of Authority (the “**Authority Representative**” for purposes of this Agreement), and Authority shall have the right, from time to time, to change the Person(s) who is the Authority Representative by giving at least five (5) Business Days prior written notice to Developer thereof. The only functions under this Agreement of Authority Representative shall be as expressly specified in this Agreement. If Authority appoints more than one Authority Representative, Authority shall specify to Developer the matters as to which each Authority Representative shall have the authority to Act. The authority of each Authority Representative to bind Authority in those instances in which this Agreement specifically provides for the Approval, decision, confirmation or determination of Authority Representative shall be set forth in resolution(s) adopted by the board of directors of Authority (and provided to Developer); *provided, however,* that notwithstanding anything in this Agreement to the contrary, Authority Representative shall not have any right to modify, amend or terminate this Agreement.

2.2 Developer Representative. Developer has designated Partners and Associates, Inc., d/b/a Partners Associates to be the representative of Developer (the “**Developer Representative**”), who shall be authorized to act on behalf of Developer under this Agreement. Developer shall have the right, from time to time, to change the Person who is the Developer Representative by giving at least five (5) Business Days prior written notice to Authority thereof. Any written Approval, decision, confirmation or determination hereunder by the Developer Representative shall be binding on Developer; *provided, however,* that notwithstanding anything in this Agreement to the contrary, the Developer Representative shall not have any right to modify, amend or terminate this Agreement. The Developer’s Representative will act as the lead point of contact to coordinate all scheduling, budget, design and construction matters related to the Stadium. The costs and expenses of the Developer’s Representative in performing its services shall be included as part of the Stadium Budget and paid as part of the Stadium Costs.

2.3 Collaborative and Cooperative Process. The Parties intend that the design, development, construction and furnishing of the Stadium Improvements shall be a cooperative process. The Parties agree that, subject to reasonable limitations and exceptions relating to trade secrets and proprietary information (which such limitations and exceptions shall not apply if

Authority Representative has agreed to a mutually acceptable confidentiality and non-disclosure agreement), each Representative will have full access to any information available from the Developer Representative, the CM, the Project Architect and all other contractors, subcontractors, consultants and other Persons retained in connection with the design, development, construction and furnishing of the Stadium Improvements. For purposes of participating in the process of managing construction costs and continuing to be involved and informed during the design and construction of the Stadium Improvements, the Developer shall deliver to the Authority Representation periodically (but no less frequently than monthly) reports of the progress of construction of the Stadium Improvements, including, but not limited to draw requests submitted by the CM, construction observation reports, budget updates and copies of all change order requests (the “Periodic Stadium Reports”). In addition, the Developer Representative will meet with the Authority Representative periodically (but no less frequently than monthly) to review the Periodic Stadium Reports and the progress of the Stadium Improvements (the “Periodic Status Meetings”) and, upon the request, will provide periodic construction updates to the governing body of Authority or any designated committee thereof.

**ARTICLE III.
CONDITIONS TO AUTHORITY OBLIGATIONS AND COMMENCEMENT OF
CONSTRUCTION**

3.1 Conditions to Authority Obligations. This Agreement shall not be effective with respect to any Authority obligation hereunder and Authority shall not be obligated to move forward with any of the terms of this Agreement until the conditions in Section 3.1.1 through Section 3.1.4 (the “**Conditions to Authority Obligations**”) are satisfied. Authority shall provide written notice to Developer when the Conditions to Authority Obligations are satisfied.

3.1.1 MLB Approvals. Club shall have obtained any required approvals or consents required from MLB authorizing the location of the Club in Knoxville, Tennessee and the Club’s use of the Stadium as its home park by no later than 2024.

3.1.2 Lease Execution. Authority and Tenant shall have entered into the Lease.

3.1.3 Receipt of Documents. Authority shall have received executed copies of Developer’s Agreements with the Project Architect, the CM, and the Developer’s Representative.

3.1.4 Additional Conditions. The conditions to commencement of the Stadium Improvements Work set forth in Section 3.2 shall have been met.

3.2 Conditions to Commencement of Construction. Developer shall not commence the Stadium Improvements Work until the conditions in Section 3.2.1 through Section 3.2.4 (the “**Conditions to Commencement**”) are satisfied or waived, such conditions to be satisfied on or before the respective dates set forth below. Authority shall provide written notice to Developer when the Conditions to Commencement are satisfied and specify such date as the “Construction Commencement Date.” Authority and Developer acknowledge and agree that the timeframes within which each of the Conditions to Commencement are to be satisfied shall be implemented in a manner that assures, to the extent commercially reasonable and in accordance with Applicable

Law, that Developer achieves Substantial Completion of the Stadium Improvements Work on or before the Substantial Completion Deadline (as the same may be extended by an Excusable Developer Delay Period).

3.2.1 Public Infrastructure Agreement. Authority and the City have entered into an agreement, in a form satisfactory to Developer, pursuant to which the City agrees, for the benefit of Authority, to construct the Public Infrastructure Improvements in accordance with the Public Infrastructure Plans.

3.2.2 Utility Infrastructure Agreement. Authority and KUB have entered into an agreement, in a form satisfactory to Developer, pursuant to which the City agrees, for the benefit of Authority, to construct the Utility Infrastructure Improvements in accordance with the Public Infrastructure Plans.

3.2.3 Redevelopment Agreement. Authority and KCDC have entered into the Redevelopment Agreement, in a form satisfactory to Developer, which, among other items, shall include provisions to make improvements to the culvert that is located on the boundary of KCDC's property and the property on which the Stadium will be located.

3.2.4 Plans for Stadium Improvements and Stadium Budget. The Plans for Stadium Improvements and a final Stadium Budget shall have been Approved by each of the Parties pursuant to Section 5.1.1 hereof. Any subsequent changes to such Infrastructure Plans shall be governed by Section 8.1.

3.2.5 Financing. By [February 28, 2022], or as soon thereafter as commercially reasonable and in accordance with all Applicable Laws, the Financing shall have closed and the proceeds thereof shall be available to Authority to pay the costs of issuance thereof (which are not a part of Stadium Costs) and the Stadium Costs.

3.2.6 Governmental Authorizations. As soon as commercially reasonable after the completion and delivery to Authority of the Project Plans and in accordance with all Applicable Laws, Developer shall have obtained all Governmental Authorizations necessary to permit commencement of construction of the Stadium Improvements, including building permits and engineering and land use approvals necessary for the commencement of development and construction of the Stadium Improvements.

3.3 Agreement to Consult and Assist. Prior to the Construction Commencement Date, the Representatives shall meet and consult with each other and reasonably assist each other with respect to satisfaction of the Conditions to Commencement.

3.4 Termination for Failure of Conditions to be Satisfied.

3.4.1 Conditions to Authority Obligations Not Satisfied. If for any reason all of the Conditions to Authority Obligations have not been fully satisfied (or waived in writing as specifically authorized by the Parties) by [May 1, 2022], as the same may be extended by an

Excusable Development Delay Period, then in such event, Authority may, by written notice to Developer, elect to terminate this Agreement.

3.4.2 Conditions to Commencement Not Satisfied. If for any reason all of the Conditions to Commencement have not been fully satisfied (or waived in writing by Developer Representative or Authority Representative as applicable) by [May 1, 2022], as the same may be extended by an Excusable Authority Delay Period or an Excusable Development Delay Period, as applicable and in accordance with this Agreement, then such failure shall not be construed to be an Event of Default under this Agreement, but in such event, either Developer or Authority may, by written notice to the other Parties, elect to terminate this Agreement.

3.4.3 Effect of Termination. Upon any termination of this Agreement pursuant to this ARTICLE III, the Lease shall also terminate and the Parties shall have no further rights, obligations or liabilities under such agreements (except pursuant to the provisions of such agreements which expressly survive termination) and the Parties automatically shall be released from any future obligations under this Agreement or the Lease that arise after the date of termination but shall not be released from any obligations which arise or relate to occurrences prior to the date of termination.

ARTICLE IV. TERM

4.1 Term. The term under this Agreement (the “Term”) shall commence at 12:00 a.m. on the day immediately following the Execution Date and shall end on 11:59 p.m. on the date Final Completion occurs as required in Section 5.1.6 hereof.

4.2 Commencement of Construction. The date on which all Conditions to Commencement are satisfied is the “Construction Commencement Date”.

ARTICLE V. CERTAIN DEADLINES AND DELIVERABLES

5.1 Deadlines Subsequent to Commencement of Term. Subject to extension as a result of an Excusable Developer Delay Period or an Excusable Authority Delay Period, as appropriate, in accordance with the terms of this Agreement and after the Construction Commencement Date, the Parties shall meet the following deadlines in connection with the following matters:

5.1.1 Plans for Stadium Improvements. Developer shall cause the Plans for Stadium Improvements to be completed within sixty (60) days following the Execution Date, which Plans for Stadium Improvements shall be subject to the Approval of Authority and shall be consistent in all material respects with the Schematic Plans for the Stadium. Promptly following the completion and Approval of the Plans for Stadium Improvements, the CM, in consultation with the Developer Representative and Authority Representative, shall obtain bids from appropriately licensed subcontractors for each component of the construction of the Stadium Improvements that will be undertaken by a subcontractor. In connection with such bidding process, the Authority

Representative shall be entitled to receive full access to information relating to the subcontractors requested to provide bids, the bids received and such other information as the Authority Representative may request in order to determine that Authority is receiving the lowest cost for the construction of the Stadium. After completion of this process, the Stadium Budget shall be revised to reflect the results of the bidding process, and such revised Stadium Budget shall be substituted as Exhibit B, for the Exhibit B originally attached to this Agreement. If the cost to construct the Stadium Improvements would exceed the original total Stadium Budget following the undertaking of such bidding process, Developer and Authority, in consultation with the CM, the Developer Representative and the Authority Representatives will use reasonable efforts to negotiate and agree upon such changes to the Plans for Stadium Improvements so that the cost of the Stadium Improvements does not exceed the original total Stadium Budget and shall complete or terminate such negotiation process within forty-five (45) days. If Developer and Authority are not able to successfully reduce the cost of the Stadium Improvements in a manner that is acceptable to both parties after such negotiation period, either party may terminate this Agreement, and the parties shall have no further obligations hereunder. Alternatively, Authority and Developer may agree to increase the original total cost of the Stadium Budget, but such increase shall only be permitted if such increase is also approved the governing bodies of the City and the County.

5.1.2 Scheduled Stadium Improvements Start Date Milestone. Developer shall cause the construction (which includes demolition and excavation and other site preparation to the extent not completed prior to the Execution Date) of the Stadium Improvements to commence on or before the day that is thirty (30) days after the Construction Commencement Date.

5.1.3 Stadium Budget. Except to take into account any changes to the Stadium Budget pursuant to Section 5.1.1 and change orders entered into pursuant to Section 6.8 hereof, Developer shall not modify the Stadium Budget in any material respect without the prior Approval of the Authority Representative, such approval not to be unreasonably withheld, conditioned or denied; provided, however, that Authority shall have the sole discretion to elect not to approve any modification to the Stadium Budget if Authority reasonably believes that such modification will increase the costs or liabilities of the Authority relating to the construction of the Stadium. Developer will promptly provide Authority Representative with written notice of any proposed material change to the Stadium Budget for Authority's Approval, such Approval not to be unreasonably withheld, conditioned or denied.

5.1.4 Stadium Construction Schedule. Developer will provide Authority Representative with notice of any material change to the Stadium Construction Schedule for Authority's Approval, such Approval not to be unreasonably withheld, conditioned or denied provided such change would not result in the Final Completion Date occurring after [May 1, 2024].

5.1.5 Substantial Completion. Developer shall cause Substantial Completion of the Stadium Improvements Work to occur on or before the Substantial Completion Deadline. On or before [October 1, 2023], Authority Representative shall provide written notice to Authority as to whether Authority Representative believes (to the best of the knowledge of the Developer Representative after reasonable inquiry) that the Substantial Completion Deadline will be met.

5.1.6 Punch-list Items. Upon Substantial Completion, Developer shall provide notice thereof to Authority. Authority Representative and Developer Representative shall schedule a time to meet within ten (10) Business Days thereafter to inspect the Stadium and for Developer to prepare a “punch-list” of items that are reasonably required to be completed or repaired prior to Final Completion of the Stadium. The CM shall complete, or cause to be completed, all reasonable punch-list items within sixty (60) days after the inspection or as soon as is reasonably practicable in light of the work to be performed.

5.1.7 Final Completion. On or before the date which is ninety (90) days after the Substantial Completion Date, Developer shall cause Final Completion of the Stadium Improvements Work to occur (using its commercially reasonable efforts to not unreasonably interfere with Club’s business operations at the Stadium).

5.1.8 Scheduled Infrastructure Improvements Start Date Milestone. Authority shall require the City and KUB, as applicable, to cause the construction of the Public Infrastructure Improvements and Utility Infrastructure Improvements for which they are responsible to commence so that such construction will be completed no later than the Final Completion Date.

5.2 Extension of Substantial Completion Deadline. In the event Developer fails to achieve Substantial Completion of the Stadium Improvements Work on or before the Substantial Completion Deadline (as the same may have been extended by any Excusable Developer Delay Period), Developer shall have the continuing right and option to extend the Substantial Completion Deadline, as such Substantial Completion Deadline may be extended pursuant to the terms of this Section 5.2 so that Developer may cause Substantial Completion of the Stadium Improvements Work to occur, provided Developer must continue to diligently and continuously prosecute the Stadium Improvements Work (subject to Excusable Developer Delay) after the original Substantial Completion Deadline (as the same may have been extended by Excusable Developer Delay or the terms of this Section 5.2).

