

1

PERFORMANCE AND COMPLETION OR MAKE WHOLE GUARANTY

2 PARTIES: **HENRY MERRITT PAULSON, JR.**, an individual, **HENRY MERRITT PAULSON, III**, an
3 individual (collectively, the "Guarantor"), and **THE CITY OF PORTLAND**, a municipal
4 corporation of the State of Oregon (the "City")

5
6 EFFECTIVE DATE: _____, 2017
7

8 **BACKGROUND**

9 A. The City and Peregrine Sports, LLC ("Peregrine") have entered into an Expansion
10 Redevelopment Agreement dated as of the date of this Performance and Completion or Make Whole
11 Guaranty ("Guaranty") in connection with the expansion of the Stadium to add capacity for 3,000-4,000
12 additional attendees (the "Expansion").

13 B. Henry Merritt Paulson, Jr. is a Manager of Peregrine and a member of Peregrine. This
14 Guaranty is entered into pursuant to the requirements in Section 4.2 of the Proposed Transaction
15 Terms for Expansion of the Stadium dated June 21, 2017 (as amended, the "Term Sheet"), Section 2 of
16 the Amendment to Proposed Transaction Terms for Expansion of Stadium dated September 29, 2017,
17 and Section 9.5 of the Expansion Redevelopment Agreement for (i) a completion or make whole
18 guaranty and (ii) a guaranty equivalent to, and in lieu of, payment and performance bonds.

19 C. All capitalized words in this Guaranty shall have the meaning as set forth in the
20 Expansion Redevelopment Agreement unless a different meaning is specifically set forth in this
21 Guaranty.

22 In consideration of the execution and delivery by the City of the Expansion Redevelopment
23 Agreement and the Related Agreements, and for other good and valuable consideration, the receipt
24 and sufficiency of which are hereby acknowledged, the Guarantor and the City agree as follows:

25 1. **GUARANTOR'S OBLIGATIONS UNDER THIS GUARANTY**

26 This Guaranty is an absolute, irrevocable, present and continuing guaranty of payment and
27 performance of the obligations set forth herein and not of collection, up to the Obligation Cap (defined
28 in Section 5.2 below).

29 2. **COMPLETION OBLIGATION**

30 2.1 Notice to Guarantor To Perform Completion or Make Whole Obligation. The City shall
31 be entitled to give notice to the Guarantor requesting that the Guarantor commence to perform,
32 subject to the Guarantor's election right under Section 3.1, the completion obligation set forth in
33 Section 2.2 or the make whole obligation set forth in Section 3.2 of this Guaranty upon the happening of
34 any one or more of the following events:

35 2.1.1 Work ceases on the Expansion for more than thirty (30) consecutive days in
36 which construction activities are scheduled to occur pursuant to the Expansion Schedule or Peregrine
37 exhibits a pattern of substantial work stoppages over a six (6) month period in which construction
38 activities are scheduled to occur pursuant to the Expansion Schedule, in each case not resulting from

1 Excused Delays under the Expansion Redevelopment Agreement or the scheduling of MLS or NWSL
2 playoff matches at the Stadium.

3 2.1.2 Peregrine fails to Finally Complete the Expansion Improvements by the Final
4 Completion Date set forth in the Expansion Redevelopment Agreement the "Completion Date").

5 2.1.3 Peregrine gives notice to the City that it does not intend to complete the
6 Expansion Improvements or does not intend to Finally Complete the Expansion Improvements by the
7 Completion Date.

8 2.1.4 The City terminates the Expansion Redevelopment Agreement pursuant to
9 Section 17.2.1.2 thereof, and Peregrine has not Substantially Completed or Finally Completed the
10 Expansion Improvements in accordance with the terms of the Expansion Redevelopment Agreement.

11 2.1.5 Peregrine commences a voluntary case under the federal bankruptcy laws or
12 under any other federal or state law relating to insolvency or debtor's relief or such a case is
13 commenced against Peregrine by any person and is not dismissed within sixty (60) days.

14 2.1.6 Peregrine consents to the appointment of a receiver, trustee, or custodian of
15 any of Peregrine's assets, or Peregrine makes a general assignment for the benefit of its creditors.

