

FIRST AMENDMENT TO EXCLUSIVE USE AND GUARANTY AGREEMENT

This FIRST AMENDMENT TO EXCLUSIVE USE AND GUARANTY AGREEMENT (this “Amendment”) is dated effective as of December ___, 2017, and is entered into among **Peregrine Sports LLC**, a Delaware limited liability company (which was incorrectly referenced as an Oregon limited liability company in the Original Agreement, defined below, “Peregrine”), the **City of Portland**, a municipal corporation of the State of Oregon (the “City”), **Henry Merritt Paulson, Jr.**, an individual, and **Henry Merritt Paulson, III**, an individual (each a “Guarantor” and collectively, the “Guarantors”).

RECITALS

A. The City owns Providence Park (the “Stadium”), located at SW 18th Avenue and SW Morrison Street. Peregrine operates the Stadium on a long-term basis, on behalf of the City, as a modern outdoor venue used, initially, as the home field for the Portland Timbers, a Major League Soccer franchise.

B. In connection with the operation of the Stadium, the City, Peregrine, and the Guarantors entered into that certain Exclusive Use and Guaranty Agreement dated March 10, 2010 (the “Original Agreement”), pursuant to which Peregrine made covenants to the City to comply with certain restrictions regarding the use of the Stadium, and the City awarded Peregrine the rights to operate the Stadium.

C. In 2012, Peregrine obtained the franchise rights to field a team in the newly-formed National Women’s Soccer League (the “NWSL”), and, since 2013, the Stadium has also been used as the home field for the Portland Thorns (the “Thorns”).

D. The City and Peregrine desire an expansion of the Stadium (the “Project”), as further detailed in the Expansion Redevelopment Agreement between the City and Peregrine dated _____, 2017 (the “Expansion Redevelopment Agreement”), and as a result of the Project, certain restrictions regarding the use of the Stadium will be affected.

E. The City, Peregrine, and the Guarantors now desire to amend the Original Agreement on the terms and conditions set forth in this Amendment.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, Peregrine, and the Guarantors hereby agree as follows:

1. Thorns Home Games. During the remainder of the Effective Period, unless this Amendment is terminated earlier pursuant to Section 3 of this Amendment, Peregrine agrees that the Thorns shall play all Games at the Stadium, except as follows: (a) Peregrine will have no obligation to have the Thorns play Games at the Stadium if the Stadium becomes temporarily unavailable or unsuitable for Games as contemplated in Section 1.5 of the Original Agreement, in which the terms and conditions of Section 1.5 of the Original Agreement shall apply, and (b) at Peregrine’s election, the Thorns may play one (1) regular season Game each season somewhere other than the Stadium;

provided, however, Peregrine will provide the City with reasonable advance written notice of any such Game that will not be played at the Stadium.

2. Defined Terms. As used in this Amendment, “Games” means all preseason, regular season and postseason NWSL soccer games for which the Thorns are deemed the home team pursuant to the rules or scheduling of NWSL in effect from time-to-time (“NWSL Rules”), other than any such games which are required to be played at neutral venues pursuant to NWSL Rules.

3. Termination. Section 1 of this Amendment shall terminate and cease to have any affect upon the earliest occurrence of any of the following: (a) the NWSL dissolves or permanently ceases operations; (b) the average number of tickets sold by Peregrine to Games played at the Stadium falls below seven thousand (7,000) over any two (2) regular seasons of NWSL play or below four thousand (4,000) over any one (1) regular season of NWSL play, and such attendance levels are not the result of a strike or other NWSL work stoppage, or the intentional acts or omissions of Peregrine; (c) the Thorns franchise is sold or otherwise transferred by Peregrine to a third party in an arms’ length transaction, and following such sale, the Guarantors do not individually, collectively, or through one or more entities, directly or indirectly control the Thorns franchise through ownership, management or voting rights; or (d) the end of the Effective Period. To calculate the average number of tickets sold for purposes of Subsection 3(b), the number of tickets sold for each game during the regular season shall be the total amount showing in the “Total Tickets Sold” column for the game on the Settlement Statement required to be provided by Peregrine to the City under Section 6.3.2 of the Operating Agreement, an example of which is attached to this Amendment as Exhibit 3.