5.3 Financing Proceeds. Developer acknowledges that Authority intends to use Financing Proceeds to pay for a portion of the Stadium Costs. The proceeds of the Financing shall be applied to pay Stadium Costs and shall be disbursed as provide in the documents pursuant to which the Financing is undertaken, which disbursement procedures shall be subject to the Approval of Developer. In no event shall the amount disbursed from the proceeds of the Financing to pay Stadium Costs exceed, \$74,300,000. In the event any Financing Proceeds remain after Final Completion of the Stadium, then such remaining Financing Proceeds shall be allocated between Developer and Authority as follows: The first \$1,000,000 (or such lesser amount if the remaining amount is less than \$1,000,000) will be deposited in the Capital Improvements Reserve Fund. After such deposit, 50% of the remainder shall be paid to Developer (the “**Developer Portion**”) and 50% of the remainder shall be to Authority (the “**Authority Portion**”), in each case to be applied in accordance with the provisions of this Section 5.3. Developer shall apply the Developer Portion to reimburse Developer for costs incurred by Developer in connection with improvements to the Stadium paid by Developer, and the Authority Portion may be used by the Authority for such other purpose(s) as may be permitted by Applicable Laws and the terms of the Financing.

**ARTICLE VI.
CONSTRUCTION OF STADIUM IMPROVEMENTS; GENERAL WORK
REQUIREMENTS**

6.1 General Provisions.

6.1.1 Stadium Improvements. Developer shall develop and construct the Stadium Improvements in accordance with the terms and conditions of this Agreement and all Applicable Laws, and shall diligently and continuously adhere to the Stadium Construction Schedule (subject to any Excusable Developer Delay permitted in accordance with the terms of this Agreement) and the Plans for Stadium Improvements.

6.1.2 Quality Standard and Minimum Requirements. Developer and Authority covenant and agree that the scope of design and development specifications for construction, and the construction, of the Stadium Improvements will adhere to the Quality Standard and include the Minimum Requirements.

6.2 Authority's Access to the Stadium Improvements. At all times during the Term, Authority, its agents and contractors shall have the right of access, for themselves and their authorized representatives, to the Stadium and Real Property and all portions thereof for the purpose of conducting inspections for purposes of determining compliance with this Agreement. Such access shall be during normal construction hours during the construction period, provided Authority and all such agents, contractors, licensees, and concessionaires (i) notify Developer and the Developer Representative in advance of such proposed entry, (ii) do not hinder or interfere with the construction of the Stadium Improvements or the activities of Developer's contractors (including the CM), (iii) take such reasonable protective precautions or measures as Developer, the Developer Representative, or the contractors (including the CM) may reasonably request, given the stage of the construction of the Stadium Improvements at the time of such entry and (iv) comply with and be subject to the provisions of the Stadium Construction Contract relating to Authority's rights to access including providing the insurance required by the terms of the Stadium Construction Contract (or, if the CM does not specify the same, then by providing such insurance as Developer may reasonably request).

6.3 Pre-Existing Site Conditions. Prior to the Operating Term Commencement Date, Developer shall be responsible for performing or causing to be performed, and for paying the cost of performing as a part of the Stadium Budget, any and all corrective or remedial actions (including all investigation, monitoring, etc.) required by Applicable Law (including the Antiquities Code) to be performed with respect to any (i) state historical landmarks present at, in, on or under the Stadium prior to the Construction Commencement Date and (ii) any Pre-Existing Environmental Conditions in accordance with Section 9.2.

6.4 Work Performed.

6.4.1 General Requirements. Developer shall, at its sole cost and expense (except as otherwise provided in this Agreement), perform or cause the performance of the

Stadium Improvements Work in accordance with and subject to the terms of this Agreement, and Developer shall promptly and faithfully cause the CM to cause the construction of the Stadium Improvements Work under the Stadium Construction Contract in accordance with the terms and provisions thereof and keep and perform all of the covenants and conditions contained in the Stadium Construction Contract to be kept and performed by Developer; provided, however (i) Developer shall not be in breach of its obligations in this sentence if its failure to so keep and perform is caused by the failure of Authority or its Related Parties to perform their respective obligations under this Agreement and (ii) so long as Developer is using good faith, diligent efforts to achieve Substantial Completion of the Stadium Improvements Work, Developer's liability related to any failure with respect to achieving the Stadium Construction Schedule, including achieving Substantial Completion of the Stadium Improvements Work by the Substantial Completion Deadline or any subsequent date, will be solely as set out in Article XIV.

6.4.2 Stadium Construction Contract. The Stadium Construction Contract shall (a) contain a completion guaranty and guaranteed maximum or fixed price for the Final Completion of the Stadium Improvements Work, (b) cause the CM to obtain, keep and maintain performance and payment bonds from a Qualified Surety in a total amount equal to one hundred percent (100%) of the costs of the Stadium Improvements Work, such performance and payment bonds to be held by and firmly bound unto Developer, and (c) comply with the terms of Section 6.4.5 below.

6.4.3 Record Drawings and Other Documents. Upon Substantial Completion of the Stadium Improvements Work, Developer shall furnish to Authority (i) three (3) copies of the as-built drawings that the CM deliver to Developer under the Stadium Construction Contract; and (ii) three (3) copies of the operating and maintenance data binders supplied by the CM under the Stadium Construction Contract.

6.4.4 Warranty Claims. Developer shall take commercially reasonable efforts to enforce all warranty and similar claims with respect to the Stadium Improvements, and following the Final Completion Date, Developer shall assign all warranties and similar claims to Authority to the extent such warranties are not initially in Authority's name. Authority shall make Developer aware of any defects or warranty issues which come to its attention with respect to the Stadium Improvements. Developer and Authority shall cooperate with each other in prosecuting any and all warranty and similar claims, under any and all contracts or other agreements with third parties for the design or construction of the Stadium. Authority Representative shall have the right to Approve the terms of all material warranties included in all contracts relating to the construction of the Stadium.

6.4.5 Construction Cooperation. Developer will conduct the Stadium Improvements Work, and require the CM to conduct the Stadium Improvements Work, in accordance with the cooperative process described in Section 2.3, including the following:

- (a) instructing the CM or the Project Architect to provide Authority with a duplicate copy of all preliminary drawings or specifications, written notices and other documentation delivered or received by any of them contemporaneously

with their delivery to Developer, including advance notice of any meetings to discuss the Periodic Stadium Reports; and

(b) allowing Authority Representative to attend all Periodic Status Meetings.

6.5 Cost Overruns. Developer shall be responsible for any Cost Overruns. The term “**Cost Overruns**” as used in this Agreement shall mean the amount by which Stadium Costs exceed the Stadium Budget; *provided*, that, Cost Overruns shall not include such excess costs and expenses (a) to the extent such excess arises out of or is attributable to any cost or expense caused by the request, act or omission of Authority, including any requested change order Approved by Authority or (b) for which any Party is expressly liable by a provision of this Agreement, in each case, such excess costs and expenses to be paid by the Party responsible therefor. Developer shall complete the Stadium Improvements Work irrespective of any Cost Overruns and bear the expense of such Cost Overruns, including, if necessary, through making a claim against any payment and performance bonds maintained pursuant to Section 6.4.2 hereof.

6.6 Pre-Development Expenses. All Pre-Development Expenses shall be paid by Developer unless reimbursed pursuant Section 5.3.

6.7 Design Fees. All Design Fees, including fees for the Preliminary Architect, shall be included in the Stadium Budget and will be paid as part of the Stadium Costs.

6.8 Reports. Developer shall provide Club Representative and Authority Representative with a monthly report showing amounts funded against the Stadium Budget. At Final Completion, Developer shall provide Club with a final, reconciled report certified by the Developer Representative showing all amounts funded against the Stadium Budget. Authority, at its expense (except as provided below), shall have the right, at any time during the Term of this Agreement to take such action and to receive such information as is reasonably necessary to confirm the accuracy of the monthly reports and the final, reconciled report produced by Developer pursuant to this Section 6.8 to confirm Developer’s compliance with the terms of this Agreement. Any such confirmation will be commenced and conducted with reasonable promptness, after reasonable notice to Developer, and shall be performed by a person or entity whose fee is not calculated on a contingent basis.

6.9 Change Orders. The Parties acknowledge and agree that the Project Plans may need to be supplemented, re-ordered and/or revised from time to time during construction through the use of change orders. Either Developer or Authority may request a construction change order by notifying the other Party in writing of such requested modification and the details and estimated costs thereof, which costs shall (i) include, but not be limited to, associated architectural, engineering, CM and contractor’s fees for the change order and (ii) be the responsibility of the requesting Party to the extent that the requested change order results in an increase in the previously budgeted cost for such item except as is provided below. Accordingly, the Parties agree to cooperate with respect to all proposed modifications. Each change order requested by Developer which (a) increases Stadium Costs by an amount which exceeds the Stadium Budget and will not be paid from contingency funds reserved in the Stadium Budget or by additional

amounts paid by the Developer or (b) in the reasonable discretion of the Authority materially affects the design, layout, seating capacity, structure, exterior appearance, quality, function or projected maintenance or replacement of Stadium Improvements shall be subject to the Approval of Authority, which shall not be unreasonably withheld, conditioned or delayed. Each change order requested by Authority shall be subject to the Approval of Developer, which shall not be unreasonably withheld, conditioned or delayed, and each change order requested by Developer shall be subject to the Approval of Authority, which shall not be unreasonably withheld, conditioned or delayed as long as the change order is not a Material Change. If agreed upon by the Developer and Authority, the costs of approved change orders shall be paid from available contingency in the Stadium Budget.

ARTICLE VII. DELAYS AND EFFECT OF DELAYS

7.1 Excusable Authority Delay. Regardless of the existence or absence of references to Excusable Authority Delay elsewhere in this Agreement, any deadline or time period within which Authority, City or KUB, as applicable must fulfill the obligations of Authority elsewhere in this Agreement shall each be adjusted as appropriate to include Excusable Authority Delay Periods unless otherwise expressly provided in this Agreement to the contrary; *provided* that (i) the obligation to pay amounts as when due pursuant to the terms of this Agreement is not subject to adjustment or extension due to Excusable Authority Delay and (ii) Authority complies with the requirements of this ARTICLE VII.

With respect to each occurrence of Excusable Authority Delay, Authority shall, within fifteen (15) Business Days after Authority's knowledge of the occurrence of such event of Excusable Authority Delay, give notice to Developer Representative of the event constituting Excusable Authority Delay, Authority's good faith estimate of the Excusable Authority Delay Period resulting therefrom and the basis therefor, Authority's good faith estimate of any adjustment resulting therefrom that is to be made to the time for performance, together with reasonable documentation supporting the adjustments proposed. If Developer Representative believes that the documentation supplied is not sufficient to justify the delay claimed or adjustments proposed, Developer Representative shall give notice to Authority of the claimed deficiency and Authority shall have a reasonable period of time to more fully document the delay and adjustments claimed. Only one (1) notice from Authority shall be required with respect to a continuing Excusable Authority Delay, except that Authority shall promptly (and in no event less often than every ten (10) Business Days) give notice to Developer Representative of any further changes in the additional time for performance claimed by reason of the continuing delay. Developer Representative shall have the right to challenge Authority's assertion of the occurrence of an Excusable Authority Delay, or Authority's good faith estimate of the Excusable Authority Delay Period or changes in the additional time for performance claimed by reason of the Excusable Authority Delay if Developer Representative gives notice to Authority within fifteen (15) Business Days after receipt by Developer Representative of such claim of Excusable Authority Delay or notice from Authority of further changes to such dates as a result of such Excusable Authority Delay, as the case may be (which challenge shall be deemed to have been made if Developer Representative gives notice to Authority of any claimed deficiency in documentation as provided for above in this Section 7.1).

7.2 Excusable Developer Delay. Regardless of the existence or absence of references to Excusable Developer Delay elsewhere in this Agreement, any deadline or time period within which Developer must fulfill the obligations of Developer in this Agreement shall each be adjusted as appropriate to include Excusable Developer Delay Periods; *provided* that (i) the obligation to pay amounts when due pursuant to the terms of this Agreement is not subject to adjustment or extension due to Excusable Developer Delay, and (ii) Developer complies with the requirements of this ARTICLE VII.

With respect to each occurrence of Excusable Developer Delay, Developer Representative shall, within fifteen (15) Business Days after Developer's knowledge of the occurrence of such event of Excusable Developer Delay, give notice to Authority of the event constituting Excusable Developer Delay, Developer Representative's good faith estimate of the Excusable Developer Delay Period resulting therefrom and the basis therefor, Developer Representative's good faith estimate of any adjustment resulting therefrom that is to be made in the time for performance, together with reasonable documentation supporting the adjustments proposed. If Authority believes that the documentation supplied is not sufficient to justify the delay claimed or adjustment proposed, Authority shall give notice to Developer Representative of the claimed deficiency and Developer Representative shall have a reasonable period of time to more fully document the delay and adjustments claimed. Only one (1) notice from Developer Representative shall be required with respect to a continuing Excusable Developer Delay, except that Developer Representative shall promptly (and in no event less often than every ten (10) Business Days) give notice to Authority of any further changes in the additional time for performance claimed by reason of the continuing delay. Authority shall have the right to challenge Developer Representative's assertion of the occurrence of an Excusable Developer Delay, or Developer Representative's good faith estimate of the Excusable Developer Delay Period, or changes in the additional time for performance claimed by reason of Excusable Developer Delay if Authority gives notice to Developer Representative within fifteen (15) Business Days after receipt by Authority of such claim of Excusable Developer Delay or notice from Developer Representative of further changes to such dates as a result of such Excusable Developer Delay, as the case may be (which challenge shall be deemed to have been made if Authority gives notice to Developer Representative of any claimed deficiency in documentation as provided for above in this Section 7.2).

