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**STADIUM OPERATING AGREEMENT**

**between**

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

**and**

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

**EFFECTIVE DATE: March \_\_, 2010**



TABLE OF CONTENTS

1			
2			<u>Page</u>
B.	<u>SECTION 1 DEFINITIONS, CONVENTION</u>		2
4	1.1	Defined Terms	2
5	1.2	Standard of Consent or Approval	2
6	<u>SECTION 2 ENGAGEMENT OF PEREGRINE; LICENSE</u>		2
7	2.1	Engagement of Peregrine	2
8	2.2	License	3
9	2.3	Revenue	3
10	2.4	MAC Easement	4
11	<u>SECTION 3 OPERATIONS TERM, TERMINATION</u>		4
12	3.1	Initial Term, Extensions	4
13	3.2	Early Termination	7
14	3.3	Authorities and Responsibilities	8
15	3.4	Scope of Authority	11
16	3.5	Standards of Performance	11
17	3.6	Personnel and Contractors	13
18	3.7	Office Location	14
19	3.8	Public Goals	14
20	3.9	Exclusive Rights, Special Remedy	18
21	<u>SECTION 4 OPERATION OF THE STADIUM</u>		19
22	4.1	Promotion and Marketing of the Stadium	19
23	4.2	Scheduling and Pricing of Events	19
24	4.3	Security, Safety and Traffic Control	20
25	4.4	Concessions and Licenses	21
26	4.5	Maintenance, Repair and Structural Improvements	22
27	4.6	Impositions	31
28	4.7	Acquisition of Supplies	33
29	4.8	Acquisition and Use of FF&E	33
30	4.9	Assumption of Agreements	34
31	4.10	Alterations	35
32	4.11	Fair Wage	35
33	4.12	Natural Grass Playing Field	37
34	4.13	Clinic Facility	38
35	4.14	Tanner Creek Sewer Line	39
36	4.15	Labor Agreement	41
37	<u>SECTION 5 STADIUM OPERATING EXPENSES</u>		41
38	5.1	Peregrine Obligation to Pay Stadium Operating Expenses	41
39	5.2	No City Payment of Stadium Operating Expenses	41
40	5.3	Proration	42

6.	<u>SECTION 6 PAYMENTS TO THE CITY</u> .....	42
2	6.1 Definitions.....	42
3	6.2 Payment of License Payment for Operating Years 1-7.....	45
4	6.3 Payment of City's Share of Ticket Revenues for Operating Years 1-7.....	46
5	6.4 Payment of the City's Share of Ticket Revenues for Operating Years 8-25.....	47
6	6.5 Payments of City's Guaranteed Annual Revenue.....	47
7	6.6 Prepayment of License Payment and City's Share of Ticket Revenue for	
8	Year 8 through Year 25 .....	48
9	6.7 Allocation of Surplus.....	48
10	6.8 Late Charges .....	49
11	6.9 Partial Operating Year .....	49
12	6.10 Overpayment.....	49
13.	<u>SECTION 7 OVERSIGHT</u> .....	50
14	7.1 Financial Statements.....	50
15	7.2 City's Right of Financial Review.....	50
16	7.3 Accounts, Books, and Records.....	51
17	7.4 Review by the City .....	52
18	7.5 Noncompliance by Peregrine.....	52
19	7.6 Annual Maintenance Review .....	53
<del>20.</del>	<u>SECTION 8 ENHANCEMENTS TO THE STADIUM IMPROVEMENTS</u> .....	54
21	8.1 Approval by the City and Peregrine .....	54
22	8.2 Standards.....	54
23	8.3 Scheduling.....	55
24	8.4 Approval of Plans .....	55
<del>25.</del>	<u>SECTION 9 NAMING RIGHTS, ADVERTISING</u> .....	55
26	9.1 Authority To Sell Naming Rights.....	55
27	9.2 Approval by City .....	55
28	9.3 Limitations on Stadium Naming Rights and Naming Rights .....	56
29	9.4 Standards of Approval .....	57
30	9.5 Limitation on Advertising.....	58
31	9.6 End of Term .....	58
<del>30.</del>	<u>SECTION 10 INSURANCE</u> .....	59
33	10.1 Insurance to be Maintained by Peregrine .....	59
34	10.2 Terms of Insurance .....	62
35	10.3 No Effect on Indemnity .....	63
36	10.4 Additional Insurance Provisions.....	63
37	10.5 Insurance to be Maintained by the City.....	64
38	10.6 Cooperation.....	64
39	10.7 Termination of Required Insurance, Insurance Alternatives .....	65
40I.	<u>SECTION 11 INDEMNIFICATIONS</u> .....	66
41	11.1 Scope of Peregrine Indemnification .....	66
42	11.2 Scope of City Indemnification.....	67

1	11.3	Defense of Claims by Peregrine .....	68
2	11.4	Defense of Claims by City.....	68
3	11.5	Effect of Approval .....	69
4	11.6	Hazardous Substances .....	69
<del>52.</del>	<u>SECTION 12 DAMAGE OR DESTRUCTION</u> .....		70
6	12.1	Peregrine's Notice Obligation .....	70
7	12.2	Insured Loss .....	70
8	12.3	Uninsured Loss .....	71
9	12.4	Manner of Restoration .....	72
10	12.5	Plans and Specifications .....	73
11	12.6	Disbursement of Insurance Proceeds.....	73
12	12.7	Casualty At End of Term.....	73
13	12.8	No Termination.....	74
<del>113.</del>	<u>SECTION 13 CONDEMNATION</u> .....		74
15	13.1	Total or Substantial Condemnation .....	74
16	13.2	Partial Condemnation .....	75
17	13.3	Successive Condemnations.....	76
<del>114.</del>	<u>SECTION 14 LIENS</u> .....		76
<del>115.</del>	<u>SECTION 15 ASSIGNMENT AND TRANSFER</u> .....		77
20	15.1	Prohibition on Transfer.....	77
21	15.2	Liability of Peregrine .....	81
<del>216.</del>	<u>SECTION 16 AGREEMENTS AFFECTING STADIUM</u> .....		82
23	16.1	Conditions to Agreements .....	82
24	16.2	Assumption by the City Upon Termination .....	83
25	16.3	Assignment by Peregrine.....	83
26	16.4	Agreement With Affiliates .....	84
<del>217.</del>	<u>SECTION 17 REPRESENTATIONS, WARRANTIES, AND COVENANTS</u> .....		84
28	17.1	Representations and Warranties of the City .....	84
29	17.2	Representations and Warranties of Peregrine .....	86
30	17.3	Mutual Covenants.....	87
31	17.4	Covenants of the City .....	88
32	17.5	Covenants of Peregrine.....	90
<del>318.</del>	<u>SECTION 18 DEFAULT, REMEDIES, TERMINATION</u> .....		92
34	18.1	Peregrine Default; Remedies .....	92
35	18.2	City Default; Remedies.....	95
36	18.3	Rights and Obligations Upon Termination .....	96
37	18.4	Indemnity .....	98
38	18.5	Transition .....	99
<del>319.</del>	<u>SECTION 19 DISPUTE RESOLUTION</u> .....		99
40	19.1	Good Faith Negotiations.....	99

1	19.2	Designation of Arbitrator.....	100
2	19.3	Scope of Arbitration.....	101
3	19.4	Conduct of Arbitration.....	101
4	19.5	Effect on Agreement.....	102
5	19.6	Effect of Determination .....	102
6	19.7	Equitable Proceedings .....	102
7	19.8	Further Disputes.....	103
8	19.9	Confidentiality .....	103
20.		<u>SECTION 20 GENERAL PROVISIONS .....</u>	<u>103</u>
10	20.1	Exhibits .....	103
11	20.2	Notices .....	103
12	20.3	Time of Essence.....	105
13	20.4	Conflict of Interest .....	105
14	20.5	Relationship of Parties .....	105
15	20.6	Severability .....	105
16	20.7	Construction and Interpretation .....	106
17	20.8	Binding Effect.....	106
18	20.9	Captions .....	106
19	20.10	Integration .....	106
20	20.11	Amendment.....	107
21	20.12	Waiver	107
22	20.13	Survival .....	107
23	20.14	Attorneys' Fees .....	107
24	20.15	Governing Law .....	108
25	20.16	Estoppel Certificates .....	108
26	20.17	Waiver of Claim.....	108
27	20.18	Non-Waiver of Government Rights .....	109
28	20.19	No Third Party Beneficiaries.....	109
29			
30		Signature Page .....	109
31			

1		
2	EXHIBITS	
3	1	Stadium Legal Description
4	1.1	Defined Terms
5	3.1.3	Present Value of License Payments and City's Share of Ticket Revenues
6	3.5.1.2	Comparable Facilities
7	3.5.2.1	Event Mix
8	4.8.1	FF&E
9	4.9.1	Existing Agreements
10	6	Schedule of License Payments and Minimum City's Share of Ticket Revenues
11	6.3.3	City's Share of Ticket Revenue Collections Policy
12	17.1	Qualifications to Representations and Warranties of the City
13		

1  
2  
3  
4  
5  
6  
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**STADIUM OPERATING AGREEMENT**

PARTIES: CITY OF PORTLAND,  
a municipal corporation of the State of Oregon (“City”)  
PEREGRINE SPORTS, LLC,  
a Delaware limited liability company (“Peregrine”)

EFFECTIVE DATE: March \_\_, 2010

The City owns PGE Park, which is located at SW 18th and SW Morrison Streets in Portland, Oregon, a legal description of which is attached as Exhibit 1 (the “Stadium”). The City and Peregrine entered into that Redevelopment Agreement effective March \_\_, 2010 (the “Redevelopment Agreement”) pursuant to which the City and Peregrine have agreed to renovate the Stadium in a manner consistent with the requirements of Major League Soccer.

Peregrine has entered into an agreement to acquire a Major League Soccer team (the “Team”). The City and Peregrine desire that the Team play its home games at the Stadium and that Peregrine have the exclusive right to manage and operate the Stadium. In exchange, Peregrine will pay to the City a guaranteed license fee and share of ticket revenues pursuant to the terms of this Agreement. The Stadium is currently managed and operated by Shortstop, LLC, a Delaware limited liability company (“Shortstop”).

NOW, THEREFORE, in consideration of the above stated recitals, and the mutual promises of the Parties set forth in this Stadium Operating Agreement (the “Agreement”), the City and Peregrine agree as follows:

11. SECTION 1 DEFINITIONS, CONVENTION

2           1.1 Defined Terms

3                   Capitalized words, which are not the first word of a sentence, are defined  
4 terms. Some defined terms are defined in the text of this Agreement and other defined terms  
5 used in this Agreement are defined in the attached Exhibit 1.1.

6           1.2 Standard of Consent or Approval

7                   Wherever this Agreement provides that a Party's consent, approval, or  
8 concurrence is required, or where a document or action must be acceptable to a Party, or  
9 words of similar import, the standard against which the Party exercises its judgment shall be  
10 the good faith sole discretion of that Party unless this Agreement specifies a different  
11 standard (*i.e.*, reasonable) and in that circumstance the specified standard should control. If  
12 the same act of consent, approval, or concurrence is referred to multiple times, then any  
13 explicitly specified standard contained in any such reference to the same act of consent,  
14 approval, or concurrence shall pertain to all such references. "Consent," "approval,"  
15 "acceptance" or "concurrence" of the City required or allowed by this Agreement may be  
16 given, in writing, by the CAO, or his designee (the "City Representative") unless authority  
17 to consent is specifically reserved by this Agreement to the City Council. "Consent,"  
18 "approval," "acceptance" or "concurrence" of Peregrine required or allowed by this  
19 Agreement may be given, in writing, by the Manager of Peregrine or his designee.

