

**Ground Lease  
Between  
The Metropolitan Government of Nashville and Davidson County  
by and through The Metropolitan Board of Fair Commissioners of**

**Lessor**

**And**

**The Sports Authority of the  
Metropolitan Government of  
Nashville and Davidson County**

**Lessee**

**July \_\_, 2020**

This Ground Lease (this “Ground Lease”) is entered into this \_\_ day of July, 2020, by and between The Metropolitan Government of Nashville and Davidson County, by and through The Metropolitan Board of Fair Commissioners, (“Lessor”) and the Sports Authority of the Metropolitan Government of Nashville and Davidson County (“Lessee”).

Recitals

1. The Lessor is a public corporation established by Charter adopted by referendum vote on June 28, 1962, in conformity with the laws of the State of Tennessee.
2. The Lessee is a public nonprofit corporation and a public instrumentality of The Metropolitan Government of Nashville and Davidson County (“Metro”) created pursuant to the laws of the State of Tennessee.
3. Pursuant to Section 7-67-109 of the Tennessee Code Annotated, the Lessee has the express power to acquire land by lease in order to operate a project such as a sports and recreation facility.
4. Pursuant to Section 7-67-111 of the Tennessee Code Annotated, the Lessor is permitted to convey land by lease to the Lessee.
5. The Metropolitan County Council on November 7, 2017, adopted Substitute Resolution No. RS2017-910 conditionally approving the issuance of public facility revenue improvement bonds by the Lessee for the construction of a new Major League Soccer (“MLS”) stadium at the Nashville Fairgrounds located at 300 Rains Avenue.
6. The Lessor and Lessee have determined an MLS stadium (“Stadium”) will encourage and foster economic development and prosperity for the

Metropolitan Government, and will provide recreational and other opportunities for the residents of the State of Tennessee and Nashville and Davidson County.

NOW, THEREFORE, IN CONSIDERATION of the premises and their mutual undertakings as herein set forth and other good and valuable consideration, the Lessor and the Lessee, do hereby agree as follows:

**Section 1. Ground Lease by Lessor to Lessee.** The Lessor does hereby lease and demise to the Lessee and the Lessee does hereby let from the Lessor, for and during the lease term hereinafter provided, (i) the tract of land described and depicted in Exhibit A, which is incorporated herein and made part hereof by this reference, together with any and all appurtenances thereunder belonging, all parking and similar facilities. Not included in the Premises, but subject to usage rights provided to StadiumCo pursuant to a written agreement to be entered into between the Fair Board and StadiumCo substantially in accordance with that certain unexecuted (but binding) term sheet previously negotiated by the parties, StadiumCo has rights to use certain parking and similar facilities and Fairgrounds infrastructure associated with the Stadium Property and/or to be used in the operation of the Stadium for Stadium Events (collectively, the "Project Property"). This Ground Lease is entered into and the leasehold estate hereby created is made upon and subject to the terms and conditions contained herein. Terms not otherwise defined herein shall have the meaning ascribed to such term in the Stadium Lease (defined below).

**Section 2. Term.** The term of this Ground Lease shall begin on its effective date and continue for thirty (30) years, or until the debt on the construction of the Stadium has been paid in full, whichever is later (the "Scheduled Termination Date"). The effective date shall be July \_\_, 2020. This Ground Lease may be extended Scheduled Termination Date for an additional term of thirty (30) years (the "First Option Period") upon the same terms and conditions as described herein at the option of the Lessee provided Lessee gives written notice to Lessor not less than one hundred twenty (120) days prior to the Scheduled Termination Date. In the event the First Option Period is exercised, this Ground Lease may be further extended for an additional term of fifteen (15) years upon the same terms and conditions as described herein at the option of the Lessee provided Lessee gives written notice to Lessor not less than one hundred twenty (120) days prior to the termination date of the First Option Period.

**Section 3. Rent.** Lessee shall pay to the Lessor annual rent in the amount of ten dollars (\$10.00) on or before August 1<sup>st</sup> of each calendar year of the term of this Ground Lease.

**Section 4. Improvements and Uses.** The Lessee shall, at its sole cost and expense, cause the Stadium to be constructed, equipped, maintained and operated upon the Project Property. The Stadium shall be used for the purposes of a sports authority determined in Title 7, Part 67 of the Tennessee Code Annotated. Lessor hereby

stipulates and agrees that the uses set forth in the Stadium Lease (defined below) are in compliance with the terms of this Agreement and with the uses as determined in Title 7, Part 67 of the Tennessee Code Annotated. Lessee covenants and agrees that it will use said Project Property for lawful purposes at all times.