7.3 Continued Performance; Exceptions. Upon the occurrence of any Authority Delay or Developer Delay, the Parties shall endeavor to continue to perform their obligations under this Agreement so far as reasonably practicable. Toward that end, Authority and Developer each hereby agrees that it shall make all reasonable efforts to prevent and reduce to a minimum and mitigate the effect of any Authority Delay or Developer Delay occasioned by an Excusable Authority Delay or Excusable Developer Delay, and shall diligently and continuously use its commercially reasonable efforts to ensure resumption of performance of its obligations under this Agreement after the occurrence of any Excusable Authority Delay or Excusable Developer Delay. The Parties shall use and continue to use all commercially reasonable efforts to prevent, avoid, overcome and minimize any Developer Delay or Authority Delay.

**ARTICLE VIII.
APPROVALS, CONFIRMATIONS AND NOTICES; DISPUTE RESOLUTION**

8.1 Approvals, Confirmations and Notices.

8.1.1 Stadium Improvements Work. Developer shall obtain the prior written Approval of Authority of any Material Change to the Plans for the Stadium Improvements Work which (a) increases Stadium Costs by an amount which exceeds the Stadium Budget and will not be paid from contingency funds reserved in the Stadium Budget or by additional amounts paid by the Developer or (b) in the reasonable discretion of the Authority materially affects the design, layout, seating capacity, structure, exterior appearance, quality, function or projected maintenance or replacement of Stadium Improvements prior to the commencement of any Stadium Improvements Work that deviates in a material respect from the Plans for the Stadium Improvements Work, such Approval not to be unreasonably withheld, conditioned or denied.

8.1.2 Construction Manager. Developer shall not subsequently modify or amend in any material respect the Stadium Construction Contract without prior Approval of Authority, such Approval not to be unreasonably withheld, conditioned or denied.

8.2 Approvals; Standards.

8.2.1 Review and Approvals or Consent Rights. The provisions of this Section 8.2.1 shall be applicable with respect to all instances in which it is provided under this Agreement that Developer, Developer Representative, Authority or the Authority Representative exercises Review and Approval or Consent Rights (as defined below); *provided, however*, that if the provisions of this Section 8.2.1 specifying time periods for exercise of Review and Approval or Consent Rights shall conflict with other express provisions of this Agreement providing for time periods for exercise of designated Review and Approval or Consent Rights, then the provisions of such other provisions of this Agreement shall control. As used herein, the term “**Review and Approval or Consent Rights**” shall include, without limiting the generality of that term, all instances in which one Party (the “**Submitting Party**”) is permitted or required to submit to the other Party or to the representative of that other Party any document, notice or determination of the Submitting Party and with respect to which the other Party or its representative (the “**Reviewing Party**”) has a right or duty hereunder to review, comment, confirm, Approve, disapprove, dispute or challenge the submission or determination of the Submitting Party.

8.2.2 Standard for Review. Unless this Agreement specifically provides that a Party’s Review and Approval or Consent Rights may be exercised in the sole discretion of the Reviewing Party, then in connection with exercising its Review and Approval or Consent Rights under any provision of this Agreement, and whether or not specifically provided in any such provision, the Reviewing Party covenants and agrees to act in good faith, with due diligence, and in a fair and commercially reasonable manner in its capacity as Reviewing Party with regard to each and all of its Review and Approval or Consent Rights and to not unreasonably withhold, condition or delay its Approval of, consent to or confirmation of any submission or determination. The Reviewing Party shall review the matter submitted in writing and shall give notice within five (5) Business Days to the Submitting Party of the Reviewing Party’s comments including Approval,

confirmation, disapproval or failure to confirm, as applicable. Any failure to respond within such five (5) Business Day period shall be deemed to be an approval or confirmation of the matter submitted.

8.2.3 Resubmissions. If the Reviewing Party disapproves or fails to confirm a matter to which this Section 8.2 applies, the Submitting Party shall have the right, within fifteen (15) Business Days after the date the Submitting Party receives notice of such disapproval or failure to confirm, to re-submit the disapproved or not confirmed matter to the Reviewing Party, altered to satisfy the Reviewing Party's basis for disapproval or failure to confirm. Any resubmission made pursuant to this Section 8.2 shall be subject to Review and Approval or Consent by the Reviewing Party in accordance with the procedures described in this Section 8.2, until such matter is Approved by the Reviewing Party.

8.3 Governmental Rule. The Approval by Authority or Authority Representative of any matter submitted to Authority or Authority Representative pursuant to this Agreement, which matter is specifically provided herein to be Approved by Authority or Authority Representative shall not constitute a replacement or substitute for, or otherwise excuse Developer from, such permitting, licensing or approval processes under Applicable Laws; and, conversely, no permit or license so obtained shall constitute a replacement or substitute for, or otherwise excuse Developer from, any requirement hereunder for the Approval of Authority or Authority Representative.

8.4 Dispute Resolution.

8.4.1 Generally. In the event any dispute, controversy or claim between or among the Parties arises under this Agreement or is related in any way to this Agreement or the relationship of the Parties hereunder (a "Dispute or Controversy"), including, but not limited to a Dispute or Controversy relating to the effectiveness, validity, interpretation, implementation, termination, cancellation or enforcement of this Agreement, the Parties shall first attempt in good faith to settle and resolve such Dispute or Controversy by mutual agreement in accordance with this Section. In the event a Dispute or Controversy arises, either Representative shall have the right to notify the other Representative that it has elected to implement the following procedures. Within ten (10) Business Days after delivery of any such notice by one Representative to the other Representative regarding a Dispute or Controversy, the Representatives shall meet at a mutually agreed time and place to attempt, with diligence and in good faith, to resolve and settle the Dispute or Controversy. If a mutual resolution and settlement are not obtained at the meeting of the Representatives, then Developer and Authority shall cooperate in a commercially reasonable manner to determine if techniques such as mediation or other techniques of alternate dispute resolution might be useful. If a technique is agreed upon, a specific timetable and completion date for implementation shall also be agreed upon. If such technique, timetable or completion date is not agreed upon within thirty (30) days after the notice of the Dispute or Controversy was first delivered, or if no resolution is obtained through such alternative technique, or if no meeting between the Representatives takes place within the sixty (60) day period following delivery of the initial notice, then either Party may seek injunctive relief or other relief at any time thereafter from any court of competent jurisdiction in Knox County, Tennessee.

8.4.2 Emergency Relief. Notwithstanding any provision of this Agreement to the contrary, either Party may seek injunctive relief or another form of ancillary relief at any time from any court of competent jurisdiction in Knox County, Tennessee in the event that a Dispute or Controversy requires emergency relief before the matter may be resolved under the dispute resolution procedures outlined in Section 8.4.1 above. Notwithstanding the fact that any court of competent jurisdiction may enter an order providing for injunctive or another form of ancillary relief, the Parties expressly agree that such dispute resolution procedures still will govern the ultimate resolution of any portion of the Dispute or Controversy.

ARTICLE IX. ENVIRONMENTAL PROVISIONS

9.1 No Hazardous Materials. Developer shall not cause or permit any Hazardous Materials to be generated, used, released, stored or disposed of in or about the Stadium; *provided, however* that Developer and its Related Parties may use, store and dispose of reasonable quantities of Hazardous Materials at the Stadium as may be reasonably necessary for Developer to operate from the Stadium pursuant to the terms of this Agreement so long as such Hazardous Materials are commonly used, or permitted to be used, by reasonable and prudent Operators in similar circumstances and are stored and disposed of in accordance with industry standards, but in all events in compliance with Environmental Laws.

9.2 Developer's Remedial Work. Developer shall be responsible for performing or causing to be performed, any and all corrective or remedial actions (including all investigation, monitoring, etc.) required by Applicable Law to be performed with respect to any Pre-Existing Environmental Conditions at, in, on or under the Stadium. Regulated wastes, such as asbestos and industrial wastes shall be properly characterized, manifested and disposed of at an authorized facility.

ARTICLE X. INSURANCE; INDEMNITY

10.1 Policies Required.

10.1.1 Policies Required During Construction of the Stadium Improvements Work. At all times during the Stadium Improvements Work, Developer will cause the CM to keep and maintain the policies of insurance required by the terms and conditions of the Stadium Construction Contract, and Authority shall be named as an additional insured on all such policies. All policies required by this Section 10.1 shall meet the requirements of the Lease with respect to insurance required thereunder.

10.1.2 Builders Risk Insurance. Developer shall also cause CM to maintain additional property insurance written on the so-called "Builder's Risk Completed Value Non-Reporting Form" during any period in which any Stadium Improvements Work is being performed with no coinsurance requirement, and containing a provision granting the insured permission to complete and adding the Developer as the loss payee for such insurance.

10.2 Indemnity by Developer. Developer shall indemnify, hold harmless and defend Authority and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage, including damage by fire or other casualty) incurred by Authority, Developer or any other person, and from any and all claims, demands and actions in law or equity (including reasonable attorneys' fees and litigation expenses), arising directly or indirectly out of Developer's performance under this Agreement.

ARTICLE XI. CONDEMNATION OR CASUALTY

11.1 Condemnation. If all of the Stadium or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings, this Agreement shall automatically terminate on the earlier to occur of (i) the date on which title to the Stadium vests in the condemning authority; or (ii) the date on which Authority is dispossessed of the Stadium.

11.1.1 Partial or Temporary Condemnation. If a portion of the Stadium or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings and such taking materially affects the ability of Developer or Tenant to use or otherwise operate and derive revenue from the Stadium, Developer shall have the right to terminate this Agreement effective as of the earlier to occur of (i) the date on which title to the condemned portion of the Stadium vests in the condemning authority; or (ii) the date on which Authority is dispossessed of the portion of the Stadium, by giving written notice to Authority within sixty (60) days after Developer's receipt of notice of the partial condemnation. If all or a portion of the Stadium or the use thereof is temporarily condemned, this Agreement shall remain in full force and effect. If a portion of the Stadium or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings and Developer does not terminate this Agreement pursuant to the terms and conditions of this Section 11.1.1, this Agreement shall be deemed terminated with respect to only the condemned portion of the Stadium or use thereof.

11.1.2 Award. Any award as a result of any condemnation of all or any portion of the Stadium or the use thereof shall be applied first to the outstanding balance of the Financing and any remaining award shall be paid to Developer or its successor in interest. Neither Party shall have any rights to any award made to the other.

11.2 Casualty. If the Stadium or any portion thereof is damaged or destroyed by Casualty, then neither Party shall have the right to terminate this Agreement and Developer shall promptly use commercially reasonable efforts to restore, repair and continue construction of the Stadium Improvements and the Substantial Completion Date shall be extended by the period of restoration and repair. To that end, Developer shall use all insurance proceeds available for such purposes. The restoration and repair details shall be undertaken in the same manner involved in the original construction of the Stadium.

ARTICLE XII. ASSIGNMENT, ASSURANCE OF PERFORMANCE

12.1 Assignment, Subletting or Transfers by Developer. Developer shall not assign, transfer, sublease, license, mortgage, pledge, encumber or otherwise hypothecate (each a “**Transfer**”) any right, title, interest or obligation of Developer under this Agreement, whether voluntarily, involuntarily, by operation of law or otherwise (including by way of merger or consolidation) including a Transfer of Majority Interest, without the prior written Approval of Authority.

12.2 Assurance of Performance. Prior to Commencement of Construction, Developer shall cause to be delivered to Authority assurance of the performance of Developer’s obligations hereunder in a form acceptable to the Authority.

12.3 Transfers by Authority. Authority may assign all of its rights and obligations in and to the Stadium or under this Agreement to a Governmental Authority, a local government corporation formed by City or Authority or a trustee in connection with the Financing; provided that Authority remains liable for Authority’s financial obligations contained herein unless such financial obligations are specifically assumed by any such Governmental Authority.

ARTICLE XIII. REPRESENTATIONS, WARRANTIES AND COVENANTS

13.1 Developer’s Representations and Warranties. As an inducement to Authority to enter into this Agreement, Developer represents and warrants to Authority that notwithstanding anything herein to the contrary and as of the Execution Date:

(a) *Organization.* Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Tennessee. The business which Developer carries on and which it proposes to carry on may be conducted by Developer. Developer is duly authorized to conduct business as a limited liability company in the State of Tennessee and each other jurisdiction in which the nature of its properties or its activities requires such authorization.

(b) *Authority.* The execution, delivery and performance of this Agreement by Developer are within Developer’s powers, respectively, and have been duly authorized by all necessary action of Developer.

(c) *No Conflicts.* Neither the execution and delivery of this Agreement nor the consummation of any of the transactions herein or therein contemplated nor compliance with the terms and provisions hereof or thereof will contravene the organizational documents of Developer nor any Applicable Laws to which Developer is subject or any judgment, decree, license, order or permit applicable to Developer, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of a lien upon any of the property or assets of Developer pursuant to the terms of, any indenture, mortgage, deed of trust, agreement or other instrument to which Developer is a party or by which Developer is bound, or to which Developer is subject.

(d) *No Consent.* No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Governmental Authority or regulatory body or third party is required for the execution, delivery and performance by Developer of this Agreement.

(e) *Valid and Binding Obligation.* This Agreement is the legal, valid and binding obligation of Developer, enforceable against Developer in accordance with its terms, except as limited by applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time.

(f) *No Pending Litigation, Investigation or Inquiry.* There is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the knowledge of Developer, threatened against or affecting Developer, which the management of Developer in good faith believes that the outcome of which would (a) materially and adversely affect the validity or enforceability of, or the authority or ability of Developer under, this Agreement to perform its obligations under this Agreement, or (b) have a material and adverse effect on the consolidated financial condition or results of operations of Developer or on the ability of Developer to conduct its business as presently conducted or as proposed or contemplated to be conducted (including the development and operation of the Stadium).

(g) *Conflict of Interest.* None of Authority or any Affiliate of Developer nor any of their officers, employees or agents are officials or employees of City, County or Authority.

(h) *Legal Representation.* Developer has been represented by independent legal counsel and have had an adequate opportunity to seek advice with respect to all matters of Tennessee law and ordinances and regulations adopted by the City concerning, land use, development projects on Authority-owned land, leasing of property by Authority to private businesses and other matters relating to City and Authority procurement and contracting procedures.