16 2.2 Guarantor's Obligations Under Guaranty.

17 2.2.1 The Guarantor hereby absolutely, irrevocably, and unconditionally guarantees,
18 as a principal obligor and not as a surety, to the City, and subject to notice under Section 2.1 and the
19 Guarantor's election right under Section 3.1: (a) the Substantial Completion and the Final Completion
20 of the Expansion Improvements, including the Initial Work; (b) the completion of all work and other
21 obligations set forth in that certain Indemnity and Assurance of Performance Agreement in Lieu of
22 Performance and Warranty Guarantees between Peregrine and the City, acting by and through the City
23 Engineer, and dated November 1, 2017; and (c) the completion of all work and other obligations set
24 forth in that certain Acknowledgment of Risk and Hold Harmless Agreement between Peregrine and the
25 City, acting by and through the Bureau of Development Services and dated _____, 2017, free
26 and clear of all claims for mechanics' and materialmen's liens and in accordance with the Expansion
27 Redevelopment Agreement (collectively the "Completion Obligation").

28 2.2.2 The Guarantor also hereby absolutely, irrevocably, and unconditionally
29 guarantees, as a principal obligor and not as a surety, to the City, and subject to notice under Section
30 2.1 and the Guarantor's election right under Section 3.1: (a) the payment of all amounts necessary to
31 Finally Complete the Expansion Improvements and to pay all other obligations of the Guarantor under
32 this Guaranty, including any and all cost overruns; (c) the payment of all Enforcement Costs (as defined
33 in Section 7 below); (d) the payment of all premiums for all policies of insurance required to be
34 provided by Peregrine pursuant to the Expansion Redevelopment Agreement; and (e) the payment of
35 all losses, costs, expenses, liabilities and damages incurred by the City arising from any failure of the
36 Guarantor to Finally Complete the Expansion Improvements in accordance with the terms of this
37 Guaranty by the Completion Date.

38 2.2.3 If the Guarantor is obligated to perform the Completion Obligation under this
39 Guaranty and fails to commence and pursue diligently the performance of the Guaranteed Obligations
40 (defined in Section 5.2 below) within thirty (30) days after receipt of written notice from the City
41 demanding the performance of the Guarantor, then, either before or after pursuing any other remedy

1 against the Guarantor or Peregrine as elected by the City in its sole and absolute discretion, the City
2 shall have the right, but not the obligation, to complete the Expansion Improvements or call upon any
3 other reputable parties to complete the Expansion Improvements (including the right to assume from
4 Peregrine the General Construction Contract or replace the Contractor and any and all subcontractors),
5 with such changes or modifications to the Drawings and Specifications or the Expansion Budget as the
6 City deems necessary in the City's reasonable discretion, provided such changes or modifications do not
7 increase the costs and expenses of the Guarantor. In addition, the City shall have the right, but not the
8 obligation, to expend such sums as the City in its reasonable discretion deems proper in order to
9 complete the Expansion Improvements and to receive reimbursement for all such costs and expenses
10 from the Guarantor up to the Obligation Cap. During the course of any construction undertaken by the
11 City or by any other party on behalf of the City, the Guarantor shall pay on demand, up to the
12 Obligation Cap, any and all amounts due to contractors, subcontractors and material suppliers and for
13 permits, licenses, entitlements, bonds, taxes, assessments and other items necessary or desirable in
14 connection therewith.

15 3. MAKE WHOLE OBLIGATION

16 3.1 Election to Perform the Make Whole Obligation. In lieu of performing the Completion
17 Obligation under Section 2, the Guarantor may elect to perform the Make Whole Obligation set forth in
18 this Section 3, which election shall be made by the Guarantor in a written notice delivered to the City
19 within thirty (30) days after the Guarantor's receipt of the City's notice given under Section 2.1. Upon
20 the timely election of the Make Whole Obligation in this Section 3, the Guarantor shall have no
21 obligation whatsoever to perform the Completion Obligation in Section 2.

22 3.2 Guarantor's Obligations to Make Whole.