**Section 5. No Warranty.** Lessee has inspected the Project Property and agrees to accept the conditions of the Project Property, without any representation or warranty on the part of the Lessor, in an “as is” condition. The Lessee assumes the responsibility of the condition, operation, maintenance and management of the Project Property.

**Section 6. Benefit and Assignment and Subletting.** The provisions of this Ground Lease shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties hereto. Neither this Ground Lease nor any of the rights and obligations of the Lessee hereunder shall be assigned or transferred to any person, firm or corporation without the prior written consent of the Lessor, which consent shall not be unreasonably withheld. Any assignment or transfer shall not release Lessee from its obligations hereunder. Any approved assignee or transferee shall assume each and every obligation of Lessee hereunder, and Lessor may deal with, contract with, and accept rent from any such assignee without waiving any of its rights hereunder. Notwithstanding the foregoing, the Lessor’s consent is not required in connection with any sublease, license, occupancy, concession, advertising, service, maintenance or other agreement (each, a “Sublease” and collectively, “Subleases”, as applicable) of all or any portion of the Project Property entered into by the Lessee, as sublessor or licensor thereunder. Lessee is expressly permitted to enter into a Subleases of the Project Property in whole or in part as necessary or desired for the management and operation of the Project Property and such Sublease shall not require any approval or consent of Lessor. Any Sublease shall be specifically subject to the terms and conditions of this Ground Lease. A Sublease shall not release Lessee from its obligations hereunder.

**Section 7. Stadium Lease Agreement; RNDA.** Lessor acknowledges that Lessee will enter into that certain Lease Agreement (the “Stadium Lease”), dated on or about the date hereof, with Walsh Management LLC, a Tennessee limited liability company (“StadiumCo”), pursuant to which Lessee will grant certain rights in favor of StadiumCo as more particularly set forth therein. Lessor hereby consents to the Stadium Lease and the terms and provisions contained therein and acknowledges and agrees that the Stadium Lease shall be deemed a Sublease hereunder, subject to all the rights and protections in favor of Subleases contained herein. Contemporaneously with the execution of this Ground Lease, Lessor shall execute, acknowledge and deliver to and for the benefit of StadiumCo a recognition, non-disturbance and attornment agreement, by and among Lessor, Lessee and StadiumCo, substantially in the form attached hereto as Exhibit B (the “RNDA”).

**Section 8. Reserved.**

**Section 9. Mechanic's Liens.** Notice is hereby given that Lessor shall not be liable for any labor or materials furnished or to be furnished to the Project Property upon credit, and that no mechanic's or other lien for any such labor or materials shall attach to or affect the reversion or other estate or interest of the Lessor in and to the Project Property. No work, services, materials or labor provided to the Lessee by any third party in connection with this Ground Lease shall be deemed to be for the benefit of Lessor. If any lien shall at any time be filed against the Project Property by reason of the Lessee's failure to pay for any work, services, materials or labor provided to the Lessee by any third party, or alleged to have been so provided, the Lessee shall immediately cause the same to be discharged of record, except that if Lessee desires to contest any such lien, it may do so as long as any such contest is in good faith. In the event the Lessee fails to cause any such lien to be discharged of record within forty-five (45) days after it receives notice thereof, Lessor may discharge the same by paying the amount claimed to be due, with the understanding that Lessor is under no obligation to do so. In the event Lessor shall discharge any lien on behalf of Lessee, Lessee agrees to immediately reimburse Lessor for such amount (plus Lessor's actual, reasonable out-of-pocket costs and attorneys' fees).

**Section 10. Casualty Loss.** The Lessee shall, at all times, at no expense to Lessor, cause the Project Property to be insured against all loss or damage by fire or other casualty. The policy shall name the Lessor as a co-insured and shall provide that the policy cannot be cancelled without thirty (30) days written notice to the Lessor. Lessee shall cause the policy to be in full force and effect throughout the term of this Ground Lease.

**Section 11. Default.** The occurrence of any one or more of the following constitutes a default (each, a "Lessee Default") by the Lessee under this Ground Lease:

- a. the Lessee's failure to pay any of the Rent or other charges due to Lessor hereunder; or
- b. the Lessee's failure to observe or perform any other covenant, agreement, condition or provision of this Ground Lease (subject to any additional cure periods set forth herein) and such failure shall continue for thirty (30) days after written notice thereof from Lessor to the Lessee, provided, however, if such failure cannot reasonably be cured within such thirty (30) day period, the Lessee shall not be in default hereunder so long as it commences to cure the same within the aforementioned thirty (30) day period and thereafter diligently prosecutes the cure to completion; or
- c. the Lessee voluntarily makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for the Lessee or for the major part of the Project Property; or
- d. a trustee or receiver is appointed for the Lessee or for the major part of its property and is not discharged within thirty (30) days after such appointment; or
- e. bankruptcy, reorganization, arrangement, insolvency, or liquidation proceedings, or other proceedings for relief under any bankruptcy law or

similar law for the relief of debtors, are instituted by or against the Lessee, and, if instituted against the Lessee, are allowed against it or are consented to by it or are not dismissed within thirty (30) days after such institution.