(g) *Requisite Skill and Ability.* Developer has the requisite skill, financial ability and expertise to perform its duties and obligations under this Agreement.

13.2 Authority's Representations and Warranties. As an inducement to Developer to enter into this Agreement, Authority represents and warrants to Developer that notwithstanding anything herein to the contrary and as of the Execution Date:

(a) *Organization.* Authority is a public nonprofit corporation and validly existing under the laws of the State of Tennessee, with all necessary power and authority to enter into this Agreement and to consummate the transactions herein contemplated.

(b) *Authority*. The execution, delivery and performance of this Agreement by Authority is within Authority's powers, respectively, and have been duly authorized by all necessary action of Authority.

(c) *No Conflicts*. Neither the execution and delivery of this Agreement nor the consummation of any of the transactions herein or therein contemplated nor compliance with the terms and provisions hereof or thereof will contravene any Applicable Laws to which Authority is subject or any judgment, decree, license, order or permit applicable to Authority.

(d) *No Consent*. Upon the execution of this Agreement by Authority, Authority will have caused all governmental proceedings required to be taken by or on behalf of Authority to authorize Authority to make and deliver this Agreement and to perform the covenants, obligations and agreements of Authority hereunder.

(e) *Valid and Binding Obligation*. This Agreement is the legal, valid and binding obligation of Authority, enforceable against Authority in accordance with its terms, except as limited by applicable relief, sovereign immunity, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time.

(f) *No Pending Litigation, Investigation or Inquiry*. Except as previously disclosed to Developer in writing, there is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the knowledge of Authority, threatened against or affecting Authority, which Authority in good faith believes that the outcome of which would (a) materially and adversely affect the validity or enforceability of, or the authority or ability of Authority under, this Agreement to perform its obligations under this Agreement, or (b) have a material and adverse effect on the consolidated financial condition or results of operations of Authority or on the ability of Authority to conduct its business as presently conducted or as proposed or contemplated to be conducted.

(g) *Financing*. Authority has the legal authority to proceed with the Financing and expects to close the Financing but cannot guaranty that the Financing will occur if market conditions change.

ARTICLE XIV. DEFAULTS AND REMEDIES

14.1 Events of Default.

14.1.1 Developer Default. The occurrence of any of the following shall be an "Event of Default" by Developer or a "Developer Default":

(a) the failure of Developer to keep, observe or perform any of the terms, covenants or agreements contained in this Agreement on Developer's part to be kept,

performed or observed if: (1) such failure is not remedied by Developer within thirty (30) days after notice from Authority of such default or (2) in the case of any such default which cannot with due diligence and good faith be cured within thirty (30) days, Developer fails to commence to cure such default within thirty (30) days after such default, or Developer fails to prosecute diligently the cure of such default to completion within such additional period as may be reasonably required to cure such default with diligence and in good faith; it being intended that, in connection with any such default which is not susceptible of being cured with due diligence and in good faith within thirty (30) days but is otherwise reasonably susceptible of cure, the time within which Developer is required to cure such default shall be extended for such additional period as may be necessary for the curing thereof with due diligence and in good faith; *provided, however*, that if such default is not cured within one hundred eighty (180) days after notice from Authority of such default, (notwithstanding Developer's diligent prosecution of curative efforts), then such failure shall constitute an Event of Default under this Agreement;

- (b) the occurrence of an Insolvency Event with respect to Developer; or
- (c) a "Tenant Default" as defined in the Lease shall have occurred and remain uncured.

14.1.2 Authority Default. The occurrence of the following shall be an "**Event of Default**" by Authority or a "**Authority Default**":

(a) the failure of Authority to perform or observe any of the obligations, covenants or agreements to be performed or observed by Authority under this Agreement within thirty (30) days (or such longer period as may be permitted in this Agreement) after notice from Developer of such failure, but if such performance or observance cannot reasonably be accomplished within such thirty (30) day period (or such longer period as may be permitted in this Agreement), then no Event of Default shall occur unless Authority fails to commence such performance or observance within such thirty (30) day period (or such longer period as may be permitted in this Agreement) and fails to diligently prosecute such performance or observance to conclusion thereafter; *provided, however*, that if such performance or observance has not been accomplished within one hundred eighty (180) days after notice from Developer to Authority of such failure (notwithstanding Authority's diligent prosecution of its curative efforts), then such failure shall constitute an Event of Default hereunder; or

- (b) the occurrence of an Insolvency Event with respect to Authority.
- (c) a "Authority Default" as defined in the Lease shall have occurred and remain uncured.

(d) the failure of City or KUB, as applicable to complete the Public Infrastructure Work or the Utility Infrastructure Work in accordance with the terms of the Public Infrastructure Agreement or the Utility Infrastructure Agreement, if such failure

interferes in any material respect with the use of the Stadium, subject to such excusable delay provisions as are contained in such agreements..

14.2 Remedies. Subject to the provisions of this ARTICLE XIV:

14.2.1 Developer's Remedies. Subject to this ARTICLE XIV, upon the occurrence of any Authority Default, Developer may, in its sole discretion, pursue any one or more of the following remedies, without any notice or demand whatsoever, other than any notice (including Final Notice) expressly provided in this Agreement:

(a) Developer may (but under no circumstance shall be obligated to) terminate this Agreement pursuant to Section 14.2.3.

(b) Developer may exercise any and all other remedies available to Developer at law or in equity or otherwise provided in this Agreement, including, but not limited to, the right to acquire the Real Property under Section 17.2 and to recover Pre-Development Expenses.;

provided that notwithstanding the foregoing or anything else herein to the contrary, Developer's rights under this Section 14.2 shall be subject to the terms and provisions of Section 14.3.

14.2.2 Authority's Remedies. Subject to this ARTICLE XIV, upon the occurrence of any Developer Default, Authority may, at its sole discretion, pursue any one or more of the following remedies without any notice or demand whatsoever, other than any notice (including Final Notice) expressly provided in this Agreement:

(a) Authority may (but under no circumstance shall be obligated to) terminate this Agreement pursuant to Section 14.2.3.

(b) Authority may enforce the provisions of this Agreement by legal proceedings for the specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy and recover damages caused by any breach by Developer of the provisions of this Agreement, including court costs, reasonable attorneys' fees and other expenses incurred in the enforcement of the obligations of Developer hereunder.

(c) Authority may exercise any and all other remedies available to Authority at law or in equity or otherwise provided in this Agreement.

(d) Authority may undertake Developer's obligations hereunder and may exercise its rights, to the extent it deems appropriate, under Section 14.2.4.

provided that notwithstanding the foregoing or anything else herein to the contrary, Authority's rights under this Section 14.2 shall be subject to the terms and provisions of Section 14.3.

14.2.3 Right to Terminate. Upon the occurrence of a Developer Default or an Authority Default, the non-defaulting Party, in addition to its other remedies at law or in equity, shall have the right to give the defaulting Party notice (a “**Final Notice**”) of the non-defaulting Party’s intention to terminate this Agreement after the expiration of a period of thirty (30) days from the date such Final Notice is delivered unless the Event of Default is cured, and upon expiration of such thirty (30) day period, if the Event of Default is not cured, this Agreement shall terminate without liability to the non-defaulting Party. If, however, within such thirty (30) day period the defaulting Party cures such Event of Default, then this Agreement shall not terminate by reason of such Final Notice. Notwithstanding the foregoing, in the event there is an Action or Proceeding pending or commenced between the Parties with respect to the particular Event of Default covered by such Final Notice, the foregoing thirty (30) day period shall be tolled until a final non-appealable judgment or award, as the case may be, is entered with respect to such Action or Proceeding.

14.2.4 Self Help. Authority and Developer acknowledge and agree that Developer may enter into certain contracts in connection with the design, development and construction of the Stadium, including but not limited to the Stadium Construction Contract, contracts with the Preliminary Architect and the Project Architect, contracts with other design and/or construction professionals, and contracts with engineers (collectively, the “**Project Contracts**”). Developer may also obtain certain approvals and permits in connection with the design, construction and operation of the Project (the “**Project Permits**”, and, together with the Project Contracts and any and all other contracts, agreements, plans, licenses, permits, leases or other items, whether now or hereafter executed, granted, received, acquired or issued to or by Developer in connection with the design, development and/or construction of the Stadium, and all proceeds and products thereof, and all accounts, contract rights and general intangibles related to the foregoing, the “**Project Documents**”). Developer hereby assigns and transfers to Authority all of Developer’s right, title and interest in and to (but not the obligations under) the Project Documents. This assignment shall be effective only upon the occurrence of a Developer Default. Developer hereby covenants with Authority that Developer shall (a) perform and observe all covenants and agreements to be performed and observed by Developer under the Project Documents; (b) enforce, short of termination, the performance and observance of all covenants and agreements to be performed or observed by the contracting parties under the Project Documents; (c) appear in and defend any action or proceeding arising out of or in connection with any of the Project Documents; and (d) promptly give Authority copies of any notices of default given or received by Developer under any of the Project Documents. Developer further covenants with Authority that Developer will not (a) assign, transfer, mortgage, pledge or otherwise encumber, or permit to accrue or suffer to exist any lien or other encumbrance on or in, any of the right, title and interest of Developer in, to and under the Project Documents; (b) without Authority’s prior written consent, amend or modify any of the terms of the Project Documents, except pursuant to change orders executed in compliance with this Agreement; (c) terminate any Project Document or without Authority’s prior written consent, give or join in any material waiver, consent or approval with respect to any Project Document; (d) without Authority’s prior written consent, settle or compromise any material claim against any contracting party to any of the Project Documents; (e) without Authority’s prior written consent, waive any default under or material breach of any of the Project Documents; or (f) take any other action in connection with any of the Project Documents which would materially impair the value of the rights or interests of Assignor or Assignee thereunder or therein. Developer hereby

irrevocably directs the contracting party to, or the grantor of, any Project Document, whether specifically described herein or otherwise, to the extent not prohibited by applicable law, upon request of Authority following a Developer Default to recognize and accept Authority as the holder of such Project Document for any and all purposes. Developer does hereby irrevocably constitute and appoint Authority, for so long as this Assignment remains in effect, as its true and lawful attorney-in-fact, coupled with an interest, after the occurrence of and during the existence of a Developer Default, to demand and enforce compliance with the terms and conditions of the Project Documents and all benefits thereunder. Developer shall require all parties to the Project Documents to consent to the terms of this Section 14.2.4 and to execute such consents and estoppels as Authority may reasonably request evidencing same.

14.2.5 Cumulative Remedies. Subject to the provisions of this ARTICLE XIV, each right or remedy of Authority and Developer provided for in this Agreement shall be cumulative of and shall be in addition to every other right or remedy of Authority or Developer provided for in this Agreement, and the exercise or the beginning of the exercise by Authority or Developer of any one or more of the rights or remedies provided for in this Agreement shall not preclude the simultaneous or later exercise by Authority or Developer of any or all other rights or remedies provided for in this Agreement or hereafter existing at law or in equity, by statute or otherwise.

14.3 No Indirect Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY UNDER ANY PROVISION OF THIS AGREEMENT OR OTHERWISE FOR LOST PROFITS, INCLUDING LOST OR PROSPECTIVE PROFITS, OR FOR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, IN CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT CAUSED BY OR RESULTING FROM SUCH PARTY'S OWN, SOLE OR CONCURRENT NEGLIGENCE OR THE NEGLIGENCE OF ANY OF ITS AFFILIATES OR RELATED PARTIES; PROVIDED THAT WITHOUT LIMITING THE FOREGOING, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS OF EACH PARTY ARISING OUT OF THIRD PARTY CLAIMS FOR ANY OF THE FOREGOING.

14.4 Right to Injunction. In addition to the remedies set forth in this ARTICLE XIV, the Parties shall be entitled to seek injunctive relief prohibiting or mandating action by the other Party in connection with an Event of Default and to seek declaratory relief with respect to any matter under this Agreement for which such remedy is available hereunder, at law or in equity. In connection with any such action by a Party, each Party (a) recognizes that the parties have contributed significant capital costs to the construction of the Stadium Improvements and related infrastructure, in material part in reliance on the agreements of the other Party contained in this Agreement, and (b) acknowledges and agrees that monetary damages could not be calculated to compensate the other Party for any violation by such Party, its Affiliates or any Related Party of such Party of the covenants, duties and obligations contained in this Agreement. Accordingly, each Party agrees that (i) the other Party may restrain or enjoin any violation as provided above in this Agreement or threatened violation of any covenant, duty or obligation contained in this Agreement without the necessity of posting a bond or other security and without any further showing of irreparable harm, balance of harms, consideration of the public interest or the inadequacy of monetary damages as a remedy, (ii) the administration of an order for injunctive

relief would not be impracticable and, in the event of any violation of any covenant, duty or obligation contained in this Agreement the balance of hardships would weigh in favor of entry of injunctive relief, (iii) the other Party may enforce any such covenant, duty or obligation contained in this Agreement through specific performance, and (iv) the other Party may seek injunctive or other form of relief from a court of competent jurisdiction in order to maintain the status quo and enforce the terms of this Agreement on an interim basis pending the outcome of the applicable Dispute or Controversy in connection with this Agreement. Each Party further agrees and irrevocably stipulates that the rights of the other Party to injunctive relief pursuant to this Section 14.4 shall not constitute a “claim” pursuant to Section 101(5) of the United States Bankruptcy Code and shall not be subject to discharge or restraint of any nature in any bankruptcy proceeding involving such Party.

14.5 No Waivers.

14.5.1 General. No failure or delay of any Party, in any one or more instances (i) in exercising any power, right or remedy under this Agreement or (ii) in insisting upon the strict performance by the other Party of such other Party’s covenants, obligations or agreements under this Agreement, shall operate as a waiver, discharge or invalidation thereof, nor shall any single or partial exercise of any such right, power or remedy or insistence on strict performance, or any abandonment or discontinuance of steps to enforce such a right, power or remedy or to enforce strict performance, preclude any other or future exercise thereof or insistence thereupon or the exercise of any other right, power or remedy. The covenants, obligations, and agreements of a defaulting Party and the rights and remedies of the other Party upon a default shall continue and remain in full force and effect with respect to any subsequent breach, act or omission.