23 3.2.1 The Guarantor hereby absolutely, irrevocably, and unconditionally guarantees,
24 as a principal obligor and not as a surety, to the City, and subject to the Guarantor's election right under
25 Section 3.1: (a) the performance of the Make Whole Obligation in this Section 3.2, free and clear of all
26 claims for mechanic's liens and materialmen's liens (except for those arising out of valid claims against
27 the City) in accordance with (i) all applicable Laws and (ii) the applicable provisions of the Expansion
28 Redevelopment Agreement; (b) the payment of all amounts necessary to perform the Make Whole
29 Obligation and payment all other obligations of the Guarantor under this Guaranty; (c) the payment of
30 all Enforcement Costs; (d) the payment of all premiums for all policies of insurance required to be
31 provided by Peregrine pursuant to the Expansion Redevelopment Agreement; and (e) the payment of
32 all losses, costs, expenses, liabilities, and damages incurred by the City arising from any failure of the
33 Guarantor to perform the Make Whole Obligation in accordance with the terms of this Guaranty by the
34 Completion Date.

35 3.2.2 Make Whole Obligation Defined. Subject to the notice required under Section
36 2.1 and the Guarantor's election right in Section 3.1, the Guarantor shall restore, to a condition which is
37 in all respects at least as good as or better than that which existed immediately prior to the
38 commencement of the Initial Work, all those portions of the Stadium that were removed, dismantled,
39 modified, altered or demolished during Work on the Expansion or, in the alternative, to such other
40 condition as agreed to by the parties in writing, in each party's sole and absolute discretion (the "Make
41 Whole Obligation").

42 3.2.3 Recognizing that the Guarantor cannot restore the Stadium to a condition
43 which is identical to that which existed prior to commencement of the Initial Work, the Guarantor shall
44 be required to bring the Expansion Site to a condition which is in all respects at least as good as or

1 better than such preexisting condition (“Substantially” the same) and shall not be required to perform
 2 or pay for any work that is not required to meet this standard. For example, if Peregrine has
 3 constructed foundations for the Expansion Improvements that do not prohibit the reconstruction of the
 4 sidewalk or concourse do no otherwise interfere with the operation and functionality of the Stadium,
 5 and do not require any increased repair and maintenance work or costs by the City, then the Guarantor
 6 will not be obligated to remove the foundations.

7 3.3 If the Guarantor is obligated to perform the Make Whole Obligation pursuant to this
 8 Guaranty and fails to commence and pursue diligently the performance of the Guaranteed Obligations
 9 within thirty (30) days after receipt of written notice from the City given pursuant to Section 2.1, then,
 10 either before or after pursuing any other remedy against the Guarantor or Peregrine, as elected by the
 11 City, in its sole and absolute discretion, the City shall have the right, but not the obligation, to perform
 12 the Make Whole Obligation or call upon any other reputable parties to perform the Make Whole
 13 Obligation (including the right to replace the Contractor and any or all material subcontractors), with
 14 such changes or modifications as the City deems necessary in the City’s reasonable discretion, and the
 15 City shall have the right to expend such sums as the City in its reasonable discretion deems proper in
 16 order to perform the Make Whole Obligation and to receive reimbursement from the Guarantor for all
 17 such costs and expenses. During the course of any construction undertaken by the City or by any other
 18 party on behalf of the City, the Guarantor shall pay on demand, up to the Obligation Cap, any and all
 19 amounts due to contractors, subcontractors and material suppliers and for permits, licenses,
 20 entitlements, bonds, taxes, assessments and other items necessary or desirable in connection
 21 therewith.

22 4. PAYMENT AND PERFORMANCE OBLIGATION

23 4.1 Notice to Guarantor To Perform Payment and Performance Obligation. The City shall
 24 be entitled to give written notice to the Guarantor requiring that the Guarantor commence to perform
 25 the Payment and Performance Obligation defined in Section 4.2 upon all of the following occurring: (a)
 26 a default in performance of any of the Contractor’s material obligations under the General Construction
 27 Contract; (b) the Contractor does not cure its default within the time provided for in the General
 28 Construction Contract; and (c) Peregrine does not cure the default within the time provided in the
 29 Expansion Redevelopment Agreement.