20. SECTION 2 ENGAGEMENT OF PEREGRINE; LICENSE

21           2.1 Engagement of Peregrine

22                   The City hereby engages Peregrine as an independent contractor (and not as  
23 an agent of the City) to manage and operate the Stadium during the Operations Term and on  
24 the terms and conditions contained in this Agreement, and Peregrine hereby accepts such  
25 engagement on those terms and conditions.



1           2.2    License

2           Throughout the Operations Term, Peregrine shall have an exclusive license to  
3   occupy, use and possess the Stadium to the extent necessary or convenient to Peregrine's  
4   performance of its obligations and exercise of its rights under this Agreement, including an  
5   exclusive license to use and occupy the office space within the Stadium, subject to the rights  
6   of the City contained herein. Throughout the Operations Term and subject to Sections 20.15  
7   and 20.18, Peregrine shall have the right to give access to or deny access to the Stadium to  
8   other Persons. The City also has the right to access the Stadium by City personnel for the  
9   purpose of determining compliance with this Agreement, to exercise the City's regulatory  
10   and police power authority, and where access to the Stadium is specifically addressed and  
11   granted to the City herein; and, the City will use Reasonable Efforts to avoid interfering  
12   with Peregrine's performance of its obligations and enjoyment of its rights under this  
13   Agreement, whenever City personnel are at the Stadium. In addition to the foregoing,  
14   throughout the Operations Term, Peregrine shall have the right to use the Intellectual  
15   Property related to the Stadium, including the name and image of the Stadium; provided,  
16   however, that the City retains the right to use the Intellectual Property related to the Stadium  
17   for non-commercial, governmental purposes. Other than as stated above, Peregrine shall  
18   have no property interest in or to the Stadium and no estate in or to the Stadium, other than  
19   the limited license set forth above.

20           2.3    Revenue

21           Peregrine shall collect and retain all revenues from whatever source, including  
22   but not limited to, Ticket Revenue, and from Naming Rights and Stadium Agreements,  
23   except for payments to the City pursuant to Section 6 and except for the potential addition of  
24   a floor to the Clinic Facility, beyond the floors which may be occupied by the user referred  
25   to in Section 4.13.

1           2.4    MAC Easement

2                   Part of the Stadium is located on property owned by the MAC over which the  
3 City holds the MAC Easement as described in Section 2.4 of the Redevelopment  
4 Agreement. Pursuant to a license granted under Section 6.2.2 of the Redevelopment  
5 Agreement, the City has given Peregrine a License to Use Easement which allows Peregrine  
6 to use the MAC Easement during the Operations Term. Throughout the Operations Term,  
7 Peregrine agrees not to violate the License to Use Easement.

8    SECTION 3 OPERATIONS TERM, TERMINATION

9           3.1    Initial Term, Extensions

10           3.1.1   Effective Date

11                   This Agreement is binding on the Parties as of the Effective Date. However,  
12 Peregrine's rights and obligations under this Agreement do not commence until the  
13 Operations Term commences pursuant to Section 3.1.2 below.

14           3.1.2   Operations Term

15                   This Agreement shall remain in full force and effect from the Effective Date  
16 until the earlier of: the Termination Date or an Early Termination Date. The Operations  
17 Term of this Agreement shall commence on January 1, 2011 (the "Commencement Date")  
18 and, unless sooner terminated in accordance with Section 3.2 below, shall continue for a  
19 period of twenty-five years, provided if Peregrine has exercised its right to extend as  
20 provided in Section 3.1.3, the Operations Term shall include the Extended Operations Term.

21           3.1.3   Extensions

22                   3.1.3.1   In the event that Peregrine funds Cost Overruns pursuant to  
23 the Redevelopment Agreement, then Peregrine shall be entitled to extend the Operations

1 Term in accordance with this Section 3.1.3 by offsetting the amount of the Cost Overruns  
2 against the License Payment and City Share of Ticket Revenue that would otherwise be due  
3 during such extension. If Peregrine funds Cost Overruns, then Peregrine shall have a one-  
4 time right to extend the Operations Term by up to three (3) years with no License Payment  
5 or City Share of Ticket Revenues to allow a recovery of such Cost Overruns up to a  
6 maximum of One Million Dollars (\$1,000,000) (if properly exercised, the "Free Extended  
7 Operations Term"). The length of the Free Extended Operations Term shall be determined  
8 by the amount of the Cost Overrun, provided that, if the calculation shows that the Free  
9 Extended Operations Term would end before December 31<sup>st</sup> of any year, then Peregrine  
10 may extend the Operations Term through December 31<sup>st</sup> of that year by paying the City the  
11 License Payments and City Share of Ticket Revenues that would otherwise be due during  
12 the period between the end of the Free Extended Operations Term and the end of that year  
13 (the "Extended Operations Term"). As shown on Exhibit 3.1.3, the parties have agreed  
14 upon the present value of the License Payments and City Share of Ticket Revenues for each  
15 of three years beyond the initial 25-year Operations Term. The discounted present value of  
16 the License Payments and City Share of Ticket Revenues shall be used to determine the  
17 maximum length of the Free Extended Operations Term. The present value numbers used in  
18 Exhibit 3.1.3 shall be prorated on a daily basis as necessary to determine the actual length of  
19 the Free Extended Operations Term, if any. The City and Peregrine shall attempt to agree  
20 on the duration of the Free Extended Operations Term within ninety (90) days of Final  
21 Completion (as defined in the Redevelopment Agreement) of the Stadium. If the Parties are  
22 unable to agree, the duration of the Free Extended Operations Term shall be determined by  
23 Dispute Resolution pursuant to Section 19. Within forty-five (45) days after Final  
24 Completion, Peregrine shall provide to the City Peregrine's calculation of (i) the amount of  
25 Cost Overruns paid by Peregrine up to a maximum of One Million Dollars (\$1,000,000);  
26 and (ii) the length of time by which Peregrine is entitled to extend the Operations Term  
27 pursuant to this Section 3.1.3 which, if properly calculated, shall constitute the Free

1 Extended Operations Term. Unless the City disagrees with Peregrine's calculations, which  
2 disagreement must be conveyed to Peregrine in writing within fifteen (15) days of receipt of  
3 Peregrine's calculation, the Free Extended Operations Term shall be as set forth in  
4 Peregrine's calculation. If the City disagrees with any of Peregrine's calculations, the  
5 parties shall submit the same to Dispute Resolution for a determination of the duration of  
6 Free Extended Operations Term, which shall be based on the decision of the Arbitrator.

7 3.1.3.2 In the event Peregrine has the right and elects to exercise the  
8 same to extend the Operations Term, then Peregrine shall give advance written notice (the  
9 "Exercise Notice") to the City, not later than February 1 of the twenty-third Operating Year,  
10 that Peregrine is exercising the right. In the Exercise Notice, Peregrine shall set forth the  
11 duration of the Extended Operations Term, which may not exceed the duration of the Free  
12 Extended Operations Term, except to the extent allowed under Section 3.1.3.1.

13 3.1.3.3 During the Free Extended Operations Period, all of the  
14 terms and conditions of this Agreement shall apply, except that Peregrine shall have no  
15 obligation to pay any License Payment, and Peregrine's obligation to pay the City's Share of  
16 Ticket Revenues shall be limited to paying Surplus pursuant to Section 6.4 and 6.7.  
17 Peregrine may not elect to extend the Operations Term if at the time of Peregrine's Exercise  
18 Notice there is an uncured Peregrine Event of Default. Peregrine may not extend the  
19 Operations Term beyond or after an Early Termination Date.

#### 20 3.1.4 Temporary Closure

21 If during the Operations Term there are periods of time when the Stadium is  
22 temporarily not usable for events due to casualty loss, repairs, renovation, or as required by  
23 the City in its regulatory capacity (a "Temporary Closure"), then the Termination Date shall  
24 be extended by the cumulative elapsed time of all Temporary Closures and if the resulting  
25 extended Termination Date is not December 31, then the Termination Date shall become

1 December 31 of that calendar year that includes the Termination Date as extended by  
2 Temporary Closures.

3 3.2 Early Termination

4 Each of the following shall constitute an event causing the termination of this  
5 Agreement before the Termination Date (an "Early Termination"), on the following terms  
6 and conditions and with the following effective dates (each an "Early Termination Date," as  
7 applicable):

8 3.2.1 In the event that Peregrine does not maintain the insurance required to  
9 be maintained by Peregrine pursuant to Section 10, and the City has not elected to obtain the  
10 insurance coverage pursuant to Section 10.4 (with the premiums paid by Peregrine as  
11 required by Section 10.4), and the obligation to maintain such insurance has not been  
12 suspended pursuant to Section 10.7, then the City may terminate this Agreement with an  
13 effective termination date which is the date the insurance policy(ies) then in effect expire,  
14 and such date shall be the Early Termination Date.

15 3.2.2 The Parties, by mutual agreement, in their respective sole discretion,  
16 may terminate this Agreement at any time during the Operations Term, and the date of  
17 termination so agreed upon shall be the Early Termination Date.

18 3.2.3 Upon the occurrence of a Peregrine Event of Default, including  
19 Peregrine's failure to cure during any applicable cure period, under Section 18.1.1, the City  
20 may terminate this Agreement pursuant to Section 18.1.2.

21 3.2.4 Upon the occurrence of an Early Termination pursuant to Section  
22 12.2.3 or 12.3.1 as a result of a casualty loss.

1           3.2.5 In the event of a termination pursuant to Section 13.1 as a result of  
2     Condemnation.

3           3.2.6 Upon the occurrence of a City Event of Default under Section 18.2.1,  
4     Peregrine may terminate this Agreement pursuant to Section 18.2.2.

5           3.2.7 At the election of Peregrine , in the event that MLS disbands or ceases  
6     operations.

7           3.2.8 In the event of termination of the Redevelopment Agreement under  
8     Section 27.2 of the Redevelopment Agreement.