14.5.2 No Accord and Satisfaction. Without limiting the generality of Section 14.5.1 above, the receipt by Authority of any amounts due under this Agreement with knowledge of a breach by Developer of any covenant, obligation or agreement under this Agreement shall not be deemed or construed to be a waiver of such breach (other than as to the amount received). The payment by Developer of any amount due under this Agreement with knowledge of a breach by Authority of any covenant, obligation or agreement under this Agreement shall not be deemed or construed to be a waiver of such breach. No acceptance by Authority or Developer of a lesser sum than then due shall be deemed to be other than on account of the earliest installment of the amounts due under this Agreement, nor shall any endorsement or statement on any check, or any letter accompanying any check, wire transfer or other payment, be deemed an accord and satisfaction. Authority and Developer may accept a check, wire transfer or other payment without prejudice to its right to recover the balance of such installment or pursue any other remedy provided in this Agreement.

14.5.3 No Waiver of Termination notice. Without limiting the effect of Section 14.5.1 above, the receipt by a Party of any amount due under this Agreement paid by Developer after the termination in any manner of the Term, or after the giving by such Party of any notice hereunder to effect such termination, shall not, except as otherwise expressly set forth in this Agreement, reinstate, continue or extend the Term, or destroy, or in any manner impair the efficacy of, any such notice of termination as may have been given hereunder by such Party prior to the receipt of any such amount due under this Agreement or other consideration, unless so agreed to

in writing and executed by such Party. Neither acceptance of the keys nor any other act or thing done by Authority or by its agents or employees during the Term shall be deemed to be an acceptance of a surrender of the Stadium, excepting only an agreement in writing executed by Authority accepting or agreeing to accept such a surrender.

14.6 Effect of Termination. If Authority or Developer elects to terminate this Agreement, as provided herein (whether such termination occurs pursuant to this ARTICLE XIV or any other provision hereof), this Agreement shall, on the effective date of such termination, terminate with respect to all future rights and obligations of performance hereunder by the Parties (except for the rights and obligations herein that expressly are to survive termination hereof). Termination of this Agreement shall not alter the then existing claims, if any, of either Party for breaches of this Agreement occurring prior to such termination and the obligations of the Parties hereto with respect thereto shall survive termination.

ARTICLE XV. GENERAL PROVISIONS

15.1 No Broker's Fees or Commissions. Each Party hereto hereby represents to the other Party hereto that such Party has not created any liability for any broker's fee, broker's or agent's commission, finder's fee or other fee or commission in connection with this Agreement.

15.2 Authority Approval. Notwithstanding anything to the contrary set forth in this Agreement, Developer recognizes and agrees that any contracts or agreements, or amendments thereto, contemplated to be entered into by Authority under the terms of this Agreement which are entered into after the date of this Agreement may be subject to the prior Approval of Authority, but not Approvals and confirmations expressly permitted in this Agreement to be given by Authority Representative.

15.3 Interest on Overdue Obligations. In the event either Party fails to pay the other Party any amount owed by such Party pursuant to the terms of this Agreement on or before the date which is thirty (30) days after the other Party delivers notice to such Party of such failure, then such amount shall bear interest at the Default Rate from the date due until paid. No breach of a Party's obligation to pay the other Party any amount owed by such Party pursuant to the terms of this Agreement shall have been cured unless and until the interest accrued thereon under this Section 15.4 shall have been paid. All payments shall first be applied to the payment of accrued but unpaid interest.

15.4 Employment of Consultants. Authority shall have the right, at its sole cost and expense unless otherwise expressly provided herein, to employ such consultants as Authority may deem necessary to assist in the review of any and all plans, specifications, reports, agreements, applications, bonds, statements and other documents and information to be supplied to Authority by Developer under this Agreement and to perform any inspection rights on behalf of Authority. Developer covenants and agrees to reasonably cooperate with such consultants in the same manner as Developer is required to cooperate with Authority pursuant to the terms of this Agreement. Developer shall have the right, at its sole cost and expense unless otherwise expressly provided herein, to employ such consultants as Developer may deem necessary to assist in the review of any

and all plans, specifications, reports, agreements, applications, bonds, statements and other documents and information to be supplied to Developer by Authority under this Agreement and to perform and inspections on behalf of Developer. Authority covenants and agrees to reasonably cooperate with such consultants in the same manner as Authority is required to cooperate with Developer pursuant to the terms of this Agreement.

15.5 Public Records Disclosure. Disclosure of the terms of this Agreement and all matters relating thereto are governed by the Tennessee Open Records Act.

15.6 Anti-Discrimination. In accordance with Applicable Laws, the Parties, in performing their respective obligations hereunder will not discriminate based on religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness or physical disability.

15.7 Accounting Terms and Determinations. Unless otherwise specified, all accounting terms used in this Agreement shall be interpreted, all determinations with respect to accounting matters thereunder shall be made, and all financial statements and certificates and reports as to financial matters required to be furnished hereunder shall be prepared, in accordance with GAAP.

15.8 Survival. The following terms and provisions of this Agreement shall survive any expiration or termination of this Agreement: Sections 3.4.3 and 5.2, Articles IX, Article XIV and Sections 10.3, 10.4, 15.4, 15.9, 15.13, 15.15, 15.16, and 15.24.

15.9 Severability. If any term or provision of this Agreement and the Lease or the application thereof to any Person or circumstances, shall to any extent be invalid or unenforceable in any jurisdiction, as to such jurisdiction, the remainder of this Agreement, or the application of such term or provision to the Persons or circumstances other than those as to which such term or provision is held invalid or unenforceable in such jurisdiction, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by Applicable Law, the Parties hereby waive any provision of law that renders any provision thereof prohibited or unenforceable in any respect.

15.10 Entire Agreement; Amendment. This Agreement (including all exhibits attached hereto), together with the Lease, constitute the entire and exclusive agreement between Authority, Developer and Tenant with respect to the subject matter contained herein and therein. There are no restrictions, promises, obligations or undertakings between the Parties, other than those set forth or referred to in this Agreement with respect to the subject matter hereof. Neither this Agreement nor any of the terms thereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing signed by the Party against which the enforcement of the termination, amendment, supplement, waiver or modification shall be sought.

15.11 Table of Contents; Headings; Exhibits. The table of contents, if any, and headings, if any, of the various articles, sections and other subdivisions of this Agreement are for

convenience of reference only and shall not modify, define or limit any of the terms or provisions of this Agreement. All Appendices and Exhibits attached to this Agreement are incorporated herein by reference in their entirety and made a part hereof for all purposes; *provided, however*, that in the event of a conflict between the terms of the text of this Agreement and any Appendices or Exhibits, the text of this Agreement shall control.

15.12 Parties in Interest; Limitation on Rights of Others. The terms of this Agreement shall be binding upon, and inure to the benefit of, the Parties and their permitted successors and assigns. Nothing in this Agreement, whether express or implied, shall be construed to give any Person (other than the Parties and their permitted successors and assigns and as expressly provided herein) any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained therein or any standing or authority to enforce the terms and provisions of this Agreement.

15.13 Counterparts. This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. All signatures need not be on the same counterpart.

15.14 Governing Law. THIS AGREEMENT AND THE ACTIONS OF THE PARTIES SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TENNESSEE NOTWITHSTANDING ANY CHOICE-OF-LAW OR CONFLICT-OF-LAW PRINCIPLE THAT MIGHT DICTATE A DIFFERENT GOVERNING LAW.

15.15 Court Proceedings. Any suit, action or proceeding against any Party arising out of or relating to this Agreement, any transaction contemplated hereby or any judgment entered by any court in respect of any thereof may be brought in any Federal court whose jurisdiction includes Knoxville, Tennessee or any state court in Knox County, Tennessee, and the Parties hereby submit to the nonexclusive jurisdiction of such courts for the purpose of any such suit, action or proceeding. To the extent that service of process by mail is permitted by Applicable Law, the Parties irrevocably consent to the service of process in any such suit, action or proceeding in such courts by the mailing of such process by registered or certified mail, postage prepaid, at its address for notice provided for in this Agreement. The Parties irrevocably agree not to assert any objection that they may ever have to the laying of venue of any such suit, action or proceeding in any Federal or state court located in the State of Tennessee, and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Each Party agrees not to bring any action, suit or proceeding against the other Party arising out of or relating to this Agreement or any transaction contemplated hereby except in a Federal court whose jurisdiction includes Knoxville, Tennessee or a state court in Knox County, Tennessee.

15.16 Limitation to Capacity as Authority. The Parties acknowledge that all references to “Authority” herein (which, for the purposes of this provision, shall be deemed to include any references in this Agreement to Authority as the owner of the fee interest in the Stadium) shall refer only to Authority in its capacity as Authority under this Agreement. The term “Authority” and the duties and rights assigned to it under this Agreement, thus exclude any action, omission or

duty of Authority when performing its Governmental Functions. Any action, omission or circumstance arising out of the performance of Authority's Governmental Functions may prevent Authority from performing its obligations under this Agreement and shall not cause or constitute a default by Authority under this Agreement or give rise to any rights or Claims against Authority in its capacity as the "Authority" hereunder, it being acknowledged that Developer's remedies for any injury, damage or other Claim resulting from any such action, omission or circumstances arising out of Authority's Governmental Functions shall be governed by the laws and regulations concerning Claims against Authority as a Governmental Authority. In addition, no setoff, reduction, withhold, deduction or recoupment shall be made in or against any payment due by Developer to Authority under this Agreement as a result of any action or omission of Authority when performing its Governmental Function.

15.17 Capacity of Persons Acting on Behalf of Authority. Notwithstanding anything to the contrary in this Agreement, all references in this Agreement to employees, agents, representatives, contractors and the like of Authority shall refer only to Persons acting in Authority's capacity as the "Authority" hereunder and thus all such references specifically exclude any employees, agents, representatives, contractors and the like acting in connection with the performance of Authority's Governmental Functions. Without limiting the foregoing, all police, fire, permitting, regulatory, water and power, health and safety and sanitation employees of Authority shall be deemed to be acting in connection with the performance of Authority's Governmental Functions.

15.18 No Limitation on Authority's Governmental Functions. The Parties acknowledge that Authority is a Governmental Authority in addition to being the owner of the Stadium, and that no representation, warranty, Approval or agreement in this Agreement by Authority shall be binding upon, constitute a waiver by or estop Authority from exercising any of its rights, powers or duties in connection with its Governmental Functions nor will any portion of this Agreement be deemed to waive any immunities granted to Authority when performing its Governmental Functions, which are provided under Applicable Law. Any consent to jurisdiction by Authority is only with respect to matters arising in its capacity as a Party to this Agreement and expressly does not constitute a waiver of Authority's legal immunity or a consent to jurisdiction for any actions, omissions or circumstances, in each case solely arising out of the performance of Authority's Governmental Functions.

15.19 Non-liability of Authority's Officials and Developer's Employees. No member of any legislative, executive, or administrative body of, or affiliated with, Authority or its Affiliates, and no official, agent, employee or representative of Authority or such body or any of its Affiliates (whether acting in the performance of Authority's Governmental Functions or otherwise) shall be personally liable to Developer or any Person holding by, through or under Developer, for any actions taken in his or her capacity as an official, agent, employee or representative of such Person in the event of any default or breach by Authority, or for any amount which may become due to Developer or any Person holding by, through or under Developer, or for any other obligation, under or by reason of this Agreement. No officer, director, shareholder, member, agent, employee or representative of Developer or its Affiliates shall be personally liable to Authority or any Person holding by, through or under Authority, for any actions taken in his or her capacity as an officer, director, shareholder, agent, employee or representative of such Person

in the event of any default or breach by Developer, or for any amount which may become due to Authority or any Person holding by, through or under Authority, or for any other obligation, under or by reason of this Agreement. Except as specifically described in this Agreement, the Authority, and its directors, contractors and representatives, shall have no personal liability with respect to any of the terms, covenants and conditions of this Agreement. Developer expressly agrees it shall look solely to the equity of the Authority or its successor in the Stadium for the satisfaction of any remedy of Developer in the event of any breach by the Authority of any of the terms, covenants, and conditions of this Agreement. Developer acknowledges the Authority is a governmental entity and is subject to the protection of the Tennessee Governmental Tort Liability Act provided under Tenn. Code Ann. § 29-20-101, *et seq.*, as amended from time to time, and nothing contained herein shall constitute a waiver or release of the Authority's rights and protection under said statute.

15.20 Payment on Business Days. If any payment under this Agreement is required to be made on a day other than a Business Day, the date of payment shall be extended to the next Business Day.

15.21 Time. Times set forth in this Agreement for the performance of obligations shall be strictly construed, time being of the essence of this Agreement. All provisions in this Agreement which specify or provide a method to compute a number of days for the performance, delivery, completion or observance by a Party of any action, covenant, agreement, obligation or notice hereunder shall mean and refer to calendar days, unless otherwise expressly provided. However, in the event the date specified or computed under such instrument for the performance, delivery, completion or observance of a covenant, agreement, obligation or notice by either Party, or for the occurrence of any event provided for herein, shall be a day other than a Business Day, then the date for such performance, delivery, completion, observance, or occurrence shall automatically be extended to the next calendar day that is Business Day. All references in this Agreement to times or hours of the day shall refer to Eastern Time.

15.22 Interpretation and Reliance. No presumption will apply in favor of any Party in the interpretation of this Agreement or in the resolution of any ambiguity of any provision hereof.