30 4.2 The Guarantor hereby absolutely, irrevocably, and unconditionally guarantees, as a
 31 principal obligor and not as a surety, to the City, upon receipt of the notice set forth in Section 4.1, the
 32 following: (a) performance of the Contractor’s obligations under the General Construction Contract; (b)
 33 to the extent not otherwise paid by the Contractor or Peregrine, payment of the Contractor’s
 34 obligations to persons furnishing labor or materials for the Expansion; (c) payment of all Enforcement
 35 Costs; and (d) the payment of all losses, costs, expenses, liabilities and damages incurred by the City
 36 arising from any failure of the Guarantor to perform the obligations under this Section 4.2 (collectively
 37 the “Payment and Performance Obligation”). Notwithstanding anything herein to the contrary, the
 38 Payment and Performance Obligation is a separate obligation of the Guarantor, and the performance of
 39 the other Guaranteed Obligations shall not limit the Payment and Performance Obligation; provided,
 40 however, the Payment and Performance Obligation is limited by the Obligation Cap.

41 5. LIMITATION OF LIABILITY

42 Notwithstanding anything to the contrary in this Guaranty:

1 5.1 Performance Limitation. The Guarantor’s obligations under the Guaranty are solely the
2 Guaranteed Obligations, and the Guarantor shall have no obligation to perform any of Peregrine’s other
3 obligations under the Expansion Redevelopment Agreement or any of the Related Agreements.

4 5.2 The Guarantor’s obligations under this Guaranty to the City are subject to there not
5 being a City Event of Default under the Expansion Redevelopment Agreement of any of the City’s
6 obligations which will materially and adversely affect the ability of the Guarantor to fulfill his obligations
7 under this Guaranty.

8 5.3 Obligation Cap. Any and all of the Guarantor’s obligations described in this Guaranty
9 are the “Guaranteed Obligations.” The Guarantor’s liability with respect to the Guaranteed Obligations
10 shall not exceed a maximum aggregate amount of sixty million and zero cents (\$60,000,000.00) (the
11 “Obligation Cap”).

12 5.4 Term of Guarantor’s Obligations. Once the Guarantor has been obligated to commence
13 performance under this Guaranty, the Guarantor’s obligation to perform and this Guaranty shall
14 terminate upon the earliest of (a) full and complete satisfaction of the Guaranteed Obligations and (b)
15 payment by the Guarantor of costs and expenses associated with the Guaranteed Obligations in an
16 amount equal to the Obligation Cap. If the Guarantor has not been obligated to commence
17 performance under this Guaranty and Peregrine has Finally Completed the Expansion Improvements,
18 then the Guarantor’s obligations under this Guaranty shall cease and the City shall promptly upon
19 written request execute a written release of the Guarantor’s obligations under this Guaranty.

20 6. ADDITIONAL GUARANTY PROVISIONS

21 6.1 Waivers by the Guarantor. The Guarantor unconditionally and irrevocably, to the
22 extent legally permitted waives any and all:

23 6.1.1 Requirements that the City, in the event of default by Peregrine, first make any
24 demand, or seek to enforce remedies against Peregrine before seeking to enforce this Guaranty.

25 6.1.2 Defenses other than: (a) the defense that Final Completion of the Expansion
26 Improvements has timely occurred; (c) the defense that the Make Whole Obligation has been fully,
27 completely and timely performed; (d) the defense that the Payment and Performance Obligation has
28 been fully and completely performed; (e) the defense that the Guarantor has already made payments
29 up to the amount of the Obligation Cap; and (f) all defenses to which Peregrine is entitled to assert
30 under the Redevelopment Agreement; including the waiver of: (i) defenses arising by reason of
31 Peregrine being the debtor in a case arising under the United States Bankruptcy Code (the “Code”) or
32 other voluntary or involuntary proceedings for the adjustment of debtor-creditor relationships; (ii) any
33 rejection or disaffirmance of the Expansion Redevelopment Agreement, or any part of it, in any
34 proceeding under the Code; (iii) defenses based on any claim that Guarantor’s obligations exceed or are
35 more burdensome than those of Peregrine; (iv) all statutes of limitations; (v) defenses arising by legal
36 disability or by reason of Peregrine’s lack of capacity or authority to enter into the Expansion
37 Redevelopment Agreement or perform its obligations thereunder; (vi) defenses based on or arising out
38 of any set-off, claim, reduction, or diminution of the Guaranteed Obligations, or any defense of any kind
39 or nature that Guarantor may have against Peregrine; or (vii) already raised by Peregrine and
40 adjudicated, mediated or arbitrated as provided in the Expansion Redevelopment Agreement.