9           3.3     Authorities and Responsibilities

10           Subject to the scope of the license granted in Section 2.2, Peregrine, during  
11     the Operations Term, shall have the exclusive authority and responsibility for all aspects of  
12     the operations of the Stadium including, but not limited to: management, administration,  
13     operation, use, scheduling, advertising, marketing, promotion, security, licensing, provision  
14     of concessions and Maintenance, all in accordance with the terms of this Agreement.  
15     During the Operations Term, Peregrine shall have responsibility for Maintenance and  
16     Repairs to the extent provided in Section 4 herein. Peregrine agrees to perform its  
17     responsibilities under this Agreement at its own cost and expense, except to the extent this  
18     Agreement provides for another source of funds. Without limitation of the foregoing,  
19     throughout the Operations Term Peregrine agrees to perform the following responsibilities:

20           3.3.1 Manage and operate the Stadium in compliance with Section 3.8;

21           3.3.2 Employ personnel and engage contractors, in accordance with the  
22     terms of Section 3.6, necessary and sufficient to perform Peregrine's obligations under this  
23     Agreement;

1           3.3.3 Provide for the scheduling of Events at the Stadium in accordance with  
2 the terms of Section 4.2 and the establishment of rental and usage rates for the Stadium;

3           3.3.4 Provide for the marketing, advertising, and promotion of the Stadium  
4 in accordance with the terms of Section 4.1;

5           3.3.5 Provide for public safety, security and traffic control with respect to all  
6 Events at the Stadium in accordance with the terms of Section 4.3;

7           3.3.6 Grant concessions, licenses, and other comparable rights regarding the  
8 Stadium in accordance with the terms of Section 4.4;

9           3.3.7 Provide for the Maintenance and Repairs of the Stadium in accordance  
10 with the terms of Section 4.5, periodically inspect the Stadium (except for its structural  
11 components) with a frequency and intensity comparable to the inspection programs of  
12 Comparable Facilities, and advise the City promptly in writing of any condition in the  
13 Stadium of which Peregrine's officers or managerial employees become aware which may  
14 indicate the need for Structural Repair or other Repair or a replacement for which the City  
15 has some cost responsibility;

16           3.3.8 Pay all Impositions in accordance with the terms of Section 4.6;

17           3.3.9 Purchase or lease and maintain all materials, tools, machinery,  
18 equipment, supplies and other FF&E necessary for the operation of the Stadium and for the  
19 performance of Peregrine's other obligations under this Agreement in accordance with the  
20 terms of Sections 4.7 and 4.8;

21           3.3.10 Pay expenses in accordance with the terms of Section 5;

22           3.3.11 Provide for the preparation and dissemination of financial statements,  
23 reports, and other materials in accordance with the terms of Section 7;

1           3.3.12 Maintain accounts, books, and records with respect to the Stadium in  
2 accordance with the terms of Section 7.3;

3           3.3.13 Procure and maintain in force insurance regarding the Stadium that  
4 Peregrine is required to maintain, in accordance with the terms of Section 10;

5           3.3.14 Keep and maintain the Stadium, and all activities occurring on or in  
6 connection with the Stadium, in compliance with Laws;

7           3.3.15 Arrange for and maintain in force all licenses, permits, certificates,  
8 approvals, franchises, and other authorizations required in connection with the operation,  
9 use, and Maintenance of the Stadium as well as for any Repairs for which Peregrine bears  
10 any responsibility under this Agreement;

11           3.3.16 Arrange for the provision of all utility services for the Stadium;

12           3.3.17 Collect all Ticket Revenue in a commercially reasonable manner;

13           3.3.18 Initiate where reasonably necessary and conduct (and, if appropriate,  
14 settle) any litigation, arbitration, or other proceeding required to collect amounts owing with  
15 respect to Ticket Revenue, and defend and conduct (and, if appropriate, settle) any litigation,  
16 arbitration, or other proceeding initiated by another Person asserting a claim based on a  
17 Stadium Agreement, concession agreement, or similar contract; and

18           3.3.19 License the right to use the Intellectual Property, including the image  
19 of the Stadium; provided, however, that the City retains the right to use the Intellectual  
20 Property for non-commercial, governmental purposes.



1           3.4    Scope of Authority

2                   Subject to the other terms of this Agreement, Peregrine shall have the  
3 authority to take, and to refrain from taking, all actions to the extent reasonably necessary to  
4 carry out its responsibilities described in Section 3.3, but in no event shall any such action  
5 bind, or impose any liability upon, the City without the City's prior written consent, except  
6 in the case of Emergency Repairs pursuant to Section 4.5.13.

7           3.5    Standards of Performance

8                   3.5.1 Peregrine shall perform its obligations under this Agreement in  
9 accordance with all of the following Performance Standards. The failure of Peregrine to  
10 meet these Performance Standards shall constitute a Peregrine Event of Default.

11                   3.5.1.1 Peregrine shall use its Reasonable Efforts and skills;

12                   3.5.1.2 Peregrine shall, in all respects, manage and operate the  
13 Stadium with a level of diligence, skill, expertise, and effort which is equal to or above the  
14 average level of diligence, skill, expertise and effort of other operators of the Comparable  
15 Facilities described on Exhibit 3.5.1.2.

16                   3.5.1.3 Peregrine shall manage and operate the Stadium in  
17 accordance with the terms of this Agreement and in such a manner so as to achieve the  
18 Public Goals set forth in Section 3.8.

19                   3.5.1.4 Peregrine shall act in a commercially reasonable manner  
20 with respect to the handling of and accounting for money generated by Ticket Revenue.

21                   3.5.1.5 Peregrine shall comply with all applicable Laws.

22                   3.5.2 To the extent not inconsistent with other provisions of this Agreement,  
23 in all aspects of the operations of the Stadium, Peregrine shall use Reasonable Efforts to

1 accomplish the following operational goals (the “Operational Goals”) throughout the  
2 Operations Term. If Peregrine is unable to achieve these Operational Goals due to market  
3 conditions at a given point in time or from time to time, such an event shall not be a  
4 Peregrine Event of Default so long as Peregrine uses Reasonable Efforts to respond to such  
5 market conditions so as to endeavor to accomplish the Operational Goals. Peregrine’s  
6 failure to use Reasonable Efforts as required by this Section 3.5.2 shall be a Peregrine Event  
7 of Default, provided Peregrine has failed to cure during the applicable cure period. These  
8 Operational Goals shall also be used to guide the City’s decision making with respect to  
9 matters requiring the City’s approval. The Operational Goals are the following:

10                   3.5.2.1 Encourage and promote the utilization of the Stadium for  
11 Events of the type described in the Event Mix attached as Exhibit 3.5.2.1;

12                   3.5.2.2 Maintain the Stadium as a fully functional, marketable, and  
13 attractive (as a maintenance, but not design standard) facility throughout the Operations  
14 Term;

15                   3.5.2.3 Bring significant specialized knowledge, expertise and  
16 experience to the management and operations of the Stadium in order to assure its  
17 continuing status as a major public facility in the region;

18                   3.5.2.4 Maximize Ticket Revenue from all sources consistent with  
19 the other provisions of this Agreement (however, non-compliance with this Section 3.5.2.4  
20 shall not be the basis for a termination of this Agreement); and

21                   3.5.2.5 Prolong the useful life of the Stadium, subject to normal  
22 wear and tear.

1           3.6    Personnel and Contractors

2           3.6.1 Peregrine shall employ and contract for the services of such Persons as  
3 may be necessary for Peregrine to meet its obligations under this Agreement. All such  
4 employees and contractors shall be employed or engaged by Peregrine. Except for contracts  
5 for employment with Peregrine as the employer, any and all contracts with such Persons  
6 shall be subject to the terms of Section 16. In no event shall the City have any liability or  
7 obligation with respect to any such employees or contractors unless the City elects to  
8 assume any of the contracts with such Persons.

9           3.6.2 Peregrine shall be responsible for all matters pertaining to the  
10 employment of Persons in connection with the Stadium, including, without limitation,  
11 recruitment, hiring, discharge, training, supervision, compensation, promotion, provision of  
12 benefits, and institution of appropriate guidelines. Peregrine shall comply, and shall require  
13 its contractors to comply, with all Laws relating to employment, including, without  
14 limitation, those pertaining to workers' compensation, social security, unemployment  
15 insurance, hours of labor, wages, working conditions, and equal opportunity employment.

16           3.6.3 Peregrine shall be responsible for conducting negotiations with any  
17 labor unions representing any Persons Peregrine engages and may, in its own name, enter  
18 into collective bargaining agreements or other labor contracts affecting the Stadium,  
19 provided that all such contracts shall comply with the provisions of Section 16.

20           3.6.4 Nothing in this Section 3.6 shall authorize Peregrine to delegate or  
21 subcontract all or any part of its responsibilities for the operation, management, and  
22 administration of the Stadium without compliance with the requirements of Section 15.  
23 Peregrine shall in all cases be responsible for the diligent direction and supervision of any  
24 employees, contractors or subcontractors utilized pursuant to this Section 3.6.

1           3.6.5 Peregrine, in its sole discretion, shall promptly replace any key  
2 management personnel of Peregrine who leave the employ of Peregrine, with personnel of  
3 comparable or better experience and expertise.

4           3.7    Office Location

5           Throughout the Operations Term Peregrine shall maintain its principal office  
6 in Portland, Oregon, which office may be at the Stadium or the city, which is the principal  
7 place of business of either of the Guarantors or any successor owner of Peregrine. This  
8 Section 3.7 does not prohibit Peregrine from maintaining offices other than its principal  
9 office outside Portland, Oregon.

10          3.8    Public Goals

11           At all times during the Operations Term, Peregrine shall manage and operate  
12 the Stadium in a manner so as to consistently achieve the public goals set out in this Section  
13 3.8 (the "Public Goals"). If there is any conflict between the Public Goals and the terms of  
14 the Good Neighbor Agreement, the terms of the Good Neighbor Agreement shall control.

15           3.8.1   Good Neighbor Agreement

16           Throughout the Operations Term, Peregrine shall comply with the provisions  
17 of the Good Neighbor Agreement among the City, Peregrine, the Goose Hollow Foothills  
18 League, and the Northwest District Association referred to in Section 2.2 of the  
19 Redevelopment Agreement.

20           3.8.2   Comprehensive Transportation Management Plan

21           Pursuant to the Redevelopment Agreement, Peregrine has prepared a  
22 Comprehensive Transportation Management Plan (the "CTMP"), which was approved by  
23 the City pursuant to the terms of the Redevelopment Agreement. To the extent the CTMP

1 requires Peregrine to take actions during the Operations Term, then throughout the  
2 Operations Term, Peregrine agrees to take such actions at its sole cost and expense and  
3 agrees to cooperate with any action required of the City pursuant to the CTMP. The CTMP  
4 includes a plan for encouraging the use of mass transit to Events. If requested by the City,  
5 which request will not be made more frequently than every five (5) years, Peregrine will  
6 update the plan pertaining to encouraging the use of mass transit.

### 7 3.8.3 High School Football, Amateur Soccer

8 3.8.3.1 Peregrine will offer the use of the Stadium for high school  
9 football and amateur soccer practices as schedules and operations permit. Peregrine agrees  
10 to allow the use of the Stadium for high school football and amateur soccer games as  
11 schedules and operations permit at reasonable rates considering the nature of the activity. In  
12 the event of a conflict between a PSU football game and a high school football game or  
13 amateur soccer game, Peregrine may give priority to the PSU football game.

14 3.8.3.2 For a period of five (5) years beginning January 2010,  
15 Peregrine or its owners shall contribute not less than Fifty Thousand Dollars (\$50,000) per  
16 year to improve or build youth athletic fields in Portland, Oregon, by payments to the City.  
17 The first payment shall be due by June 30, 2010, and subsequent payments shall be made by  
18 June 30 of each of the first four (4) Operating Years, and the City shall apply the funds in its  
19 fiscal year starting July 1 of that same Operating Year. The terms of payment, the  
20 beneficiary and use of such contribution shall be subject to the mutual agreement of  
21 Peregrine and the Commissioner-in-Charge of Portland Parks and Recreation.

22 3.8.3.3 Peregrine agrees to undertake activities to foster local soccer  
23 talent. At least once per year Peregrine shall hold open soccer tryouts to provide local  
24 soccer players the opportunity to become MLS soccer players.