15.23 Relationship of the Parties; No Partnership. The relationship of Developer and Authority under this Agreement is that of independent parties, each acting in its own best interests, and notwithstanding anything in this Agreement to the contrary, neither the obligation of Tenant to pay Authority any amounts hereunder or under the Lease nor any other aspect of this Agreement shall create or evidence, nor is it intended to create or evidence, a partnership, joint venture or other business relationship or enterprise between Developer and Authority. As such, Authority shall have no direct supervision of or obligation to the employees of Developer and any communication of employee matters shall be through the Developer Representative.

15.24 Non-Merger of Estates. The interests of Authority and Developer in the Stadium shall at all times be separate and apart, and shall in no event be merged, notwithstanding the fact that this Agreement, or any interest therein, may be held directly or indirectly by or for the account of the Person who shall own the fee title to the Stadium or any portion thereof; and no such merger of estates shall occur by operation of law, or otherwise, unless and until all Persons at the time

having any interest in the Stadium shall join in the execution of a written instrument effecting such merger of estates.

15.25 Payments by Either Party. All payments required to be made by either Party to the other Party pursuant to the terms of this Agreement shall be paid in such freely transferable coin or currency of the United States as at the time of payment shall be legal tender for the payment of public and private debts at the receiving Party's address as set forth in Appendix B, or at such other address as such Party may specify from time to time in accordance with the terms and conditions of Section 15.29 below. Notwithstanding the provisions of Section 15.29 below and for the purposes of this Agreement, all payments shall be deemed paid and received only when actually received by the other Party and, in the event of payment by check, other than a cashier's check or certified check, shall not be considered to have been actually received in the event of the failure of such check to clear the receiving Party's account.

15.26 Notice. All notices permitted or required to be made hereunder shall be in writing and delivered by hand, overnight courier, certified mail, facsimile or e-mail. Notices shall be deemed given (a) when actually given and received if delivered by hand; (b) one (1) Business Day after delivery to an overnight courier if delivered by an overnight courier; (c) three (3) Business Days after deposit with the United States Postal Service if delivered by certified mail; or (d) when sent if delivered by facsimile or e-mail (as evidenced by facsimile or e-mail confirmation). All such notices shall be addressed to the appropriate Party at the addresses set forth in Appendix B.

15.27 Required Disclosure. This Agreement shall be subject to disclosure under the terms of applicable Tennessee law.

ARTICLE XVI. COMMUNITY COMMITMENTS

16.1 Utilization of Disadvantaged Business Enterprises. The Parties acknowledge and agree that it is their belief that Disadvantaged Business Enterprises (each, a "DBE" and collectively, "DBEs") should have an equal opportunity to participate in the development of the Stadium and in the performance of contracts related thereto. In furtherance of the objective of ensuring equal opportunity to DBEs in connection with the development of the Stadium, the Parties agree that it is their goal that a minimum of fifteen percent (15%) of the Stadium Costs will be attributable to work performed by contractors, subcontractors and sub-subcontractors that are DBEs (the "DBE Contract Goal"). Developer agrees to comply with the provisions set forth in this Section 16 in an effort to achieve this goal.

16.2 Definitions. For purposes of this Section 16, the following terms shall have the meaning set forth below:

"Disadvantaged Business Enterprise" or **"DBE"** includes Minority-Owned Business Enterprises, Women-Owned Business Enterprises and Veteran-Owned Business Enterprises.

“**DBE Type**” means the type of DBE (i.e., whether a MBE, VBE or WBE), and, if the DBE is a MBE, whether the MBE is predominantly Asian-Indian, Asian-Pacific, Black, Hispanic, or Native American owned.

“**Minority-Owned Business Enterprises**” or “**MBE**” means a business, including a sole proprietorship, corporation, partnership, joint venture or any other business or professional entity (a) that is at least fifty-one percent (51%) owned by one or more Minority Persons; or, in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more Minority Persons; and (b) whose management and daily business operations are controlled by one or more Minority Persons.

“**Minority Person**” means an individual with at least one-fourth of the following: (a) Asian-Indian - A person whose origins are from India, Pakistan and Bangladesh; (b) Asian-Pacific - A person whose origins are from Japan, China, Indonesia, Malaysia, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Thailand, Samoa, Guam, the U.S. Trust Territories of the Pacific or the Northern Marianas; (c) Black – A person having origins in any of the Black racial groups of Africa; (d) Hispanic – A person of true-born Hispanic heritage, from any of the Spanish-speaking areas of the following regions: Mexico, Central America, South America and the Caribbean Basin only; (e) Native American – A person who is an American Indian, Eskimo, Aleut or Native Hawaiian, and regarded as such by the community of which the person claims to be a part. Native Americans must be documented members of a North American tribe, band or otherwise organized group of native people who are indigenous to the continental United States and proof can be provided through a Native American Blood Degree Certificate (i.e., tribal registry letter, tribal roll register number).

“**Veteran**” means a person who has served on active duty with the Army, Air Force, Navy, Marine Corps, or Coast Guard of the United States for any length of time and who was discharged or released under conditions other than dishonorable. Reservists or members of the National Guard called to federal active duty, or disabled from a disease or injury incurred or aggravated in the line of duty or while in training status, also qualify as veterans.

“**Veteran-Owned Business Enterprises**” or “**VBE**” means a business, including a sole proprietorship, corporation, partnership, joint venture or other business or professional entity (a) that is at least fifty-one percent (51%) owned by one or more Veterans; or, in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more Veterans; and (b) whose management and daily business operations are controlled by one or more Veterans.

“**Women-Owned Business Enterprises**” or “**WBE**” means a business, including a sole proprietorship, corporation, partnership, joint venture or any other business or professional entity (a) that is at least fifty-one percent (51%) owned by one or more women; or, in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more women; and (b) whose management and daily business operations are controlled by one or more women.

16.3 Measures to Enhance DBE Participation. During the Term, Developer agrees to use its reasonable best efforts to achieve the DBE Contract Goal. For purposes of this Section 16.3, the term “reasonable best efforts” shall include, but not be limited to, the following:

(a) Developer shall ensure that appropriate contract provisions are included in the Stadium Construction Contract and such other contracts with the Developer as are reasonably necessary to promote achievement of the DBE Contract Goal. Such contract provisions shall require the contracting party to use its reasonable best efforts to achieve the goal of having fifteen percent (15%) of the contract cost be attributable to work performed by DBEs or Minority Persons, and shall provide that “reasonable best efforts” may include, but not be limited to, the following actions: (i) soliciting through all reasonable and available means the interest of all DBEs who have the capability to perform the work of the contract; (ii) designating specific portions of the work to be performed by DBEs; (iii) where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces; (iv) providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation; (v) recognizing that price will not be the sole factor in selecting third-party contractors; (vi) not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities; (vii) making efforts to assist interested DBEs in obtaining any required bonding, lines of credit, or insurance; (viii) making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services; (ix) utilizing the services of available minority community organizations to provide assistance in the recruitment and placement of DBEs; (x) following up initial solicitations of interest from DBEs to determine with certainty whether or not they are interested, and documenting the reasons for a “no” quote; and (xi) considering whether it is possible to negotiate use of a DBE only for certain items if the DBE’s quote is reasonable on some items and unreasonable on other items.

(b) Where work on the Stadium is to be performed by subcontractors under a prime contract, Developer shall ensure that the prime contract includes a provision requiring the prime contractor to include, where feasible, a provision in its subcontracts that requires subcontractors to use their reasonable best efforts to solicit work from DBEs consistent with the provisions of Section 16.3(a) hereof.

(c) Developer shall identify and assign a responsible person to be accountable for the Developer’s achievement of the DBE Contract Goal (the “**Diversity Coordinator**”). The Diversity Coordinator shall be responsible for overall management of the Developer’s efforts to achieve the DBE Contract Goal. The Diversity Coordinator’s responsibilities shall include, but not be limited to: (i) oversight of and assistance with efforts by contractors and subcontractors to attract, solicit and, where appropriate, accept bids from DBEs; (ii) tracking of the outcomes achieved as a result of the diversity efforts set forth in this Section 16.3; (iii) monitoring the project’s progress toward the DBE Contract Goal and developing a corrective action plan if necessary; and (iv) compiling and delivering the quarterly reports required pursuant to Section 16.4 hereof.

16.4 Reporting Requirements. During the Term, the Developer shall provide reports to the Authority, in form and substance reasonably required by the Authority, to substantiate the efforts made toward achievement of the DBE Contract Goal. Developer shall provide such reports to the Authority on a quarterly basis, with the first report being due on the fifteenth day after the completion of the first full calendar quarter ending March 31, June 30, September 30, or December 31 following execution of this Agreement (or, if such day does not fall on a business day, the first business day thereafter). Each successive report shall be due on the fifteenth day after the conclusion of each calendar quarter thereafter (or, if such day does not fall on a business day, the first business day thereafter). Each report shall include, at a minimum, the following information:

(a) A summary of the good faith efforts made by the Developer during the quarter to achieve the DBE Contract Goal;

(b) A listing of all contracts entered into during the quarter, including (i) a description of the contract; (ii) the counter-party or counter-parties to the contract; (iii) the total number of proposals received; (iv) the number of proposals received from DBEs and, for each DBE, the DBE Type; (v) whether the contract was awarded to a DBE and, if so, the DBE Type; (vi) the aggregate amount of Stadium Costs attributable to contracts with DBEs as of the end of the quarter to which the report pertains; and (vii) the aggregate amount of Stadium Costs attributable to all contracts incurred as of the end of the quarter to which the report pertains. To the extent Developer received any proposal from a DBE during the quarter which was not accepted, the report should include an explanation of the reason(s) why the proposal was not accepted. To the extent Tenant submitted a request for proposal and no proposals were received from any DBEs, the report should include a description of the efforts made to attract DBE participation with respect to the request for proposal; and

(c) A statement as to whether the Stadium project is on track to achieve the DBE Contract Goal, and, if not, a description of the efforts that will be made to increase the participation of DBEs going forward.

16.5 Neighboring Community. Developer acknowledges that the Stadium is located in a historic part of the City, particularly with respect to its location adjacent to a historic minority community. In designing, developing and constructing the Stadium, Developer shall use its reasonable best efforts to take into account the historic nature of the area, including, but not limited to, the historic presence of professional baseball in the area in connection with the design and construction of the stadium. Developer also agrees to work collaboratively and in good faith with the businesses and community immediately surrounding the Stadium during the construction process and to make reasonable efforts to address any reasonable concerns of the community regarding the development.

16.6 Internships. The Parties acknowledge and agree that Developer will enter into certain contracts for professional services in connection with the development of the Stadium Developer, including but not limited to the Stadium Construction Contract and contracts with project architects, engineers and consultants (collectively, the “**Professional Services Contracts**”). Developer agrees to include such contract provisions in the Professional Services Contracts as Developer deems reasonably necessary to ensure the availability of a total of at least

two placement opportunities each academic year (during the term of this Agreement) at Developer's professional service providers for interns recruited and nominated by the Sports Authority. Such provisions shall require that Authority-nominated interns accepted by the Developer's professional service providers will participate in meaningful opportunities to engage in projects and activities that provide exposure to professional career pathways such as engineering, architecture and consulting.

**ARTICLE XVII.
CONVEYANCE OF REAL PROPERTY**

17.1 Conveyance of Real Property. Developer (or an affiliate thereof) has conveyed the Real Property to Authority on the date hereof, which deed contains certain reversionary rights if the Real Property is not used as a multi-purpose stadium including use for sporting events and subject only to the encumbrances listed in such deed. Developer represents and affirms that it has delivered to Authority such surveys, title reports, title insurance policies, environmental reports, geotechnical studies and other studies relating to the Property that are in Developer's possession or control.

[Signature Page Follows]

[Signature Page to Development Agreement]
[S-1 of 2]

This Agreement is executed to be effective for all purposes as of the Execution Date.

CITY:

**THE SPORTS AUTHORITY OF THE COUNTY
OF KNOX AND THE CITY OF KNOXVILLE,
TENNESSEE**

By: _____

Name: _____

Title: _____

DEVELOPER:

RR LAND LLC

By: _____

Name: _____

Title: _____

**APPENDIX A
TO
DEVELOPMENT AGREEMENT**

Glossary of Defined Terms

“**Action**” or “**Proceedings**” means any legal action, lawsuit, proceeding, arbitration, investigation by a Governmental Authority, hearing, audit, appeal, administrative proceeding or judicial proceeding.

“**Affiliate**” means, with respect to any specified Person, any other Person who, directly or indirectly, Controls, is under common Control with, or is Controlled by such specified Person.

“**Agreement**” has the meaning given to that term in the introductory paragraph of this Agreement.

“**Applicable Laws**” means any and all laws, ordinances, statutes, regulations, judicial decisions, orders, injunctions, writs, rulings, interpretations, rules, permits or certificates of any court, arbitrator or other Governmental Authority and applicable to the Person or Property in question (including any activities or operations occurring on, under, over, upon, at or from such Property in question). Applicable Laws shall include all City Ordinances, County Ordinances, Environmental Laws and any applicable Federal wage requirements.

“**Approval**,” “**Approve**” or “**Approved**” means (a) with respect to any item or matter for which the approval of Authority or Authority Representative, as the case may be, is required under the terms of this Agreement, the specific approval of such item or matter by Authority pursuant to a written instrument executed by Authority or Authority Representative, as applicable, delivered to Developer, and shall not include any implied or imputed approval, and no approval by Authority or Authority Representative pursuant to this Agreement shall be deemed to constitute or include any approval required in connection with any Governmental Functions of Authority, unless such written approval shall so specifically state; (b) with respect to any item or matter for which the approval of Developer is required under the terms of the Agreement, the specific approval of such item or matter by Developer or the Developer Representative, as the case may be, pursuant to a written instrument executed by a duly authorized officer of Developer or the Developer Representative, as permitted pursuant to the terms of this Agreement, and delivered to Authority, and shall not include any implied or imputed approval; and (c) with respect to any item or matter for which the approval of any other Person is required under the terms of this Agreement, the specific approval of such item or matter by such Person pursuant to a written instrument executed by a duly authorized representative of such Person and delivered to Authority or Developer, as applicable, and shall not include any implied or imputed approval.