41 6.1.3 Claims based on any alleged impairment of any collateral or any alleged
42 unjustified impairment of recourse against Peregrine or any other person or entity liable on any

1 obligations guaranteed hereby (whether such impairment is alleged to be intentional, reckless,
2 negligent or otherwise).

3 6.1.4 Claims or circumstances which constitutes a legal or equitable discharge of a
4 guarantor or surety.

5 6.2 Representations by the Guarantor.

6 6.2.1 The death of the Guarantor shall not revoke or terminate this Guaranty as to
7 such Guarantor unless and until written notice thereof is actually received by the City and until all
8 obligations under this Guaranty have been performed by such Guarantor's estate or heirs.

9 6.2.2 Henry Merritt Paulson, Jr. represents and covenants that he: (a) is now and at
10 all times during the term hereof shall be generally paying and able to pay his debts as they come due;
11 (b) now owns, and at all times during the term hereof shall own, property which, at a fair valuation, is
12 greater than the sum of his debts; and (c) now has and at all times during the term hereof shall have
13 capital sufficient to carry on his business and personal affairs.

14 6.2.3 Henry Merritt Paulson III represents and covenants that he is now and at all
15 times during the term hereof shall be generally paying and able to pay his debts as they come due.

16 6.2.4 There have been no material adverse changes in the financial condition of the
17 Guarantor since the date of the financial attestation furnished by Robbins & Associates LLC to the City.

18 6.2.5 This Guaranty has been duly and validly executed and delivered by the
19 Guarantor and constitutes the legal, valid and binding obligations of the Guarantor, enforceable against
20 the Guarantor in accordance with its terms.

21 6.2.6 There are no claims, actions, proceedings or investigations pending or
22 threatened against Guarantor that will have any adverse impact on the Guarantor's ability to perform
23 its obligations under this Guaranty.

24 6.3 Modifications. In addition to but not in limitation of the foregoing, the City may, at any
25 time and from time to time, without the consent of, or notice or responsibility to the Guarantor, and
26 without impairing or releasing the obligations of the Guarantor (with Peregrine's consent where
27 otherwise required): (a) modify or amend the manner, place or terms of payment or performance, or
28 change or extend the time of payment or performance, or modify any of the obligations of Peregrine
29 under the Expansion Redevelopment Agreement (and, if so required under the Expansion
30 Redevelopment Agreement, with Peregrine's consent) and this Guaranty shall apply to such obligations
31 of Peregrine, as so modified, amended, or extended in any manner (subject to the Obligation Cap);
32 (b) exercise or refrain from exercising, in any manner and in any order, any remedy it may have with
33 respect to any obligations of Peregrine; (c) exercise or refrain from exercising any rights against
34 Peregrine or others, including the Guarantor, or otherwise in any way act or refrain from acting; and
35 (d) settle or compromise any obligations or liabilities of Peregrine.

36 6.4 No Implied Waiver. No delay on the part of the City in exercising any of its rights under
37 the Expansion Redevelopment Agreement or this Guaranty or otherwise, and no partial or single
38 exercise of such rights, and no action or failure to act by the City, with or without notice to the
39 Guarantor or anyone else, shall constitute a waiver of such right, or shall effect or impair this Guaranty.

1 6.5 Primary Guaranty. This Guaranty is, and remains until fully satisfied, a primary
2 obligation of the Guarantor.

3 6.6 Information Regarding Peregrine. The City is not required to disclose to the Guarantor
4 any information with respect to the financial condition or character of Peregrine, any collateral, other
5 guarantees, or any action or non-action on the part of the City or Peregrine or any person connected
6 with the credit or collateral thereto. The Guarantor represents that he is fully aware of the financial
7 condition of Peregrine and is in such a position by virtue of his relationship to Peregrine to obtain all
8 necessary financial information concerning Peregrine's business. The Guarantor shall assume the
9 responsibility for keeping himself informed of the status of Peregrine's performance of Peregrine's
10 obligations under the Expansion Redevelopment Agreement, and the City shall have no duty to advise
11 the Guarantor of any information now or hereafter known regarding Peregrine, the Expansion or the
12 Expansion Improvements.