1           3.8.4 Rose Festival

2           Peregrine will allow the Rose Festival to use the Stadium for one event  
3 annually at reasonable rates, considering the nature of the event.

4           3.8.5 Community Events

5           Peregrine will allow the Special Olympics event to occur annually at the  
6 Stadium at no cost. Peregrine will allow at least three (3) other Community Events to occur  
7 at the Stadium each Operating Year. The City acknowledges that the scheduling of  
8 Community Events at the Stadium is in Peregrine's reasonable discretion. Community  
9 Events shall be selected by the Oversight Committee (as defined by and selected pursuant to  
10 the Good Neighbor Agreement), in the event Peregrine receives requests for more than three  
11 (3) other Community Events in a given Operating Year. Community Events may not  
12 include professional soccer games. If a Community Event is a multi-day Event, each day  
13 shall constitute a separate Community Event for purposes of this Section 3.8.5. Peregrine  
14 may charge the organizers of each selected Community Event an amount equal to no more  
15 than Peregrine's Direct Expenses associated with each such Community Event. All ticket  
16 revenue generated by the Community Event shall belong to the promoter or sponsor of the  
17 Community Event. In the case of a Community Event, the user of the Stadium may not  
18 obscure or alter the advertising messages of advertisers which have contracts with Peregrine,  
19 or any Advertising rights, but, subject to the foregoing, the user may sell advertising rights  
20 for such a Community Event so long as such advertising does not conflict with any  
21 exclusivity right granted by Peregrine. As a condition to allowing a Community Event at  
22 the Stadium, Peregrine may require the promoter or sponsor of the Community Event to  
23 agree in writing to the following:

24                   3.8.5.1 To pay all cost or expenses attributable to the use of the  
25 Stadium.

1                   3.8.5.2    To not alter or obscure any Advertising.

2                   3.8.5.3    To pay to clean up the area around Stadium in the same  
3 manner as Peregrine is required to do under the Good Neighbor Agreement after a Peregrine  
4 Event.

5                   3.8.5.4    To pay for any damage to the Stadium which occurs during  
6 its usage of the Stadium.

7                   3.8.5.5    To perform and pay for any CTMP actions required for such  
8 an Event and comply with the requirements of the Good Neighbor Agreement applicable to  
9 such Event.

10                  3.8.5.6    To defend, indemnify, and hold Peregrine and the City  
11 harmless from third-party claims arising out of the Community Event or the failure to act in  
12 accordance with the Good Neighbor Agreement and the CTMP in connection with such  
13 Event. All costs and expenses incurred by the use of the Stadium for a Community Event are  
14 the promoter's costs and not Peregrine's.

15                  3.8.5.7    To obtain and pay for such insurance for the Community  
16 Event as Peregrine determines is necessary and appropriate in its reasonable judgment and  
17 to have such insurance cover the City as an additional insured.

18                  3.8.6    Portland State Football

19                  Portland State University ("PSU") sports teams have been playing home  
20 games in the Stadium for many years, and the continued use of the Stadium by PSU is an  
21 important objective of the City. Peregrine will offer the Stadium for use to Portland State  
22 for its football and soccer games. Peregrine agrees to charge reasonable rates and terms for  
23 the use of the Stadium given the nature of this activity. The City encourages Peregrine to

1 enter into a multi-year agreement with PSU for continued use of the Stadium which  
2 provides fair economic terms. If Peregrine and PSU are unable to reach agreement on the  
3 rates and terms for PSU's use of the Stadium, the rate shall be determined through Dispute  
4 Resolution.

### 5 3.8.7 Alcohol Policy

6 Peregrine shall operate the Stadium in compliance with the Alcohol Policy  
7 attached to the Good Neighbor Agreement and shall require all concessionaires, vendors,  
8 and permitted users of the Stadium to comply with the Alcohol Policy.

### 9 3.9 Exclusive Rights, Special Remedy

10 Pursuant to this Agreement, Peregrine has the exclusive right over  
11 advertising, concessions, and vending at the Stadium throughout the Operations Term. The  
12 City represents and warrants that it has not entered into any agreement giving or otherwise  
13 granted a third party the right to advertise, operate a concession, or vend at the Stadium  
14 during the Operations Term. However, in the event any third party shall successfully assert  
15 the legal right to vend, advertise or use the Stadium contrary to this Agreement, then such an  
16 event shall not result in any City default, provided it is not based on an agreement with or  
17 right granted by the City, but the City shall use reasonable efforts to charge such third party  
18 rent or fees equal to the rent or fees which Peregrine would have charged and the City shall  
19 pay all such rent or fees actually received to Peregrine to the extent Peregrine would have  
20 otherwise received them. If third parties are successful in asserting a legal right to conduct  
21 commercial activity in the plaza areas outside the perimeter wall of the Stadium, the City, as  
22 landlord, and Peregrine, as tenant, will negotiate a commercially reasonable lease of those  
23 plaza areas, and if they cannot agree on the terms of that lease, the issues will be resolved by  
24 Dispute Resolution.



4. SECTION 4 OPERATION OF THE STADIUM

2 Peregrine shall manage and operate the Stadium continuously throughout the  
3 Operations Term in accordance with the terms of this Section 4.

4 4.1 Promotion and Marketing of the Stadium

5 4.1.1 Peregrine shall use its Reasonable Efforts to promote and market the  
6 Stadium so as to achieve the goal of the Event Mix referred to in Section 3.5.2.1.  
7 Peregrine's marketing of the Stadium shall be consistent with the general quality of  
8 marketing used at Comparable Facilities. Peregrine shall employ at least one employee,  
9 skilled in marketing and promotion, whose primary responsibility is the marketing and  
10 promotion of the Stadium. So long as Peregrine is aggressively marketing and promoting  
11 the Stadium and otherwise performing in accordance with the terms of this Agreement, the  
12 non-achievement of the Event Mix shall not be a Peregrine Event of Default of this  
13 Agreement.

14 4.1.2 During the Operations Term, Peregrine shall have the exclusive  
15 advertising rights for the Stadium, subject to the limitations in Section 9.5.

16 4.2 Scheduling and Pricing of Events

17 Peregrine shall have the exclusive right and authority to provide for the  
18 scheduling of Events, (including without limitation, Community Events), at the Stadium,  
19 and the establishment of rental and usage rates for the Stadium, subject to the terms of this  
20 Agreement. Peregrine shall have the exclusive and final authority to determine scheduling  
21 and priority of scheduling with respect to all Events held at the Stadium.

22 4.2.1 All agreements providing for the scheduling of an Event at the Stadium  
23 shall be executed in the name of Peregrine and shall be subject to the requirements of  
24 Section 16 and shall expressly provide that the City shall have no liability thereunder;

1 however, any such agreement shall allow the City to assume such agreement upon a  
2 termination of this Agreement, and shall provide that the City is a third-party beneficiary of  
3 each such agreement.

4 4.2.2 Peregrine shall make the Stadium available for not less than three (3)  
5 Community Events, other than Special Olympics, during each Operating Year, as required  
6 or allowed by Section 3.8.5. For Community Events, Peregrine shall charge rental rates that  
7 permit recovery of only Direct Expenses incurred by Peregrine in connection with such  
8 Community Event. (Peregrine may make the Stadium available for additional Community  
9 Events in compliance with its pricing policy for other Events.) Concessions for Community  
10 Events may charge their normal rates, with all revenues from concessions payable to  
11 Peregrine. Peregrine shall charge a User Fee on the price of any tickets sold for a  
12 Community Event.

13 4.2.3 No Advertising, marketing, or promotional messages or materials shall  
14 refer to the City in its role as owner of the Stadium without the prior written approval of the  
15 City. The foregoing prohibition shall not apply to general references to the City of Portland  
16 as a geographic area or to Portland, Oregon as the site of the Stadium.

#### 17 4.3 Security, Safety and Traffic Control

18 4.3.1 Peregrine shall prepare and implement a security program sufficient to  
19 provide reasonable protection for the Stadium, the Stadium FF&E and any other Personal  
20 Property located at the Stadium, and for individuals using, engaged at, working at, or  
21 visiting the Stadium from time to time.

22 4.3.2 Peregrine shall provide for the reasonable safety of individuals using,  
23 engaged at, or visiting the Stadium from time to time, including, without limitation, by

1 instituting effective "crowd control" measures for Events and by performing Maintenance  
2 and Repair activities pursuant to Section 4.5 and Enhancements pursuant to Section 8.

3 4.3.3 Peregrine shall provide reasonable pedestrian and vehicular traffic  
4 control with respect to all Events by implementing the actions required of Peregrine in the  
5 CTMP.

6 4.3.4 For all Events at the Stadium, the City will keep open all City  
7 controlled public off-street parking facilities within a one-mile radius of the Stadium, where  
8 the City controls the hours of operations, except for parking facilities that are under repair  
9 and except for the Portland Building.

#### 10 4.4 Concessions and Licenses

11 4.4.1 Peregrine may negotiate and enter into licenses, concession  
12 arrangements, and other comparable agreements relating to the sale of food, beverages, and  
13 merchandise at the Stadium and retain all revenues derived from such licenses,  
14 arrangements and agreements. Peregrine may enter into licenses, concession agreements  
15 and comparable agreements with qualified concessionaires who will provide a level of  
16 quality in the sale of food, beverages and merchandise at the Stadium at least as good as the  
17 quality provided prior to the Operations Term. Any such agreements shall comply in all  
18 respects with the terms set forth in Section 16.

19 4.4.2 Peregrine or Affiliates of Peregrine may offer food, beverages, or  
20 merchandise for sale at the Stadium and retain all revenues from such sales, provided that  
21 any such arrangements shall be in conformance with Section 4.4.1, be set forth in written  
22 agreements between Peregrine and such Affiliates (in the case of such activities being  
23 performed by Affiliates), and be subject to the terms set forth in Section 16.

1           4.5    Maintenance, Repair and Structural Improvements

2                   4.5.1 Maintenance and Repair Standard. The standard for the timing of,  
3 frequency of, extent of and quality of Maintenance and Repairs of the Stadium (the  
4 “Maintenance and Repair Standard”) is as follows: the frequency, level, extent and quality  
5 of Maintenance and Repair activities reasonably necessary in order to maintain and operate  
6 the Stadium as a high-quality, renovated spectator facility based on the level of maintenance  
7 and repair at the Comparable Facilities and the level necessary to fulfill the Performance  
8 Standards, Operational Goals and Public Goals set forth in Sections 3.5 and 3.8 above and to  
9 comply with applicable Laws. In the event the City and Peregrine disagree with respect to  
10 the meaning of the Maintenance and Repair Standard as to any specific instance of  
11 Maintenance or Repair, this dispute shall be resolved by the Consulting Engineer referred to  
12 in Section 4.5.11.

13                   4.5.2 Maintenance. Peregrine shall perform all Maintenance of the Stadium,  
14 the FF&E and all components of the Stadium at Peregrine’s cost. All such Maintenance  
15 shall be performed as required by, and to the quality level established by, the Maintenance  
16 and Repair Standard described in Section 4.5.1 above.