“**Authority Default**” as the meaning set forth in Section 14.1.2.

“**Authority Delay**” means any delay by Authority, City or KUB, as applicable in achieving any of its deadlines for performance of obligations under this Agreement, the Public Infrastructure

Agreement or the Utility Infrastructure Agreement, subject to Excusable Authority Delay or any comparable excusable delay provisions in the Public Infrastructure Agreement.

“Authority Personal Property” means any and all movable equipment, furniture, fixtures and other tangible personal property that are owned by Authority as of the Operating Term Commencement Date or otherwise purchased as part of Stadium Costs and located on or within the Stadium (and that do not constitute fixtures) and can be removed from the Stadium without damage thereto and as is further described in the Lease

“Authority Representative” has the meaning set forth in Section 2.1.

“Business Day” shall mean a day of the year that is not a Saturday, Sunday, Legal Holiday or a day on which commercial banks are not required or authorized to close in Knoxville, Tennessee.

“Business Hours” means 9:00 a.m. through 5:00 p.m. on Business Days.

“Capital Improvements Reserve Fund” shall have the meaning set forth in the Interlocal Agreement.

“City” means the City of Knoxville, Tennessee.

“City Ordinances” means all ordinances and regulations of the City, including, without limitation, all ordinances concerning land use, development projects on City-owned land, leasing of property by the City to private businesses, training and employment of residents of the City, affirmative action, no-strike and labor peace agreements, and other matters relating to City procurement and contracting procedures and any building codes, fire or life safety codes, development codes, zoning regulations and subdivision regulations, as same may be amended from time to time.

“Claims” shall mean and include any and all actions, causes of action, suits, disputes, controversies, claims, debts, sums of money, offset rights, defenses to payment, agreements, promises, notes, losses, damages and demands of whatsoever nature, known or unknown, whether in contract or in tort, at law or in equity, for money damages or dues, recovery of property, or specific performance, or any other redress or recompense which have accrued or may ever accrue, may have been had, may be now possessed, or may or shall be possessed in the future by or in behalf of any Person against any other Person for, upon, by reason of, on account of, or arising from or out of, or by virtue of, any transaction, event or occurrence, duty or obligation, indemnification, agreement, promise, warranty, covenant or representation, breach of fiduciary duty, breach of any duty of fair dealing, breach of confidence, breach of funding commitment, undue influence, duress, economic coercion, conflict of interest, negligence, bad faith, malpractice, violations of any Applicable Law, intentional or negligent infliction of mental distress, tortious interference with contractual relations, tortious interference with corporate governance or prospective business advantage, breach of contract, deceptive trade practices, libel, slander, usury, conspiracy, wrongful acceleration of any indebtedness, wrongful foreclosure or attempt to

foreclose on any collateral relating to any indebtedness, action or inaction, relationship or activity, service rendered, matter, cause or thing, whatsoever, express or implied.

“**Club**” has the meaning set forth in the preamble to this Agreement.

“**CM**” means Denark Construction Inc. which has been selected by Developer to construct the Stadium Improvements.

“**Comparable Properties**” means two or more first-class, multi-purpose Stadiums (as mutually agreed upon by the Representatives) that (i) have been constructed within five (5) years of the Commencement Date, (ii) are used at that time by a franchise licensed by MLB, (iii) are generally comparable in size, design and quality of construction to the Stadium and (iv) are located in the United States.

“**Conditions to Authority Obligations**” has the meaning set-forth in Section 3.1.

“**Conditions to Commencement**” has the meaning set forth in Section 3.2.

“**Construction Commencement Date**” has the meaning set forth in Section 4.2.

“**Contingency**” means the contingency for the construction of the Stadium included in the Stadium Budget.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise.

“**Cost Overruns**” has the meaning set forth in Section 6.5.

“**County Ordinances**” means all ordinances and regulations of the County, including, without limitation, all ordinances concerning land use, development projects on County-owned land, leasing of property by the County to private businesses, training and employment of residents of the County, affirmative action, no-strike and labor peace agreements, payment of a living wage and other matters relating to County procurement and contracting procedures and any building codes, fire or life safety codes, development codes, zoning regulations and subdivision regulations, as same may be amended from time to time.

“**Default Rate**” means the “prime rate” as published in the “Money Rates” section of *The Wall Street Journal*, plus two (2) percentage point; however, if such rate is, at any time during the Term, no longer so published, the “Default Rate” shall mean the average of the prime interest rates that are announced, from time to time, by the three (3) largest banks (by assets) headquartered in the United States that publish a “prime rate,” plus two (2) percentage point. In no event shall the Default Rate be in excess of the maximum interest rate allowed by applicable law.

“**Design Fees**” means the fees paid by Developer to the Preliminary Architect, the Project Architect or other design professional for the preparation of plans and specifications for the Stadium Improvements.

“**Developer Default**” has the meaning set forth in Section 14.1.1.

“**Developer Delay**” means any delay by Developer in achieving performance of its obligations under this Agreement.

“**Developer Representative**” has the meaning set forth in Section 2.2.

“**Developer’s Personal Property**” means any and all movable equipment, furniture, fixtures and other tangible personal property that are owned by Developer or its Subsidiaries and located on or within the Stadium (including trade fixtures, but not other fixtures) and can be removed from the Stadium without material damage thereto. The term “Developer’s Personal Property” does not include any of the Authority Personal Property or any replacements of the Authority Personal Property.

“**Developer’s Project Representative**” has the meaning set forth in Section 6.7.1.

“**Developer Representative**” means Partners and Associates, Inc., d/b/a Partners Associates.

“**Dispute or Controversy**” has the meaning set forth in Section 8.4.1.

“**Dispute Resolution Procedures**” means the dispute resolution procedures set forth in Section 8.4.1.

“**Encumbrances**” means any defects in, easements, covenants, conditions or restrictions affecting, or Liens or other encumbrances on, the title to the Stadium, whether evidenced by written instrument or otherwise evidenced.

“**Environmental Claim**” means any Action or Proceeding regarding the Real Property, the Stadium (i) arising under an Environmental Law or (ii) related to or arising out of an actual or alleged Environmental Event.

“**Environmental Event**” means the occurrence of any of the following: (i) any noncompliance with an Environmental Law; (ii) an environmental condition requiring responsive action, including an environmental condition at the Stadium caused by a third party; (iii) any event on, at or from the Real Property, the Stadium, or related to the operation thereof of such a nature as to require reporting to applicable Governmental Authorities under any Environmental Law; (iv) an emergency environmental condition; (v) the existence or discovery of any escape, seepage, leakage, spillage, emission, discharge or disposal of or other release or any kind of Hazardous Materials on, at or from the Stadium which may cause a threat or actual injury to human health, the environment, plant or animal life; or (vi) any Environmental Claim, or the filing or imposition of any environmental lien against the Real Property, the Stadium, because of, resulting from, in connection with, or arising out of any of the matters referred to in clauses (i) through (v) preceding.

“Environmental Law(s)” means any applicable Federal, state or local statute, law (including common law tort law, common law nuisance law and common law in general), rule, regulation, ordinance, code, permit, concession, grant, franchise, license, policy or rule of common law now in effect or adopted in the future, and in each case as may be amended or replaced, and any judicial or administrative interpretation thereof (including any judicial or administrative order, consent decree or judgment) relating to (i) the environment, health, safety or Hazardous Materials, (ii) the storage, handling, emission, discharge, release and use of chemicals and other Hazardous Materials, (iii) the generation, processing, treatment, storage, transport, disposal, investigation, remediation or other management of waste materials of any kind, and (iv) the protection of environmentally sensitive areas, including any federal, state or local law, statute, ordinance, code, rule, regulation, license, authorization, decision, order, injunction, decree, or rule of common law, and any judicial interpretation of any of the foregoing, which pertains to health, safety, any Hazardous Material, or the environment (including but not limited to ground or air or water or noise pollution or contamination, and underground or above ground tanks) and shall include without limitation, the Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§136 et. seq.; and the Emergency Preparedness and Response Community Right-to-Know Act, 42 U.S.C. § 11001; the Endangered Species Act, as amended, 16 U.S.C. §§1531 et seq.

“Event of Default” has the meaning set forth in Section 14.1.1 and Section 14.1.2.

“Excusable Authority Delay” means any Authority Delay which is caused by or attributable to (but only to the extent of) Force Majeure. No Authority Delay arising from the failure to make funds available for any purpose shall ever be an Excusable Authority Delay unless such failure, inability or refusal itself arises directly from, and is based upon, another event or circumstance which is an Excusable Authority Delay.

“Excusable Authority Delay Period” means with respect to any particular occurrence of Excusable Authority Delay, that number of days of delay in the performance by Authority of its obligations under the Agreement actually resulting from such occurrence of Excusable Authority Delay.

“Excusable Developer Delay” means any Developer Delay which is caused by or attributable to (but only to the extent of) Force Majeure. No Developer Delay arising from the failure to make funds available for any purpose shall ever be an Excusable Developer Delay unless such failure, inability or refusal itself arises directly from, and is based upon, another event or circumstance which is an Excusable Developer Delay.

“Excusable Developer Delay Period” means with respect to any particular occurrence of an Excusable Developer Delay, that number of days of delay in the performance by Developer of its obligations hereunder actually resulting from such occurrence of Excusable Developer Delay.

“Execution Date” has the meaning set forth in the preamble to the Agreement.

“FF&E Requirements” means the specifications and requirements for the Authority Personal Property to be part of the Stadium Improvements at Substantial Completion thereof.

“Final Completion” means, with respect to the Stadium Improvements Work or any component of the Stadium Improvements Work, (a) the final completion of the design, development, construction, furnishing and all other aspects of such work and Improvements substantially in accordance with the Project Plans or other plans therefor (all of which have been Approved pursuant to the terms of this Agreement, as and if required), all Applicable Laws and all other requirements of this Agreement, including the completion of the punch-list type items referred in Section 5.1.5 and (B) the issuance of all Governmental Authorizations necessary to use, occupy and operate all aspects and areas of the Stadium Improvements, in accordance with the terms of this Agreement.

“Final Completion Date” means the date Final Completion occurs.

“Final Notice” has the meaning set forth in Section 14.2.3.

“Financing” means the issuance by Authority of one or more series of bonds or other debt obligations in an aggregate principal amount such that the net proceeds of such issuance are not less than an amount equal to the Stadium Budget, including any Stadium Costs paid by Developer or Authority in advance of such Financing.

“Financing Proceeds” means the cash proceeds of the Financing, net of all costs of issuance associated with the Financing and any interest on such Financing financed as part of that Financing.

“Force Majeure” means any act that (a) materially and adversely affects the affected Party’s ability to perform the relevant obligations under this Agreement or delays such affected Party’s ability to do so, (b) is beyond the reasonable control of the affected Party, and (c) is not due to the affected Party’s fault or negligence. Subject to the satisfaction of the conditions set forth in (a) through (c) above, Force Majeure shall include: (i) natural phenomena, such as storms, floods, lightning and earthquakes; (ii) wars, civil disturbances, revolts, insurrections, terrorism, sabotage and threats of sabotage or terrorism; (iii) transportation disasters, whether by ocean, rail, land or air; (iv) strikes or other labor disputes affecting construction of the Stadium; (v) fires; (vi) pandemic; (vii) actions or omissions of a Governmental Authority (including the actions of Authority in its capacity as a Governmental Authority) that were not voluntarily induced or promoted by the affected Party, and that are not authorized to be taken pursuant to this Agreement, the Lease, or any related agreement, or brought about by the breach of its obligations under this Agreement or any Applicable Law; and (viii) failure of either Party to perform any of its obligations under this Agreement within the time or by the date required pursuant to the terms of

this Agreement for the performance thereof; provided, however, that under no circumstances shall Force Majeure include economic hardship.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States as set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board.

“Governmental Authority” means any Federal, state, local or foreign governmental entity, authority or agency, court, tribunal, regulatory commission or other body, whether legislative, judicial or executive (or a combination or permutation thereof).

“Governmental Authorizations” means all approvals, consents, decisions, authorizations, certificates, confirmations, exemptions, applications, notifications, concessions, acknowledgments, agreements, licenses, permits, import permits, employee visas, environmental permits, decisions, right of ways, and similar items from any Governmental Authority.

“Governmental Function” means any regulatory, legislative, permitting, zoning, enforcement (including police power), licensing or other functions which Authority is authorized or required to perform in its capacity as a Governmental Authority in accordance with Applicable Laws. The entering into this Agreement and the performance by Authority of its obligations under this Agreement shall not be considered a “Governmental Function.”

“Hazardous Materials” means (a) any petroleum or petroleum products, metals, gases, chemical compounds, radioactive materials, asbestos, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls, lead paint, putrescible and infectious materials, and radon gas; (b) any chemicals or substances defined as or included in the definition of “hazardous substances”, “hazardous wastes”, “hazardous materials”, “extremely hazardous wastes”, “restricted hazardous wastes”, “toxic substances”, “toxic pollutants”, “contaminants” or “pollutants”, or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law or Governmental Authority or which is regulated because of its adverse effect or potential adverse effect on health and the environment, including soil and construction debris that may contain any of the materials described in this definition.

“Improvements” means all improvements, structures, buildings and fixtures of any kind whatsoever, whether above or below grade, including buildings, the foundations and footings thereof, utility installations, storage, loading facilities, walkways, driveways, landscaping, signs, site lighting, site grading and earth movement, and all fixtures, plants, apparatus, appliances, furnaces, boilers, machinery, engines, motors, compressors, dynamos, elevators, fittings, piping, connections, conduits, ducts and equipment of every kind and description now or hereafter affixed or attached to any of such buildings, structures or improvements and used or procured for use in connection with the heating, cooling, lighting, plumbing, ventilating, air conditioning, refrigeration, or general operation of any of such buildings, structures or improvements, and any exterior additions, changes or alterations thereto or replacements or substitutions therefor.