4. Notice. Section 6.9 of the Original Agreement is amended to (a) provide that, in addition to the methods of delivery set forth in Section 6.9 of the Original Agreement, notices, requests, and other communications given under the Original Agreement may be sent by email, if simultaneously sent via another means allowed by Section 6.9, and (b) replace the listed notice addresses with the following:

If to the City: Office of Management and Finance
 City of Portland
 1120 S.W. Fifth Avenue, 12th Floor
 Portland, Oregon 97204
 Attn: Spectator Venue Program Manager
 Email: SpectatorFacilities@portlandoregon.gov

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

And to: Radler White Parks & Alexander
 111 SW Columbia Street, Suite 700
 Portland, Oregon 97217
 Attn: Dina Alexander

Email: dalexander@radlerwhite.com

If to Peregrine: Peregrine Sports LLC
1844 S.W. Morrison
Portland, OR 97205
Attn: Merritt Paulson
Email: mpaulson@timbers.com

With a copy to: Portland Timbers
1844 SW Morrison Street
Portland, Oregon 97205
Attn: Mike Golub
Confirmation No.: 503-553-5401
Email: mgolub@timbers.com

And to: Stoel Rives LLP
760 SW 9th Avenue, Suite 3000
Portland, Oregon 97205
Attn: Wally Van Valkenberg
Confirmation No. 503-294-9514
Email: wally.vanvalkenburg@stoel.com

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

And to: Robbins & Associates
Attn: Terry Robbins
180 North Stetson Avenue, Suite 2550
Chicago, IL 60601
Confirmation No.: 312-609-1100
Email: tlr@robbins-assoc.com

5. Definitions. All capitalized terms used, but not defined, in this Amendment shall have the meanings set forth in the Original Agreement.

6. Effect of Amendment. Except as specifically set forth in this Amendment, the Original Agreement is unmodified and is hereby ratified and remains in full force and effect. In the event of any conflict between the terms and provisions of this Amendment and the terms and provisions of the Original Agreement, the terms and provisions of this Amendment shall control. This Amendment constitutes the entire agreement of the parties with respect to the subject matter hereof, and once executed and delivered, shall not be modified or altered in any respect except by a written instrument signed by the parties hereto.

7. Successors and Assigns. This Amendment is binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and permitted assigns.


8. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Oregon.

9. Counterparts; Signatures. This Amendment may be executed in multiple counterparts, all of which, when taken together, shall constitute one and the same instrument. Electronic signatures or delivery of copies of manual signatures by facsimile or email shall be sufficient to bind the parties hereto.

*(Remainder of Page Intentionally Left Blank;
Signature Page Follows)*

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the date first written above.

PEREGRINE: PEREGRINE SPORTS, LLC,
a Delaware limited liability company

By: 
Printed Name: Henry Merritt Paulson III
Title: Manager

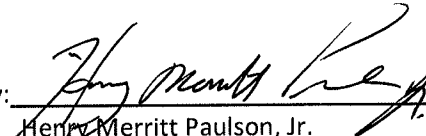
CITY: CITY OF PORTLAND,
a municipal corporation of the State of Oregon

By: _____
Printed Name: Ted Wheeler
Title: Mayor

APPROVED AS TO FORM:

By: _____
Tracy Reeve, City Attorney

GUARANTORS:

By: 
Henry Merritt Paulson, Jr.

By: 
Henry Merritt Paulson III

EXHIBIT 3

Sample Settlement Statement

Attached.

**EXHIBIT 3
Sample Settlement Statement**

Peregrine Sports, LLC

Settlement Report of City's Share of Ticket Revenue

Game Summary-Ticketing



RECORD ALL SOLD TICKETS			SEASON TICKET SALES				Group Sales	Season Suite Sales	Individual Tickets	Total Tickets Sold	Total
Price Per Ticket	Ticket adj		Full	Half	Partial (4 to < Half Game Plan)						
			2,528	0	0	0	0	0	2,528		
			4						4		
			615		0	0			615		
			3,943			64			4,007		
			1,792	0	0	0			1,792		
			28						28		
			1,039	0	0	0		0	1,039		
			156	0		0			156		
			0	0		0		0	0		
			112	0		0			112		
			0	0	0	0		60	60		
			0	0	0	0		0	0		
			0	0	0	710		2	712		
						0		463	463		
					0	0		0	0		
			0	0	0	0		221	221		
			0	0		0		215	215		
			0	0		0		0	0		
			0			0		0	0		
			0			0		24	24		
			0			50		0	50		
			0			348		0	348		
			0			30		28	58		
						61			61		
						200			200		
					0	210			210		
						0			0		
						6			6		
						0	0	48	48		
						100			100		
			10,217	0	0	1,779	0	1,061	13,057		

Revenue by Ticket Category

		\$0.00	\$0.00		\$0.00	
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