17                   4.5.3 “Maintenance” shall consist of all of the following with respect to each  
18 and every part of the Stadium:

19                           4.5.3.1 Except for a Repair and Structural Repairs, or the repair or  
20 replacement of the turf as set forth in Section 4.5.6, performing those routine and predictable  
21 actions, including curative and preventive actions, which are reasonably necessary to keep  
22 the Stadium in good order and repair, functioning as designed, and clean and attractive, all  
23 in accordance with the Maintenance and Repair Standard.

1                   4.5.3.2    Fixing or replacing parts or components that require fixing  
2 routinely, on an annual basis, in the ordinary course of an Operating Year which need to be  
3 fixed or replaced due to wear and tear during that Operating Year, and which would  
4 generally be considered maintenance based on industry standards.

5                   4.5.3.3    Removing dirt, debris, foreign materials, trash, graffiti,  
6 markings, and similar remnants of usage of the Stadium, promptly after the Stadium is used  
7 for an Event and periodically at other times.

8                   4.5.3.4    At all times keeping the Stadium reasonably clean and neat.

9                   4.5.3.5    Inspecting, testing, and determining the operating status of  
10 all equipment, and each operating system and their components within the Stadium, except  
11 for inspection of the structural components of the Stadium, which is a City responsibility  
12 under Section 4.5.8 herein.

13                  4.5.3.6    Periodically replacing all fluids and parts of any system,  
14 including Building Systems, or component of a system within the Stadium, which regularly  
15 require replacement, with new fluids or parts.

16                  4.5.3.7    Periodically repainting painted surfaces as needed to  
17 maintain an aesthetically attractive appearance.

18                  4.5.3.8    Correcting damage to finish surfaces.

19                  4.5.3.9    If the Stadium includes a natural grass field, reseeding or  
20 overseeding the playing field and keeping the field properly mowed, watered and fertilized.

21                  4.5.3.10   Replacing light bulbs, except for the field lights.

1                   4.5.3.11   Cleaning, lubricating, and changing belts on all mechanical  
2   systems.

3                   4.5.3.12   Cleaning and undertaking minor patching of the Stadium  
4   roof.

5                   4.5.3.13   Cleaning storm and sanitary drains to the curblineline.

6                   4.5.3.14   Testing and repairing all alarm systems, fire sprinkler  
7   systems, and control systems.

8                   4.5.3.15   Following all suggested "maintenance" activities  
9   recommended by the Consulting Engineer and the manufacturer, contractor or seller of each  
10   and every part or component of the Stadium or set forth in Peregrine's Preventive  
11   Maintenance Plan. In the event that the Parties cannot agree if a specific work activity is  
12   Maintenance or Repair, the Consulting Engineer shall first mediate the dispute, and if that  
13   does not achieve agreement, then the categorization of the work activity as either  
14   Maintenance or Repair shall be established by the Consulting Engineer.

#### 15                   4.5.4   Maintenance and Repair Plans

16                   4.5.4.1   By February 1 of the second Operating Year, Peregrine  
17   shall, at its cost, develop and submit to the City a Preventive Maintenance Plan for the  
18   Stadium, specifying measures to be taken by Peregrine to protect against deterioration of the  
19   systems, components, machinery, equipment and FF&E of or at the Stadium. The  
20   Preventive Maintenance Plan shall be implemented on an ongoing basis by Peregrine.  
21   Peregrine agrees to review and update the Preventive Maintenance Plan every five (5) years.  
22   The Preventive Maintenance Plan and any update of the Preventive Maintenance Plan shall  
23   be subject to the City's commercially reasonable approval. To the extent the Parties cannot  
24   agree on the terms of the Preventive Maintenance Plan, the Consulting Engineer shall first

1 mediate the dispute and if that does not achieve agreement then the terms shall be  
2 established by the Consulting Engineer.

3           4.5.4.2 In addition to the Preventive Maintenance Plan, Peregrine  
4 shall, at its cost, develop and submit to the City by February 1 of each Operating Year, a  
5 Scheduled Maintenance and Repair Plan which will set forth the planned Maintenance and  
6 Repair activities for that Operating Year. The Scheduled Maintenance and Repair Plan shall  
7 be consistent with and reflect the Preventive Maintenance Plan. The Scheduled  
8 Maintenance and Repair Plan shall be subject to the City's approval, and to the extent the  
9 parties cannot agree on the Scheduled Maintenance and Repair Plan, the Consulting  
10 Engineer shall first mediate the dispute, and if that does not achieve agreement, then the  
11 terms shall be established by the Consulting Engineer. Peregrine shall implement the  
12 Scheduled Maintenance and Repair Plan; however, the costs of specific work items shall be  
13 based on the other subsections of this Section 4.5, depending on whether the work item is  
14 Maintenance or Repair.

#### 15           4.5.5 Repairs in General

16           4.5.5.1 "Repair" means the rebuilding, reconstruction, or  
17 replacement of any destroyed, dysfunctional, or obsolete parts (except for Maintenance) of  
18 the Stadium so as to restore the part to not less than its functional level prior to the need for  
19 such rebuilding, reconstruction, or replacement. "Repair" specifically excludes Structural  
20 Repairs.

21           4.5.5.2 To the extent that responsibility for performance and the  
22 cost of Repairs to components or portions of the Stadium are not otherwise allocated under  
23 this Section 4.5.5, Peregrine shall perform such Repairs, and the Parties shall share equally  
24 in the costs of such Repairs. In making any and all Repairs pursuant to Section 4.5,

1 Peregrine shall comply with ORS Chapters 279A, 279B and 279C, as applicable, or obtain  
2 an exemption in accordance with those Chapters.

#### 3 4.5.6 Turf Repair or Replacement

4 During the Operations Term when the field is artificial turf, the City shall be  
5 responsible for the cost of the Repair of the turf on the playing surface of the Stadium  
6 subject to the terms of this Section 4.5.6. Peregrine shall have the turf tested as reasonably  
7 necessary, but not earlier than the third (3<sup>rd</sup>) anniversary of the initial installation of the turf,  
8 and thereafter not less earlier than the third (3<sup>rd</sup>) anniversary of each replacement of the turf,  
9 with the City and Peregrine sharing equally the costs of testing. Peregrine shall have the  
10 right to call for more frequent testing in its reasonable discretion at Peregrine's cost. If the  
11 test results indicate that the turf has failed, Peregrine shall contract for the replacement of  
12 the same, prior to the start of the next succeeding Team season, using a contractor approved  
13 by the City as a Retained Party (under the procedures set forth in the Redevelopment  
14 Agreement). The determination of the testing consultant as to whether the turf has failed  
15 shall be conclusive. Payment for the cost of replacing the turf is allocated between the  
16 Parties as follows: The City shall bear 100% of the costs associated with the replacement of  
17 the turf on an eight (8) year cycle, with the first eight (8) years beginning April 1, 2011. In  
18 the event that the turf must be replaced prior to eight (8) years after the immediately prior  
19 installation/replacement, Peregrine shall pay twenty percent (20%) of such cost and the City  
20 shall pay eighty percent (80%) of such cost. The Parties acknowledge that a replacement of  
21 the turf that is done during the eighth (8<sup>th</sup>) year of an initial installment or replacement, in  
22 order to have the turf replaced prior to the start of the next succeeding Team season, shall  
23 constitute a replacement on an eight (8) year cycle, and that the City shall bear 100% of the  
24 costs associated with the replacement. Peregrine shall pay the expenses of turf replacement  
25 and testing directly and the City shall, within thirty (30) days of receipt of an invoice for its  
26 share of such costs, reimburse Peregrine for the City's share. The parties shall mutually



1 agree upon the third party to perform the testing under this Section 4.5.6, which third party  
2 shall not be an Affiliate of either Party.

#### 3 4.5.7 Structural Repairs

4 Peregrine shall perform and the City shall be 100% responsible for the cost of  
5 all Structural Repairs except to the extent the same is necessitated by the actions or inactions  
6 of Peregrine or pursuant to Section 4.13. "Structural Repairs" shall mean repairs or  
7 replacements to the following elements of the Stadium which are either (i) required to bring  
8 the Stadium into compliance with all applicable Laws regarding the occupancy of the  
9 Stadium; (ii) required to meet the Maintenance and Repair standard; or (iii) are otherwise  
10 necessary or appropriate, in the City's judgment, to render the Stadium safe for occupancy:  
11 foundations, subflooring, load-bearing walls, exterior walls (but not plate glass), the roof  
12 trusses and load-bearing girders, pillars, treads and risers and similar support elements.  
13 Structural Repairs shall include all improvements to the structural components of the  
14 Stadium made to comply with applicable Laws regarding seismic standards for structures.  
15 Structural Repairs shall further include the obligation to repair and/or replace the Stadium  
16 roof (other than minor patching), and shall be performed at the City's sole cost and expense.

#### 17 4.5.8 Structural Inspections

18 The City shall, at reasonable intervals during the Operations Term, conduct  
19 inspections of the structural elements of the Stadium to determine the need for any  
20 Structural Repairs. In the event of a dispute as to whether a Structural Repair is necessary,  
21 the determination of the Consulting Engineer shall be determinative.

#### 22 4.5.9 Building Systems.

23 Peregrine shall perform, at the City's cost, replacement of the following  
24 systems of the Stadium, and their respective components when required, which shall

1 constitute the "Building Systems": the heating, ventilation and air conditioning system; the  
2 electrical system; the plumbing system; and the elevators and fire/life-safety systems. The  
3 cost of replacing a component of the Building System shall be paid as follows: the City and  
4 Peregrine shall each pay 50% of the first \$5,000 of the cost of replacing a component of a  
5 Building System, and the City shall pay 100% of the costs in excess of \$5,000 for the  
6 replacement of that component. In the event Peregrine believes that a Building System  
7 needs to be replaced, rather than Repairing or replacing its components, then the Building  
8 System shall be replaced unless the City objects, in which event the Consulting Engineer  
9 shall determine whether or not the Building System needs to be replaced in order to comply  
10 with the Maintenance and Repair Standard.

#### 11 4.5.10 Signage

12 Peregrine shall bear sole responsibility for the Maintenance, Repair, and  
13 replacement of the following sign elements at Peregrine's cost: the electronic  
14 video/scoreboard; the electronic ad ribbons and fascia signs for advertising; all other signs  
15 for which advertising is sold; all television monitors on concourses that show games and/or  
16 display advertising; and all other signs that have naming rights logos or words. The signs  
17 that name the Stadium as "PGE Park" may be maintained, removed or replaced by Peregrine  
18 at its sole cost and expense (subject to any rights of Shortstop), and the City shall have no  
19 responsibility for the Maintenance, Repair or replacement of the current sign or any  
20 replacement sign. The City shall bear responsibility for the Maintenance, Repair, and  
21 replacement of all signs that include no advertising or naming logos or words in the  
22 Stadium, including but not limited to, general way-finding signs and restrooms signs to the  
23 extent the same include no advertising or naming logos or words.