13 6.7 Direct Enforcement. The City shall not be required to first resort to performance from
14 Peregrine (except for, with respect to the Payment and Performance Obligation, a default by the
15 Contractor that Peregrine is entitled to cure under the Expansion Redevelopment Agreement), other
16 guarantors, if any, or other persons or corporations, their properties or estates, or to any collateral
17 security, property, liens, mortgages, or other rights or remedies whatsoever, prior to requiring the
18 Guarantor to fully satisfy the Guaranteed Obligations.

19 6.8 Peregrine Indebtedness. Any indebtedness of Peregrine now or hereafter owed to the
20 Guarantor is hereby subordinated to Peregrine's obligations under the Expansion Redevelopment
21 Agreement (to the extent guaranteed by the Guarantor), and, such indebtedness of Peregrine to the
22 Guarantor, if the City so requests, shall be collected, enforced, and received by the Guarantor as trustee
23 for the City and be paid over to the City on account of obligations of Peregrine to the City under the
24 Expansion Redevelopment Agreement but without reducing or affecting in any manner the liability of
25 the Guarantor herein; *provided, however,* that so long as Peregrine is not in default under the
26 Expansion Redevelopment Agreement, Peregrine shall be entitled to pay any indebtedness to the
27 Guarantor and the Guarantor shall be entitled to receive and retain such payment solely for the
28 Guarantor's own account.

29 6.9 Waiver of Subrogation by Guarantor.

30 6.9.1 Waiver. The Guarantor waives any claim or other right now existing or
31 hereafter acquired against Peregrine, or any other person who is primarily or contingently liable on the
32 obligations of Peregrine under the Expansion Redevelopment Agreement, that arises from the
33 Guarantor's performance of his obligations under this Guaranty, including, without limitation, any right
34 of contribution, indemnity, subrogation, reimbursement, exoneration, and the right to participate in
35 any claim or remedy of the City against Peregrine or any collateral security therefor which the City now
36 has or hereafter acquires, whether or not such claim, right or remedy arises under contract, law or
37 equity.

38 6.9.2 Reinstatement. The obligations of the Guarantor shall be automatically
39 reinstated if and to the extent that for any reason any payment by or on behalf of Peregrine is rescinded
40 or must be otherwise restored by any holder of any such obligation, whether as a result of any
41 proceedings in bankruptcy or reorganization or otherwise, and the Guarantor agrees that it will
42 indemnify the City on demand for all reasonable payments, costs and expenses, including legal fees,
43 incurred by the City in connection with such rescission or restoration. If payment is made by Peregrine
44 on an obligation guaranteed hereby and thereafter the City is forced to remit the amount of that

1 payment to Peregrine's trustee in bankruptcy or a similar person under any federal or state bankruptcy
2 law or law for the relief of debtors, Peregrine's obligation shall be considered unsatisfied for the
3 purpose of enforcement of this Guaranty.

4 6.10 Claims in Bankruptcy. The Guarantor hereby expressly and irrevocably releases and
5 waives any and all "claims" (as now or hereafter defined in the Code) of any nature whatsoever,
6 whether known or unknown and whether now existing or hereafter acquired, against Peregrine or the
7 estate of Peregrine in any existing or future bankruptcy case in which the debtors include Peregrine or
8 any other person or entity with respect to which such Guarantor is an "insider" (as defined in the Code),
9 to the extent such claims in any manner are related to or arise out of this Guaranty or any obligations
10 guaranteed hereby (including but not limited to fixed or contingent claims based on subrogation,
11 indemnity, reimbursement, contribution, or contract).