**Section 12. Surrender.** In the event of default a Lessee Default under this Ground Lease, which Lessee Default is not cured in accordance with the rights and obligations provided herein, Lessee agrees to peacefully surrender the Project Property to the Lessor subject to any mortgages, Subleases and encumbrances then in effect. No Sublease shall be cancelled or terminated, and Lessor shall not take any affirmative action to cancel or terminate any Sublease, as a result of the surrender of the Project Property following a Lessee Default and any such attempts shall be null and void. Lessor acknowledges and agrees that no surrender of this Ground Lease shall affect or nullify its obligations to StadiumCo under the RNDA.

**Section 13. Termination.** Except as set forth in Section 12 above, upon expiration of the term of this Ground Lease, Lessee and any lien holder holding an interest or lien against the Project Property shall be finally and permanently divested of any and all interest in the Project Property so that the Lessor shall hold the Project Property with only the same restrictions and conditions as existed prior to the execution of this Ground Lease and any reasonable and customary covenants, conditions, restrictions, easements or other encumbrances deemed necessary or desirable by Lessee for improvements to the Project Property. Lessee shall quietly and peacefully surrender the Project Property to Lessor, and Lessor may without further notice re-enter the Project Property and possess and repossess itself thereof and may dispossess Lessee and remove Lessee and may have, hold and enjoy the Project Property and the right to receive all rental and other income of and from the same.

**Section 14. Amendments.** The parties may modify, alter, amend or change any part of this Ground Lease by executing a written amendment setting forth the changes made. Such amendment shall become effective after it has been approved in writing by Lessee and by Lessor and has been passed, by resolution, of the Metropolitan County Council.

**Section 15. Net Ground Lease.** The parties agree that this Ground Lease is a net ground lease, with rent to be paid without adjustment or set-off, except as may be provided herein.

**Section 16. Prohibited Uses.** The following uses of the Project Property shall be prohibited at all times:

1. Any use that creates, causes, maintains or permits any material public or private nuisance in, on, at or about the Project Property; *provided however*, in no event will Lessor, Lessee or the Metropolitan Government be entitled to assert that a permitted use held in compliance with applicable law constitutes a public nuisance;

2. Any use or purpose that violates in any material respect any applicable law or in any way violates a special use permit or other use restrictions approved for the Project Property by the Metropolitan Government in effect as of the date hereof;
3. The sale or commercial display of any obscene sign or advertisement, including any sign or advertisement that promotes obscene activities;
4. Any sexually oriented business as such term is defined in Chapter 6.54 of the Metropolitan Code;
5. The sale of paraphernalia or other equipment or apparatus which is used primarily in connection with the taking or use of illegal drugs;
6. A shooting gallery, target range, vehicle repair facility, warehouse (but any area for the storage of goods intended to be sold or used in connection with StadiumCo, its affiliates' or other persons' operations permitted in the Stadium Lease, shall be permitted for warehousing and storage), convalescent care facility or mortuary, or any assembly, manufacture, distillation, refining, smelting or other industrial operation or use; and
7. A massage parlor (provided that massage services may be offered by a licensed massage therapist as a part of a health, beauty or fitness operation) or a tanning parlor.

**Section 17. Notice.** All notices and demands required or desired to be given by either party to the other pursuant to this Ground Lease shall be in writing and shall be delivered personally, sent by commercial overnight courier service, prepaid, or sent by United States registered or certified mail, return receipt requested, postage prepaid, to the addresses provided below:

If to Lessee:                            Executive Director  
    The Sports Authority of the  
    Metropolitan Government of  
    Nashville and Davidson County  
    P.O. Box 196300  
    Nashville, TN 37219  
    Tel:    (615)880-1021  
    Fax:    (615)

With copy to:                                Department of Law  
    Metropolitan Government of  
    Nashville and Davidson County  
    P.O. Box 196300  
    Nashville, TN 37219  
    Tel:    (615) 862-6341  
    Fax:    (615) 862-6352

If to Lessor:                                 Metropolitan Board of Fair Commissioners  
    Executive Director  
    P.O. Box 40208

Nashville, TN 37204  
Tel: (615) 862-8980

With copy to: The Metropolitan Government of  
Nashville and Davidson County  
Room 205, Metro Courthouse  
Nashville, TN 37201  
Tel: (615) 862-6770

Notices and demands shall be deemed given and served: (i) upon receipt or refusal, if delivered personally; (ii) one (1) business day after sending by facsimile (provided a hard copy is also promptly sent) or after deposit with an overnight courier service; or (iii) five (5) days after deposit in the United States mails, if mailed. Either party may change its address for receipt of notices by giving notice of such change to the other party in accordance herewith.