24 4.5.11 The "Consulting Engineer" shall be an individual skilled in the  
25 maintenance of large public facilities or major office buildings in Portland, Oregon, except

1 to the extent that the matter is a stadium specific item, in which case the Parties will  
2 cooperate to engage a Consulting Engineer with the necessary expertise. The Consulting  
3 Engineer will not be a full time employee or consultant, but will be retained on an as needed  
4 basis to perform his or her responsibilities under this Agreement. The City and Peregrine  
5 shall jointly select the Consulting Engineer for an Operating Year within the first ten (10)  
6 days of each Operating Year during the Operations Term. If, within that period of time, the  
7 City and Peregrine cannot agree on a Consulting Engineer, then each Party shall nominate  
8 two (2) candidates meeting the requirement set forth above and willing to serve, by written  
9 notice to the other given by February of each Operating Year during the Operations Term.  
10 Within ten (10) days of the last written notice, the City and Peregrine shall meet, and each  
11 Party may strike the name of one candidate of the other Party. The remaining two (2) names  
12 shall be placed on two (2) pieces of paper, placed in a container, and one (1) name shall be  
13 drawn at random. The candidate whose name is so selected shall be the Consulting  
14 Engineer for that Operating Year and, until his replacement is designated, for the next  
15 Operating Year. The fees of the Consulting Engineer shall be shared equally by the City  
16 and Peregrine.

17 4.5.12 Except for the Repairs for which the City is responsible for payment of  
18 all costs, Peregrine's performance of Repairs, Structural Repairs and replacement of  
19 Building Systems, and the City's obligation to pay for all or its share, if any, of the costs of  
20 Repairs, shall be subject to the terms of this Section 4.5.12.

21 4.5.12.1 Peregrine may make any Repairs at or to the Stadium that  
22 are set forth in a Scheduled Maintenance and Repair Plan plus additional repairs which have  
23 a cumulative cost to the City during an Operations Year of up to \$50,000 (Indexed) without  
24 the City's prior approval. Peregrine shall not undertake Repairs in excess of the above,  
25 unless such Repairs are approved of by the City in advance, in the City's commercially  
26 reasonable judgment, except to the extent permitted under Section 4.5.13. Such approval

1 right shall include the right to approve any contracts for the labor and materials for such  
2 Repairs, and plans and specifications for the Repairs. Subject to such approvals having been  
3 given, the Repairs shall be performed in strict accordance with the approved plans and  
4 specifications.

5 4.5.12.2 When Peregrine has completed Repairs for which the City  
6 has an obligation to pay or share costs hereunder, Peregrine shall provide the City with an  
7 invoice detailing the work done, the cost associated with such work and the City's share of  
8 such cost. Unless the City contests such invoice (in which case the matter shall be resolved  
9 through Dispute Resolution), the City shall within thirty (30) days pay to Peregrine the  
10 amount owed by the City pursuant to the invoice.

11 4.5.13 In the event of an emergency requiring the performance of Repairs at  
12 or to the Stadium in order to prevent imminent injury to individuals or damage to property,  
13 under circumstances not permitting compliance with the plans and specifications  
14 requirements of Section 4.5. Peregrine shall immediately contact the City Representative or  
15 such other Person as the City has designated to be generally available to respond to such  
16 contacts and proposals (the "Emergency Contact") and propose remedial action for the  
17 City's approval. The City shall at all times during the Operations Term designate at least  
18 two (2) Emergency Contacts. If Peregrine reasonably determines that it is not possible for  
19 Peregrine to contact the City's Emergency Contact in a timely manner, Peregrine shall  
20 have the authority to perform the Repair without obtaining the prior approval of the City,  
21 provided that: (i) Peregrine shall contact the City Representative at the earliest possible  
22 opportunity regarding the emergency; and (ii) the Repairs are reasonably required prior to  
23 approval by the City in order to prevent imminent injury to individuals or damage to the  
24 property. Within three (3) Business Days after performance of any Repairs pursuant to this  
25 Section 4.5.13, Peregrine shall furnish the City with a detailed written statement setting  
26 forth the nature of the emergency, a description of the Repairs, and an itemized listing of all

1 disbursements made by Peregrine in connection with the Repairs. The cost of such  
2 “Emergency Repairs” shall be allocated based on other subsections of this Section 4.5,  
3 based on the nature of the Repair.

#### 4 4.5.14 Repairs Necessitated by Fault of One Party

5 Notwithstanding anything to the contrary contained herein, to the extent that  
6 any Repair is necessitated because of the gross negligence or willful misconduct of either  
7 Party, then that Party shall bear the full cost of such Repair.

#### 8 4.6 Impositions

9 4.6.1 Peregrine shall pay any and all Impositions with respect to the Stadium  
10 when due and prior to the date on which any fine, penalty, interest, or cost may be added to  
11 such Imposition or imposed by Law for its nonpayment. Peregrine shall not be required to  
12 pay any such fine, penalty interest or cost solely attributable to the actions or inactions of the  
13 City. Peregrine may not pay tax Impositions in installments, but may pay other Impositions  
14 in installments.

15 4.6.2 Any Imposition that includes a period of time prior to or after the  
16 Operations Term (whether or not such Imposition shall be assessed, levied, or otherwise  
17 become payable during the Operations Term) shall be prorated such that the portion of the  
18 Imposition that is applicable to the Operations Term shall be paid by Peregrine and the  
19 remainder shall be paid by the City or by the operator responsible for the Stadium during the  
20 applicable time period. This Section 4.6.2 does not apply to any tax Impositions assessed  
21 against some or all of the Clinic Facility, unless such tax Impositions are the obligation of  
22 the occupant or tenant of the Clinic Facility.

23 4.6.3 Peregrine may, upon prior written notice to the City, contest the legal  
24 validity or amount of any Imposition in its reasonable discretion and may institute such

1 proceedings as it reasonably considers necessary in connection with such contest. Peregrine  
2 may withhold or defer payment of the contested Imposition, provided such actions do not  
3 subject the Stadium to a risk of sale or forfeiture or jeopardize continued operations of the  
4 Stadium. Once the contest is finally resolved, Peregrine shall pay the amount of the  
5 Imposition determined to be due and owing, plus any fines, penalties, or interest. The City  
6 shall make reasonable efforts to cooperate, without compromising its regulatory authority, in  
7 any contest permitted under this Section 4.6.3 and shall execute any documents or pleadings  
8 reasonably required for such contest. Any proceeding described in this Section 4.6.3 shall  
9 be brought in the name of Peregrine, unless Laws provide that such proceeding must be  
10 brought in the name of the City by virtue of the City's ownership of the Stadium and in that  
11 event the City will join in the proceeding.

12 4.6.4 If the Multnomah County Tax Assessor determines that some portion  
13 or all of the Stadium is subject to ad valorem taxation pursuant to ORS Chapter 307,  
14 Peregrine may by written notice to the City, challenge this determination under the statutory  
15 procedures and may appeal any adverse determination. The actual reasonable cost of such  
16 challenge and appeal shall be paid by Peregrine. The City shall reasonably cooperate with  
17 any such contest. If, after Peregrine's challenge to the assessor's determination is finally  
18 resolved, the Stadium or some portion thereof remains subject to ad valorem taxation, then  
19 Peregrine shall pay the ad valorem taxes levied against the Stadium or that portion which is  
20 taxable. If the Assessor determines that the Stadium or a portion thereof is taxable,  
21 Peregrine and the City agree to make changes in the terms of this Agreement designed to  
22 eliminate the basis for the Assessor's determination, so long as such changes do not  
23 materially impact the revenue to be paid to the City here under; provided, however, that this  
24 sentence does not apply if the portion of the Stadium that is determined to be taxable  
25 consists of some or all of the Clinic Facility. In the event that some or all of the Clinic  
26 Facility is taxable, and if the Operations Term terminates after January 1 but before June 30

1 of a calendar year, then Peregrine shall pay to the City the taxes for the tax year beginning  
2 July 1 prior to the end of the Operations Term, and this obligation of Peregrine shall survive  
3 any termination of this Agreement and be fully enforceable thereafter. Peregrine shall  
4 provide security for this obligation in the form of a letter of credit from Peregrine or the  
5 occupant of the Clinic Facility in the amount of each year's tax liability for the Clinic  
6 Facility. The letter of credit shall be provided to the City by January 1 of each year, shall be  
7 payable against a sight draft presented by the City, and the City may draw on the letter of  
8 credit if Peregrine does not pay the tax liability referred to above.

9 4.6.5 Nothing in this Section 4.6 shall in any way relieve Peregrine of its  
10 obligation to pay, at its own cost and expense, any and all taxes, assessments, levies, fees, or  
11 other Impositions payable with respect to Peregrine's income, assets, business or properties.

#### 12 4.7 Acquisition of Supplies

13 At the commencement of the Operations Term, Peregrine shall acquire for use  
14 in the operations of the Stadium the inventory of new and usable consumables, supplies and  
15 materials pertaining to the Stadium in existence upon the commencement of the Operations  
16 Term from Shortstop.

#### 17 4.8 Acquisition and Use of FF&E

18 4.8.1 The FF&E consists of furniture, movable fixtures and equipment  
19 referred to in Exhibit 4.8.1. Exhibit 4.8.1 breaks down the FF&E into two categories: the  
20 Existing FF&E and the New FF&E. The Existing FF&E is located at the Stadium. The  
21 New FF&E is to be acquired by Peregrine as a Project Cost pursuant to the Redevelopment  
22 Agreement and conveyed to and owned by the City. The FF&E shall be located at the  
23 Stadium and not used elsewhere, and Peregrine shall use, maintain and operate the FF&E in  
24 accordance with this Agreement. The City hereby grants Peregrine a license to use the  
25 FF&E during the Operations Term in connection with the operations of the Stadium.

1           4.8.2 If any item of FF&E becomes worn out or inoperable, then Peregrine  
2 shall repair such item. If it is unreasonable to repair such an item, then Peregrine shall  
3 replace such item with a new item. Cost of repair or replacement of FF&E is a Repair cost  
4 under Section 4.5 above.

5           4.8.3 Peregrine shall purchase or otherwise acquire such additional  
6 materials, consumables, and supplies as are required for the operation of the Stadium in  
7 accordance with this Agreement and the performance of Peregrine's other obligations  
8 hereunder, as a Peregrine Cost.

9           4.8.4 Peregrine shall purchase, lease or otherwise acquire such additional or  
10 replacement FF&E and related items as are reasonably necessary for the operation of the  
11 Stadium in accordance with this Agreement and for the performance of Peregrine's other  
12 obligations in this Agreement, subject to the prior approval of such additional or  
13 replacement FF&E by the City in its reasonable judgment. The cost of such additional or  
14 replacement FF&E is a Repair cost.

15           4.9   Assumption of Agreements

16           4.9.1 Peregrine shall cooperate with Shortstop to assure that Shortstop does  
17 not enter into any agreements, after the Effective Date, which affect the Stadium and which  
18 would extend into the Operations Term. The "Existing Agreements" are the agreements  
19 listed on the attached Exhibit 4.9.1, which agreements affect the Stadium and will extend  
20 beyond the Effective Date. Upon the commencement of the Operations Term, Peregrine  
21 shall assume the Existing Agreements. Thereafter, Peregrine shall perform all of  
22 Shortstop's obligations under the Existing Agreements. The City represents and warrants  
23 that the City has not entered into any agreements which pertain to the Stadium and which  
24 would be binding on Peregrine, other than the Existing Agreements.



1           4.9.2 Prior to the Commencement Date, Peregrine shall reach a separate  
2 agreement with Shortstop with respect to deposits under the Existing Agreements and  
3 prorations of revenue and expenses under the Existing Agreements.

4           4.9.3 Peregrine shall defend, indemnify, and hold the City harmless from  
5 any claim, default, loss or damage claimed by the other party to an Existing Agreement and  
6 arising out of events occurring after Peregrine's assumption of the Existing Agreement.