“Insolvency Event” means, with respect to any Person, (a) such Person’s or any of its Subsidiaries’ (i) failure to generally pay its debts as such debts become due, (ii) admitting in writing its inability to pay its debts generally or (iii) making a general assignment for the benefit of creditors; (b) any proceeding being instituted by or against such Person or any of its Subsidiaries (i) seeking to adjudicate it a bankrupt or insolvent, (ii) seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or (iii) seeking the entry of an order for relief or the appointment of a receiver, trustee or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against such Person, any such proceeding shall remain undismissed for a period of ninety (90) days or any of the actions sought in such proceeding shall occur; or (c) such Person’s or any of its Subsidiaries’ taking any corporate action to authorize any of the actions set forth above in this definition.

“Interlocal Agreement” means that certain Interlocal Project Agreement (Multi-Use Stadium) by and between City, County and Authority dated as of _____, 202_.

“KCDC” means Knoxville’s Community Development Corporation, which is a public non-profit corporation that is the housing and redevelopment authority for the City and the County under Applicable Laws.

“KUB” means Knoxville Utilities Board.

“Lease” has the meaning set forth in the Recitals.

“Legal Holiday” means any day, other than a Saturday or Sunday, on which City’s administrative offices are closed for business.

“Lien” means any mortgage, charge, pledge, lien, privilege, security interest, hypothecation or other encumbrance upon or with respect to any Property or assets or any kind, whether real or personal tangible or intangible, now owned or hereafter acquired.

“Material Change” means (a) as to the Stadium Improvements, any modification to the Stadium Improvements so that the Stadium Improvements will not conform in a material respect to the Plans for Stadium Improvements previously Approved by Developer and Authority, and (b) as to Authority Personal Property to be a part of the Stadium Improvements at Substantial Completion thereof, any modification to such Authority Personal Property so that such Authority Personal Property does not conform to the FF&E Requirements previously Approved by Club and Authority.

“Maximum Lawful Rate” means the maximum non usurious interest rate, if any, that at any time, or from time to time, may be contracted for, taken, reserved, charged or received on any indebtedness or other sum becoming due and owing under this Agreement, under Applicable Laws with respect to the Person entitled to collect such interest and such indebtedness or, to the extent permitted by Applicable Law, under such Applicable Laws which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than Applicable Laws now allow.

“**MLB**” means Major League Baseball.

“**Operating Term**” means the “Term” as defined in the Lease.

“**Operating Term Commencement Date**” means the first day of the Operating Term.

“**Ownership Group**” means and includes the following Persons: (i) Randy Boyd, (ii) the spouse and descendants of Randy Boyd, (iii) the estate of Randy Boyd or his spouse or descendants and (iv) trusts whose primary beneficiaries are the spouse or descendants or Randy Boyd.

“**Parties**” or “**Party**” has the meaning set forth in the preamble to this Agreement.

“**Person**” means any individual, corporation, limited or general partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or any other form of entity.

“**Plans for Stadium Improvements**” means the plans and specifications for the construction of the Stadium Improvements prepared by the Project Architect, that are Approved by the Parties and which include the Minimum Requirements.

“**Pre-Development Expenses**” means demolition, survey, site preparation and/or other pre-construction expenses of Developer incurred prior to Execution Date.

“**Pre-Existing Environmental Conditions**” means the Hazardous Materials and other environmental conditions that existed on or under the Stadium prior to the Operating Term Commencement Date.

“**Preliminary Architect**” means the architect engaged by Developer prior to the Execution Date to prepare certain preliminary documentation with respect to the Stadium, including any programming documents and concept plan.

“**Prime Rate**” means the “prime rate” as published in the “Money Rates” section of The Wall Street Journal; however, if such rate is, at any time during the Term, no longer so published, the “Prime Rate” shall mean the average of the prime interest rates that are announced, from time to time, by the three (3) largest banks (by assets) headquartered in the United States that publish a “prime rate”.

“**Project Architect**” means GEM Associated Architects, a _____, which have been employed by Developer in connection with the Stadium Improvements.

“**Project DBE Coordinator**” means Knox Area Urban League.

“**Project Plans**” means, collectively, the Plans for Stadium Improvements.

“**Public Infrastructure Agreement**” means the agreement between the City and the Authority pursuant to which the City agrees to undertake the Public Infrastructure Work.

“**Public Infrastructure Plans**” means the plans and specifications for the construction of the Public Infrastructure Work, as approved by the Parties.

“**Public Infrastructure Work**” means the design, development and construction of public infrastructure improvements necessary or appropriate to provide public services and access to the Stadium, to permit the construction of the Stadium and to provide public services to the adjoining area, which work shall be described in more detail in the Public Infrastructure Agreement.

“**Qualified Surety**” means any surety which has been approved by Authority and which has an Alfred M. Best Company, Inc. rating of “A” or better and a financial size category of not less than “VIII” (or, if Alfred M. Best Company, Inc. no longer uses such rating system, then the equivalent or most similar ratings under the rating system then in effect, or if Alfred M. Best Company, Inc. is no longer the most widely accepted rater of the financial stability of sureties providing coverage such as that required by this Agreement, then the equivalent or most similar rating under the rating system then in effect of the most widely accepted rater of the financial stability of such insurance companies at the time).

“**Quality Standard**” means a first-class, state-of-the-art, multi-purpose minor league baseball stadium, comparable, when taken as a whole, to the Comparable Properties.

“**Real Property**” means the tract of land depicted in Exhibit A. In addition to the description of real property attached hereto as Exhibit A, the term “Real Property” shall also include any additional real property interests acquired by Authority and on, over or under which, or pursuant to, the Stadium is constructed.

“**Redevelopment Agreement**” means the Redevelopment Agreement entered into between KCDC and Developer relating to the Real Property, which Redevelopment Agreement may contain a commitment by KCDC to reimburse Developer for certain improvements on property owned by KCDC or adjacent to property owned by KCDC.

“**Related Party**” or “**Related Parties**” means with respect to any Person, such Person’s partners, directors, officers, shareholders, members, agents, employees, auditors, advisors, consultants, servants, counsel, contractors, subcontractors (of any tier), tenants, subtenants (of any tier), licensees, sublicensees (of any tier), lenders, successors, assigns, legal representatives, elected and appointed officials, volunteers and Affiliates, and for each of the foregoing their respective partners, directors, officers, shareholders, members, agents, employees, auditors, advisors, counsel, consultants, contractors, subcontractors, licensees, sublicensees, tenants, and subtenants.

“**Responsible Officer**” means with respect to the subject matter of any certificate, representation or warranty of any Person contained in this Agreement, an authorized officer of such Person (or in the case of a partnership, an individual who is a general partner of such Person or such an authorized officer of a general partner of such Person) who, in the normal performance

of his operational responsibility, would have knowledge of such matter and the requirements with respect thereto.

“**Review and Approval or Consent Rights**” has the meaning set forth in Section 8.2.1.

“**Reviewing Party**” has the meaning set forth in Section 8.2.1.

“**Schematic Plans for Stadium Improvements**” means the schematic plans for the construction of the Stadium Improvements attached hereto as Exhibit C prepared by the Project Architect and which include the Minimum Requirements.

“**Stadium**” has the meaning given to that term in the Recitals.

“**Stadium Budget**” means the total budget for all Stadium Costs attached hereto as Exhibit B, broken down in reasonable detail by “hard” and “soft” cost categories, including separate line items for the amount payable under each of the Stadium Construction Documents and allowances and contingencies, together with any amendments thereto up to the Substantial Completion Date, as such budget may be revised pursuant Section 5.1.1.

“**Stadium Construction Contract**” has the meaning set forth in Section 3.2.4.

“**Stadium Construction Documents**” means any and all contracts, documents or other instruments entered into by or on behalf of Developer or any Affiliates thereof for the development, design, construction or furnishing of the Stadium Improvements, including the Stadium Construction Contract.

“**Stadium Construction Schedule**” means a schedule of critical dates relating to the Stadium Improvements Work (which dates may be described or set forth as intervals of time from or after the completion or occurrence of the preceding task or event).

“**Stadium Costs**” means all documented, direct costs incurred or to be incurred by Developer in order for Developer to fulfill its obligations under this Agreement with respect to the Stadium Improvements Work and to cause Final Completion of the Stadium Improvements Work, including all infrastructure, demolition, site preparation, any necessary land acquisitions, Design Fees (including fees of the Preliminary Architect) and any amounts payable to a third party under any of the Stadium Construction Documents, but excluding costs of issuance of any Financing.

“**Stadium Improvements**” means the Stadium, including the Improvements constructed in accordance with the Plans for Stadium Improvements.

“**Stadium Improvements Work**” means the design, development and construction of the Stadium Improvements (including any associated infrastructure, demolition or site preparation) in accordance with the terms of this Agreement.

“**Submitting Party**” has the meaning set forth in Section 8.2.1.

“**Substantial Completion**” means, when used with respect to the Stadium Improvements Work or any component of the Stadium Improvements Work, the receipt of (i) a certificate of the Project Architect certifying that such Improvements have been completed in accordance with the Project Plans, and (ii) a certificate of occupancy from the City acting in accordance with its Governmental Function that such Improvements are ready for use and occupancy for their intended purposes in accordance with Applicable Law.

“**Substantial Completion Date**” means the date upon which Substantial Completion of the Stadium Improvements Work occurs.

“**Substantial Completion Deadline**” means [March 1, 2024], as such date may be extended by (i) an Excusable Developer Delay Period or (ii) Section 5.2, each in accordance with the terms of this Agreement.

“**Team**” means all rights, title and interest, including franchise rights, in the Minor League Professional Baseball license granted by the MLB to the Club and known as of the Execution Date as the “Tennessee Smokies” baseball club.

“**Term**” has the meaning set forth in Section 4.1.

“**Transfer**” has the meaning set forth in Section 12.1.

“**Transfer of Majority Interest**” means, with respect to Developer, any direct or indirect transfer, sale or other transaction (or related transactions) that results in any Person (other than a current Control Person of Developer becoming the beneficial owner, directly or indirectly, of fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of managers, directors or other comparable Controlling body of Developer.

“**Utility Infrastructure Agreement**” means the agreement between KUB and the Authority pursuant to which KUB agrees to undertake the Utility Infrastructure Work.

“**Utility Infrastructure Plans**” means the plans and specifications for the construction of the Utility Infrastructure Work, as approved by the Parties.

“**Utility Infrastructure Work**” means the design, development and construction of utility improvements necessary or appropriate to provide utility services to the Stadium, to permit the construction of the Stadium and to provide services to the adjoining area, which work shall be described in more detail in the Utility Infrastructure Agreement.

Rules as to Usage

The terms defined below have the meanings set forth below for all purposes, and such meanings are equally applicable to both the singular and plural forms of the terms defined.

(1) “Include”, “includes” and “including” shall be deemed to be followed by “, but not limited to,” whether or not they are in fact followed by such words or words of like import.

(2) “Writing”, “written” and comparable terms refer to printing, typing, and other means of reproducing in a visible form.

(3) Any agreement, instrument or Applicable Laws defined or referred to above means such agreement or instrument or Applicable Laws as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of Applicable Laws) by succession of comparable successor Applicable Laws and includes (in the case of agreements or instruments) references to all attachments thereto and instruments incorporated therein.

(4) References to a Person are also to its permitted successors and assigns.

(5) Any term defined above by reference to any agreement, instrument or Applicable Laws has such meaning whether or not such agreement, instrument or Applicable Laws are in effect.

(6) “Hereof”, “herein”, “hereunder” and comparable terms refer, unless otherwise expressly indicated, to the entire agreement or instrument in which such terms are used and not to any particular article, section or other subdivision thereof or attachment thereto. References in an instrument to “Article”, “Section”, “Subsection” or another subdivision or to an attachment are, unless the context otherwise requires, to an article, section, subsection or subdivision of or an attachment to such agreement or instrument. All references to exhibits or appendices in any agreement or instrument that is governed by this Appendix are to exhibits or appendices attached to such instrument or agreement.

(7) Pronouns, whenever used in this Agreement and of whatever gender, shall include natural Persons, corporations, limited liability companies, partnerships and associations of every kind and character.

(8) References to any gender include, unless the context otherwise requires, references to all genders.

(9) The word “or” will have the inclusive meaning represented by the phrase “and/or”.

(10) “Shall” and “will” have equal force and effect.

(11) Unless otherwise specified, all references to a specific time of day shall be based upon Eastern Standard Time or Eastern Daylight Time, as applicable, on the date in question in Knoxville, Tennessee.

(12) References to “\$” or to “dollars” shall mean the lawful currency of the United States of America.

(13) “Not to be unreasonably withheld” when used herein with respect to any Approval shall be deemed to be followed by “, conditioned or delayed” whether or not it is in fact followed by such words or words of like import.

**APPENDIX B
TO
DEVELOPMENT AGREEMENT**

Address for Notices

- A. **AUTHORITY:** **THE SPORTS AUTHORITY OF THE COUNTY OF KNOX
AND THE CITY OF KNOXVILLE, TENNESSEE**

All notices to Authority shall be sent to:

with copies of all notices to Authority relating to defaults or remedies being sent to:

- B. **DEVELOPER:** **RR LAND LLC**

All notices to Developer shall be sent to:

with copies of all notices to Developer relating to defaults, remedies or indemnification being sent to:

**EXHIBIT A
TO
DEVELOPMENT AGREEMENT**

Real Property

This real property description will be the same description as is attached to the Lease.

**EXHIBIT B
TO
DEVELOPMENT AGREEMENT**

Stadium Budget

This exhibit will be the budget consistent with the maximum price included in this Agreement.

**EXHIBIT C
TO
DEVELOPMENT AGREEMENT**

Schematic Plans

This exhibit will be a list identifying the drawings that will be final schematic plans.

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