**Section 18. Non-Discrimination.** Lessee shall not discriminate on the basis of race, color, political, or religious opinion or affiliation, creed, age, physical or mental handicap, sex, marital status, ancestry, national origin, or sexual preference/orientation. Lessee shall comply with all applicable laws pertaining to discrimination in employment, unlawful employment practices, and affirmative action.

**Section 19. Severability.** The invalidity of any provision of this Ground Lease shall not impair or affect in any manner the validity, enforceability, or effect of the remaining provisions of this Ground Lease.

**Section 20. Governing Law; Consent to Jurisdiction.** This Ground Lease shall be governed by and construed in accordance with the laws of the State of Tennessee. The parties hereby agree that any suit, action or proceeding may be instituted with respect to this Ground Lease in any federal or state court in Davidson County, Tennessee. The parties hereby consent to *in personam* jurisdiction of such courts and irrevocably wave any objection and any right of immunity on the ground of venue, the convenience of forum, or the jurisdiction of such courts, or from the execution of judgments resulting therefrom.

**Section 21. Exhibits.** Lessor and the Lessee hereby acknowledge and agree that all exhibits referenced in this Ground Lease are attached hereto and incorporated herein by reference.

**Section 22. Captions.** The captions of this Ground Lease are for convenience and reference only and in no way define, limit or describe the scope or intent of this Ground Lease.

**Section 23. Entire Agreement.** This Ground Lease and the referenced Exhibits hereto, each of which is incorporated herein, constitutes the entire understanding and agreement of the parties with respect to the subject matter of this Ground Lease. This Ground Lease integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

**Section 24. Authority to Contract.** The signatures on this Ground Lease herein warrant that Lessee and Lessor have the requisite power and authority to enter into and enforce this Ground Lease.

[Remainder of Page Intentionally Left Blank]



In Witness Whereof, the parties have executed this Ground Lease as of the date and year set forth above.

**METROPOLITAN BOARD OF FAIR  
COMMISSIONERS:**

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Chair

**APPROVED AS TO THE  
AVAILABILITY OF FUNDS:**

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Director of Finance

**APPROVED AS TO FORM AND  
LEGALITY:**

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Metropolitan Attorney

**THE SPORTS AUTHORITY OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON  
COUNTY:**

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Chair

**ATTEST BY:**

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Secretary

**Exhibit A**

**Legal Description and Map of Project Property**

Block D Stadium

Being a tract of land lying in Davidson County, Tennessee, also being Block D of the Nashville Fairgrounds, and being more particularly described as follows;

Commencing at an existing concrete monument at the intersection of southerly right-of-way line and easterly terminus of Benton Avenue at a corner common with Amy and Mark Wigger, as of record in Deed Instrument No. 200106140063176, at the Register's Office for Davidson County, Tennessee;

Thence leaving the southerly right-of-way line of Benton Avenue, South 05 deg 57 min 31 sec East, 229.20 feet to a point, being the point of beginning;

Thence the following calls, North 74 deg 02 min 46 min East, 518.42 feet to a point; South 60 deg 57 min 14 sec East, 130.70 feet to a point; South 15 deg 57 min 14 sec East, 591.83 feet to a point; South 29 deg 18 min 09 sec West, 130.69 feet to a point; South 73 deg 37 min 45 sec West, 41.43 feet to a point; South 15 deg 57 min 14 sec East, 42.37 feet to a point; South 74 deg 02 min 46 sec West, 420.58 feet to a point; North 15 deg 57 min 14 sec West, 42.25 feet to a point; South 74 deg 02 min 46 sec West, 56.00 feet to a point; North 15 deg 49 min 55 sec West, 148.67 feet to a point; South 73 deg 45 min 38 sec West, 22.32 feet to a point; North 15 deg 57 min 14 sec West 479.38 feet to a point; North 74 deg 02 min 46 sec East, 22.00 feet to a point; North 15 deg 57 min 14 sec West, 148.72 feet to the point of beginning, containing 494,115 square feet (11.34 acres more or less).

Being part of the same property conveyed to Metropolitan Government of Nashville, as of record in Deed Book 400, Page 385, at the Register's Office for Davidson County, Tennessee.

[Also see parcel 7 and parcel 6b (as may modified) on the attached site map]

**Exhibit B**

**Form RNDA**

**[See attached]**