7           4.10 Alterations

8           4.10.1 Peregrine may make alterations to the Stadium, at Peregrine's cost and  
9 expense, which do not include the items of Repair described in Section 4.5, subject to the  
10 City's prior approval in the City's commercially reasonable judgment. In making  
11 alterations, Peregrine agrees to comply with all applicable Laws, including, without  
12 limitation, ORS Chapters 279A, 279B and 279C.

13          4.11 Fair Wage

14          4.11.1 Peregrine agrees to pay all of the Affected Part-Time Seasonal  
15 Employees (excluding interns or apprentices) performing duties at the Stadium a "fair  
16 wage" consistent with City Code Chapter 3.99. The City will reimburse Peregrine pursuant  
17 to this Section 4.11 for the amount of salary and benefits paid to qualified Affected Part-  
18 Time Seasonal Employees by Peregrine to the extent the same is in excess of the wages and  
19 benefits normally paid by Peregrine (such difference constituting the "City-Directed  
20 Wages"). In the event that Peregrine's employees are unionized and their wages and  
21 benefits under the union contract (or any renewal or replacement contract) exceed the wages  
22 and benefits paid by Peregrine immediately before the effective date of the first union  
23 contract (Indexed from the effective date of the first union contract), then the City will  
24 continue to pay the amount of the "fair wage" determined pursuant to City Code Chapter  
25 3.99, less the wages and benefits paid by Peregrine before the effective date of the first

1 union contract (Indexed from the effective date of the first union contract). The “Affected  
2 Part-Time Seasonal Employees” shall mean and refer to those Peregrine employees who  
3 work less than full-time and who work only during part of a calendar year, but shall  
4 specifically exclude Peregrine employees engaged in concessions and/or food and beverage  
5 services or employees working the team store, if any, whether part-time or full-time. If  
6 Peregrine elects to operate its own concessions, then Peregrine will pay its concession  
7 employees wages that are not less than the amounts that such employees would be paid  
8 under City Code Chapter 3.99.

9 4.11.2 The City will reimburse Peregrine for the City-Directed Wages in  
10 accordance with this Section 4.11.2. Peregrine shall provide the City payroll documentation  
11 that details the costs to the City for the program when Peregrine invoices the City for City-  
12 Directed Wage reimbursements. Peregrine shall invoice the City for program  
13 reimbursement, including reasonable costs to administer the program, every two weeks, and  
14 the City will pay each such invoice within thirty (30) days of receipt.

15 4.11.3 Each July 1, the fair wage rate shall be adjusted in conformance with  
16 the City’s Fair Wage Policy. All new employees eligible for City Directed Wages must  
17 complete a 30-day probationary period to qualify for program benefits. In no event shall  
18 Peregrine reduce the pay rates of any existing part-time seasonal Peregrine employees at the  
19 Stadium as a result of the City Directed Wages program. Nothing contained herein shall be  
20 construed to make any employees of Peregrine an employee of the City. In addition,  
21 nothing herein shall be construed to transfer the obligation of providing any employee  
22 benefits for employees to the City, which obligation remains that of Peregrine. Peregrine  
23 shall pay all employees’ wages and all benefits. Employee’s wages, hours and working  
24 conditions are subject to and governed by Peregrine. City shall not be responsible for  
25 payment of the cost of any benefit or other compensation, except the reimbursement to  
26 Peregrine as set out in this Section 4.11. Peregrine shall remain responsible for providing

1 worker's compensation coverage. Nothing herein shall be construed as constituting an  
2 employment agreement between Peregrine's employees and the City. The Peregrine  
3 employees affected by the City Directed Wages program shall remain employees of  
4 Peregrine under the same terms and conditions existing prior to the date of implementation  
5 of the program pursuant to this Section 4.11.

6 4.11.4 The Parties acknowledge that there may be unanticipated  
7 consequences or not yet understood consequences of the above provisions, and that if these  
8 arise, after the Effective Date but before the Operations Term, the Parties will attempt, in  
9 good faith but in their sole discretion, to work out such issues so as to eliminate  
10 unacceptable adverse consequences. If the Parties are unable to agree on how to avoid such  
11 unacceptable adverse consequences, this Section 4.11 shall not apply.

12 4.11.5 In the event the City amends or deletes City Code Chapter 3.99, the  
13 City will nonetheless continue to pay the amount that the City would have paid pursuant to  
14 Section 4.11.1 had City Code Chapter 3.99 not been amended or deleted as a contractual  
15 covenant, to the extent permitted by Oregon law.

16 4.12 Natural Grass Playing Field

17 Peregrine may, at its sole cost and expense, install a temporary grass field  
18 over the existing artificial turf in the case of specific sporting events that require a natural  
19 grass field. In the event that MLS requires the installation of a permanent grass field, then  
20 Peregrine is authorized to remove the existing artificial turf and replace it with a natural  
21 grass field at Peregrine's expense. Peregrine may also remove the artificial turf and replace  
22 it with a natural grass field, with the prior approval of the City in the City's reasonable  
23 discretion. Any replacement of the artificial turf with natural grass shall require that PSU  
24 confirm in writing that the replacement of the artificial turf with natural grass does not  
25 adversely affect its ability to play its home games at the Stadium. In the event that

1 Peregrine desires or is required by MLS to replace the natural grass field with artificial turf,  
2 Peregrine may do so at its cost and expense. If, at the time of an Early Termination or at the  
3 end of the Operations Term, the playing field is natural grass, Peregrine shall have no  
4 responsibility for replacing the natural grass field with artificial turf or for the cost of such  
5 replacement.

#### 6 4.13 Clinic Facility

7 4.13.1 Peregrine will construct the Clinic Facility, pursuant to the  
8 Redevelopment Agreement, which will become part of the Stadium, and which is  
9 anticipated to be occupied by Providence Health System-Oregon, dba Providence Health  
10 and Services, an Oregon non-profit corporation and its Affiliates ("Providence Hospital").  
11 The City shall have no responsibility for or liability for Structural Repairs in the event of  
12 structural damage to the Clinic Facility and its foundation, including that portion of Stadium  
13 seating which bears the same foundation as the Clinic Facility if the Clinic Facility was not  
14 built as required by the Redevelopment Agreement, even if the damage to or collapse of the  
15 TCS (defined below) was due to the City's negligence. Peregrine shall require, as a  
16 condition of Providence Hospital's right to occupy the Clinic Facility that it accept patients  
17 that are covered under the Oregon Health Plan, Medicare or Medicaid.

18 4.13.2 The City is responsible for Structural Repairs to the structure that  
19 supports seating areas adjacent to the Clinic Facility which also provides structural support  
20 to the Clinic Facility, except as follows. In the event this structure requires a Structural  
21 Repair, the City will pay the cost of the Structural Repair unless the City determines the cost  
22 is greater due to the presence of the Clinic Facility as compared to what the cost would have  
23 been if the Clinic Facility was not part of the Stadium. If the City so determines, the City  
24 shall provide Peregrine with its analysis of why a portion of the cost should be attributed to  
25 the Clinic Facility and the amount to be attributed to the Clinic Facility. The City and

1 Peregrine shall attempt to agree on the cost allocation for a period of thirty (30) days after  
2 the City delivers its analysis and the proposed allocation to Peregrine, and if the Parties do  
3 not agree, then the City may, within ten (10) days after expiration of the thirty (30) day  
4 period, submit the issue to Dispute Resolution. Peregrine shall pay that portion of the cost  
5 allocated to the Clinic Facility through the agreement of the Parties or as determined by  
6 Dispute Resolution.

7 4.13.3 Peregrine shall be solely responsible for all costs associated with the  
8 Maintenance, Repair, Structural Repair, Repair or replacement of Building Systems within  
9 the Clinic Facility, or any other maintenance, repair, replacement, improvement or alteration  
10 in any way performed on or related to the Clinic Facility, and the City shall have no  
11 responsibility for any such costs, except as follows. Repairs to any Building Systems that  
12 serve the Clinic Facility and other parts of the Stadium, which Repairs will occur outside of  
13 the Clinic Facility shall be shared equally by Peregrine.

#### 14 4.14 Tanner Creek Sewer Line

15 4.14.1 The Tanner Creek Sewer line (“TCS”) traverses underground through  
16 the Stadium, exiting in the southeast corner of the Stadium. The TCS is a brick sewer line  
17 built over 100 years ago. Accordingly, Peregrine must conduct Events and its activities in  
18 the Stadium in a manner so as to not damage the TCS. Peregrine agrees to conduct Events  
19 and operate the Stadium in accordance with the TCS Protective Measures, which may be  
20 reasonably revised by the City in the event of additional information regarding the  
21 deterioration of the condition of the TCS or additional geotechnical information; however,  
22 the revisions will not require any modification of the Project Improvements nor prevent  
23 Peregrine’s use of the Stadium for MLS soccer games or any other Event that is part of the  
24 Event Mix or prevent Peregrine from achieving the Performance Standards. If Peregrine  
25 believes that the City’s revisions are not reasonable given the additional information, then

1 the matter will be subject to Dispute Resolution before the City's revised TCS Protective  
2 Measures become effective. The TCS Protective Measures are the following. Peregrine  
3 acknowledges that the TCS cannot sustain heavy loads. Thus, Peregrine and the Peregrine  
4 Related Parties and other parties producing an Event cannot drive vehicles with a gross  
5 weight in excess of 12,000 pounds (weight of vehicle plus vehicle's load) over or within ten  
6 (10) horizontal feet of the TCS line location without first obtaining the City's Bureau of  
7 Environmental Services review and approval of a geotechnical report and plan providing for  
8 protection of the TCS. Peregrine agrees that BES may take such actions as are reasonably  
9 necessary to maintain the TCS if changes in the condition of the TCS are identified. In  
10 doing so, the City will coordinate its maintenance activities with Peregrine, to the maximum  
11 extent possible, to avoid impacts on the Event Mix and on accomplishment of the  
12 Performance Standards.

13 4.14.2 The City's Bureau of Environmental Services will inspect the TCS  
14 under the Stadium, once a year, using video cameras and will provide Peregrine with a copy  
15 of the video tapes. The City and Peregrine will share the cost of these inspections equally.

16 4.14.3 In the event that Peregrine's Events in the Stadium or its activities in  
17 operating the Stadium, including Maintenance or Repair, causes damage to the TCS,  
18 Peregrine shall be responsible for the cost of such TCS repair to the extent of damage  
19 caused by Peregrine. If the TCS sustains damage for any reason other than Peregrine's  
20 Events or its activities in operating the Stadium, including Maintenance or Repair, then the  
21 City shall be responsible for the cost of such TCS repair.

22 4.14.4 Peregrine assumes the risk of consequential damages associated with  
23 failures of the TCS unrelated to negligence on the part of the City. However, with respect to  
24 damage to the TCS or repairs required to be made to the TCS, not caused by Peregrine as  
25 described in Section 4.14.3, the City will expedite the completion of repairs, restoration or

1     reinstallation of the TCS and will give that work the highest priority in order to reduce the  
2     impacts on Peregrine's business, except for sewer work required to protect public health or  
3     safety or required by Law. Any claims by Peregrine based on the alleged negligent  
4     maintenance of the TCS by the City shall be asserted in tort and not in contract.