12 6.11 Exercise of Remedies by the City. The Guarantor consents to the City at any time
13 exercising, in its sole discretion, any right or remedy or any combination thereof which may then be
14 available to the City against Peregrine under the Expansion Redevelopment Agreement. The exercise of
15 any such rights or remedies shall not constitute a legal or equitable discharge the Guarantor. It is the
16 Guarantor's intent and purpose that, except as otherwise provided in this Guaranty, the obligations of
17 such Guarantor shall be absolute, independent, and unconditional under any and all circumstances.

18 6.12 Impact of Peregrine Bankruptcy. The liability of the Guarantor pursuant to this
19 Guaranty shall not be affected in any way by the institution of any proceedings involving Peregrine
20 under the Code or by any action taken in any such proceedings.

21 7. ENFORCEMENT COSTS

22 If: (a) this Guaranty is placed in the hands of attorneys for collection or is collected through any
23 legal proceeding; (b) attorneys are retained to represent the City in any bankruptcy, reorganization,
24 receivership, or other proceedings affecting creditors' rights and involving a claim under this Guaranty;
25 (c) attorneys are retained to provide advice or other representation with respect to this Guaranty; or (d)
26 attorneys are retained to represent the City in any proceedings whatsoever in connection with this
27 Guaranty and the City prevails in any such proceedings, then, in the event any of (a) through (d)
28 occurring, Guarantor shall pay to the City upon demand all attorneys' fees, costs and expenses,
29 including, without limitation, court costs, filing fees, recording costs, filing costs, and all other costs and
30 expenses incurred in connection therewith (all of which are referred to herein as "Enforcement Costs"),
31 in addition to all other amounts due hereunder.

32 8. GENERAL PROVISIONS

33 8.1 Integration. This Guaranty contains the entire agreement and understanding of the City
34 and the Guarantor with respect to the matters described herein and supersedes all prior and
35 contemporaneous agreements between the City and the Guarantor with respect to such matters.

36 8.2 Amendment. This Guaranty may not be modified or amended except in writing and
37 signed by the City and the Guarantor.

38 8.3 Attorneys' Fees. If a suit, action, or other proceeding of any nature whatsoever
39 (including any proceeding under the Code) is instituted in connection with any controversy arising out
40 of this Guaranty or to interpret or enforce any rights hereunder, the prevailing or non-defaulting party
41 shall be entitled to recover its attorneys', accountants', and other experts' fees and all other fees, costs,

1 and expenses actually incurred and reasonably necessary in connection therewith, as determined by the
 2 court at trial or on any appeal or review, including Enforcement Costs, in addition to all other amounts
 3 provided by law.

4 8.4 Construction and Interpretation. The headings or titles of the sections of this Guaranty
 5 are intended for ease of reference only and shall have no effect whatsoever on the construction or
 6 interpretation of any provision of this Guaranty. As used in this Guaranty, “including” means including
 7 without limitation.

8 8.5 Waiver. Failure of the City at any time to require performance of any provision of this
 9 Guaranty shall not limit the City’s right to enforce such provision, nor shall any waiver of any breach of
 10 any provision of this Guaranty constitute a waiver of any succeeding breach of such provision or a
 11 waiver of such provision itself. Any waiver of any provision of this Guaranty shall be effective only if set
 12 forth in writing and signed by the City.

13 8.6 Severability. If any term or provision of this Guaranty or the application thereof to any
 14 person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Guaranty
 15 and the application of such term or provision to persons or circumstances other than those as to which
 16 it is held invalid or unenforceable shall not be affected thereby, and each term or provision of this
 17 Guaranty shall be valid and enforceable to the fullest extent permitted by law.

18 8.7 Notices. All notices and other communications hereunder shall be in writing and shall
 19 be deemed given upon the earlier of actual delivery or refusal of a party to accept delivery thereof if
 20 sent with all applicable postage and delivery charges prepaid by: (a) personal delivery; (b) messenger
 21 service; (c) overnight courier service; (d) email, if simultaneously transmitted by another means allowed
 22 hereunder; or (e) registered or certified mail, return receipt requested, and addressed as follows:

23 If to the City: Office of Management and Finance
 24 City of Portland
 25 1120 S.W. Fifth Avenue, 12th Floor
 26 Portland, Oregon 97204
 27 Attn: Chief Administrative Officer
 28 Email: SpectatorFacilities@portlandoregon.gov

29 With a copy to: Office of the City Attorney
 30 City of Portland, Oregon
 31 1221 S.W. Fourth Avenue, 4th Floor
 32 Portland, Oregon 97204
 33 Attn: City Attorney
 34 Email: ATContractReview@portlandoregon.gov

35 And to: Radler White Parks and Alexander
 36 111 SW Columbia Street, Suite 700
 37 Portland, Oregon 97201
 38 Attn: Dina Alexander
 39 Confirmation No.: 971-634-0200
 40 Email: dalexander@radlerwhite.com

41 If to Guarantor: Peregrine Sports, LLC
 42 1844 SW Morrison Street

1 Portland, Oregon 97205
 2 Attn: Merritt Paulson and Mike Golub
 3 Confirmation No.: 503-553-5401
 4 Email: mpaulson@timbers.com
 5

6 With a copy to: Robbins & Associates
 7 Attn: Terry Robbins
 8 180 North Stetson Avenue, Suite 2550
 9 Chicago, IL 60601
 10 Confirmation No.: 312-609-1100
 11 Email: tlr@robbins-assoc.com
 12

13 And to: Stoel Rives LLP
 14 Attn: E. Walter Van Valkenburg
 15 760 SW Ninth Ave., Suite 3000
 16 Portland, OR 97205
 17 Confirmation No. 503-294-9514
 18 Email: wally.vanvalkenburg@stoel.com
 19

20 And to: Sullivan & Cromwell LLP
 21 Attn: James I. Black III
 22 125 Broad Street
 23 New York, NY 10004
 24 Confirmation No.: (212) 558-3948
 25 Email: blackj@sullcrom.com
 26

27 Each party may by notice to the other party specify a different address or fax or confirmation number
 28 for subsequent notice purposes. Notice may be sent by counsel for either party.

29 8.8 Binding Effect. This Guaranty and each of its provisions shall be binding upon the
 30 Guarantor and upon the heirs, estate, personal representatives, and successors and assigns of the
 31 Guarantor, and each of them, respectively, and shall inure to the benefit of the City, its successors and
 32 assigns.

33 8.9 Payments in U.S. Currency. Any and all amounts required to be paid by Guarantor
 34 under this Guaranty shall be paid in United States currency at such place as the City, from time to time,
 35 may require.

36 8.10 WAIVER OF JURY TRIAL. GUARANTOR AND THE CITY HEREBY
 37 WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE
 38 OF ACTION BASED UPON OR ARISING OUT OF THIS GUARANTY, THE EXPANSION
 39 REDEVELOPMENT AGREEMENT, OR ANY DEALINGS BETWEEN THEM RELATING
 40 TO THE SUBJECT MATTER OF THIS GUARANTY.

41 8.11 Governing Law. This Guaranty shall be governed by and construed in accordance with
 42 the laws of the State of Oregon. Any litigation arising under this Guaranty shall be litigated in
 43 Multnomah County, Oregon.

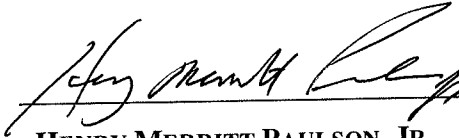
1 8.12 Joint and Several Liability. If more than one Guarantor executes this Guaranty, the
2 parties executing this Guaranty shall be jointly and severally liable for the Guaranteed Obligations.

3 8.13 Counterparts. This Guaranty may be executed in any number of counterparts, each of
4 which shall be an original but all of which together shall constitute one instrument.

5 *[Remainder of Page Intentionally Left Blank; Signatures Follow]*

1 IN WITNESS WHEREOF, the parties have executed and delivered this Guaranty as of the date
2 first above written.

3
4 GUARANTORS:


HENRY MERRITT PAULSON, JR.

5
6
7
8 
HENRY MERRITT PAULSON, III

9 CITY:

10 **THE CITY OF PORTLAND**, a municipal
11 corporation of the State of Oregon

12
13 By: _____
14 The Honorable Ted Wheeler, Mayor

15 **APPROVED AS TO FORM:**

16
17
18 By: _____
19 Tracy Reeve, City Attorney
20
21
22
23
24
25
26