5             4.15   Labor Agreement

6             Peregrine agrees that, throughout the Operations Term, Peregrine agrees to  
7     remain neutral with respect to the union organization of its employees. At any time within  
8     the first Operating Year, if a Peregrine employee or Peregrine employees request an  
9     opportunity for the employees to meet, within thirty (30) days of the request, Peregrine will  
10    provide a meeting space and allow its employees to meet without management present on  
11    one occasion, unless Peregrine has previously allowed such meeting to occur pursuant to the  
12    Redevelopment Agreement.

13    SECTION 5 STADIUM OPERATING EXPENSES

14             5.1   Peregrine Obligation to Pay Stadium Operating Expenses

15             Except as otherwise provided herein, Peregrine shall bear all costs associated  
16    with operating the Stadium and in performing its obligations under this Agreement during  
17    the Operations Term.

18             5.2   No City Payment of Stadium Operating Expenses

19             Except pursuant to Section 4.11, under no other circumstances shall the City  
20    be required to make contributions to pay any costs associated with operating the Stadium or  
21    be liable in any other manner for any cost, expense, loss, damage, or other obligation  
22    relating to the operation, management, administration, use, scheduling, marketing,  
23    advertising, promotion, security, licensing, provision of concessions or Maintenance of or at  
24    the Stadium, whether to contractors, concessionaires, licensees, or any other Person, except  
25    to the extent expressly set forth in this Agreement.

1           5.3    Proration

2                    If an item of expense includes a period of time prior to or after the Operations  
3 Term, that expense will be prorated, respectively, as of the beginning or end of the  
4 Operations Term so that only the portion of that expense allocable to the Operations Term  
5 becomes a Peregrine Cost.

6    SECTION 6 PAYMENTS TO THE CITY

7           6.1    Definitions

8                    6.1.1    “City’s Actual Annual Revenue” means the sum of money that the  
9 City actually receives for each of the first seven (7) Operating Years from the License  
10 Payments described in Section 6.2 and the payment of the City’s Share of Ticket Revenue  
11 computed in accordance with Sections 6.1.3.

12                   6.1.2    “City’s Guaranteed Annual Revenue” means, with respect to each of  
13 the first seven (7) Operating Years, the amounts as shown on attached Exhibit 6.

14                   6.1.3    “City’s Share of Ticket Revenue” means an amount equal to 7% of the  
15 amount paid by a third party to gain entry to the Stadium to observe or participate in an  
16 Event including sales of Non-Exempt Tickets, payments for the right to occupy a suite or  
17 box, and payments for the right to occupy a club seat or other form of special seat.  
18 Peregrine shall pay the City’s Share of Ticket Revenue for an Event for which Peregrine  
19 charges a fee or rent for use of the Stadium in lieu of per ticket admission fees only in the  
20 case where the proposed Event is anticipated to be attended by 1,000 or more people. In  
21 that case, the amount of the City’s Share of Ticket Revenue shall be not more than 7% of the  
22 rental fee and shall be agreed upon by the City and Peregrine or, if the City and Peregrine  
23 cannot agree, shall be established by Dispute Resolution. To the extent that the price of a  
24 ticket entitles the patron to goods, services, or food or beverages in addition to the right to  
25 observe or participate in an Event, the City’s Share of Ticket Revenue shall be 7% of the



1 highest-priced reserve ticket that does not include goods, services, or food or beverages for  
2 the Event. The City's Share of Ticket Revenue for suites shall be calculated based upon the  
3 total number of tickets distributed under a suite lease and/or rental agreement for each  
4 Event. Each Settlement Statement (as defined in Section 6.3.2) submitted by Peregrine shall  
5 include a suite statement that lists the highest-priced reserve ticket that does not include  
6 food or beverages, the number of tickets distributed for each suite and the City's Share of  
7 Ticket Revenue generated for each suite. The City's Share of Ticket Revenue shall be based  
8 on the face value of the applicable ticket (or the proxy ticket in the case of tickets that  
9 include goods or services or food or beverages or tickets for club seats or suites as provided  
10 in this Section 6.1.3). For example, if the ticket price is listed as "\$5.00," then the actual  
11 City's Share of Ticket Revenue is 35 cents (actual ticket price times .07 equals City's Share  
12 of Ticket Revenue). However, if the City's Share of Ticket Revenue is separately stated on  
13 a ticket, which amount shall conform to this Section 6.1.3, the City's Share of Ticket  
14 Revenue for that ticket shall be the amount stated. The agreed-upon minimum amount of  
15 the City's Share of Ticket Revenue for each Operating Year is shown on Exhibit 6.1.2. The  
16 amount of the City's Share of Ticket Revenues shall be reduced on a dollar-for-dollar basis  
17 by the amount of any Admission Tax imposed by the City, and correspondingly, the City's  
18 Guaranteed Annual Revenue shall be reduced by an equal amount.

19 6.1.4 "Exempt Tickets" include all tickets given or granted for no price or  
20 consideration, commonly or customarily called "complimentary tickets" or "comps,"  
21 without regard to number to the extent the same go to any of the following: (a) tickets to  
22 Peregrine employees or employees of their Affiliates, as a perquisite; (b) tickets requested or  
23 required by Major League Soccer; (c) tickets granted to any media or press personnel for  
24 which no price is paid; (d) tickets granted to visiting teams for which no price is paid; (e)  
25 tickets granted to employees, agents, contractors, artists, producers, managers or staff of any  
26 concert Event sponsor or promoter; (f) tickets granted to any persons in connection with

1 services performed or to be performed at the Stadium during or in connection with the  
2 production of any Event, including, without limitation, vendors; (g) tickets included as part  
3 of a Stadium Agreement up to 400 tickets for each Event, cumulative for all Stadium  
4 Agreements; (h) tickets granted to any charitable organization which qualifies under IRC  
5 §501(c)(3) or any amended or successor provision, except for any non-profit organization  
6 that is party to a Stadium Agreement or that occupies space in the Clinic Facility; and  
7 (i) tickets given free in connection with the purchase of other tickets (as distinguished from  
8 discounted tickets). For example, in a promotion in which a purchaser gets one “free” ticket  
9 with the purchase of two, the “free” ticket is a comp. However, in an economically similar  
10 promotion in which tickets are discounted by one-third, there are no comps because the  
11 ticket price reflects the promotion, and the City’s Share of Ticket Revenue is based on the  
12 discounted ticket price.

13 6.1.5 “License Payment” is the annual payment due from Peregrine to the  
14 City during the first seven (7) Operating Years in the amounts shown on Exhibit 6.

15 6.1.6 “Non-Exempt Tickets” means all tickets sold for Events at the Stadium  
16 which are not Exempt Tickets.

17 6.1.7 “Prepaid License Payment” for each of the Operating Years from  
18 Operating Year 8 through Operating Year 25, inclusive, means the agreed-upon License  
19 Payment for such year, discounted to present value to a prepaid amount and paid pursuant to  
20 Section 17 of the Redevelopment Agreement.

21 6.1.8 “Prepaid City’s Share of Ticket Revenue” for each of the Operating  
22 Years from Operating Year 8 through Operating Year 25, inclusive, means the agreed-upon  
23 minimum City’s Share of Ticket Revenue for each such year as shown on Exhibit 6, with  
24 the present value amount prepaid to the City pursuant to Section 17 of the Redevelopment  
25 Agreement.

1           6.1.9 “Surplus” means for an Operating Year the excess of the actual City’s  
2 Share of Ticket Revenue for that Operating Year over the agreed-upon minimum amount of  
3 the City’s Share of Ticket Revenue for that Operating Year as shown on Exhibit 6.

4           6.1.10 “Ticket Revenue” means the amount paid by a third party to gain entry  
5 to the Stadium to observe or participate in an Event including sales of tickets, payment for  
6 the right to occupy a suite, and payments for the right to occupy a club seat or other form of  
7 special seat. Ticket Revenue shall include any rental fee charged for use of the Stadium to  
8 the extent the same is charged in lieu of per-ticket admission fees. To the extent that the  
9 price of a ticket entitles the patron to goods or services in addition to the right to observe or  
10 participate in an Event, the Ticket Revenue from that ticket shall be deemed to be the  
11 highest-priced reserve ticket that does not include goods or services for that Event. Ticket  
12 Revenues for suites shall be based upon the total number of tickets distributed under a suite  
13 lease and/or rental agreement for each Event.

14           6.2   Payment of License Payment for Operating Years 1-7

15           For each of Operating Years 1 through 7, inclusive, Peregrine shall pay to the  
16 City the License Payment applicable to that Operating Year in equal installments with  
17 installments due April 15, July 15, and October 15, unless the MLS season is shifted to a fall  
18 through winter season, and in that event, the installment payment dates shall be on the  
19 Business Day closest to the 30<sup>th</sup> day of the MLS season, the 90<sup>th</sup> day of the MLS season and  
20 the 30th day after the end of the MLS season. Peregrine shall be obligated to make such  
21 payments even if this Agreement has been terminated, except for a City Event of Default,  
22 and this obligation shall survive any such termination of this Agreement.

1           6.3    Payment of City's Share of Ticket Revenues for Operating Years 1-7

2           6.3.1 During the first seven (7) Operating Years, inclusive, Peregrine shall  
3 pay to the City, the City's Share of Ticket Revenue for every Event at the Stadium, adjusted  
4 for allocation of Surplus to Peregrine under Section 6.7.2, all in accordance with this Section  
5 6.3. The City's Share of Ticket Revenues shall be paid or remitted to the City on Thursday  
6 (or if Thursday is not a Business Day, on the next Business Day) of each week for all tickets  
7 for which Peregrine received payment during the week ending the immediately preceding  
8 Sunday.

9           6.3.2 Each payment of the City's Share of Ticket Revenues shall be  
10 accompanied by a statement signed by an officer of Peregrine listing or accompanied by (i)  
11 a description of the Event for which the City's Share of Ticket Revenues is paid; (ii) the box  
12 office statement (i.e., the number of Non-Exempt Tickets sold at each ticket price); (iii) a  
13 settlement report; (iv) a schedule of such Stadium Agreements to which any payment  
14 relates; (v) an Exempt Ticket report (i.e., the number of Exempt Tickets issued), and (vi) a  
15 report stating the number of tickets sold where food and/or beverages were included in the  
16 price of admission and the prices for such tickets (collectively, the foregoing shall constitute  
17 a "Settlement Statement"). The City and Peregrine may agree from time to time on another  
18 City's Share of Ticket Revenues reporting form or format. Peregrine shall be entitled to rely  
19 in good faith on information provided by any promoter or third-party ticket seller with  
20 respect to sales of non-Exempt tickets, ticket price, and other similar information which  
21 Peregrine cannot determine directly. During Operating Years 8 through 25, Peregrine shall  
22 continue to provide the Settlement Statement described in this Section 6.3.2, even if no  
23 payment is due.

24           6.3.3 The City's Share of Ticket Revenues Collection Policy, attached as  
25 Exhibit 6.3.3, is intended to provide the City a degree of protection for collection of the

1 City's Share of Ticket Revenues, and not for any other purpose. Any modifications shall  
2 require the advance written consent of the City.

3 6.3.4 Peregrine shall maintain books and records in accordance with GAAP  
4 that appropriately reflect Ticket Revenue in order to determine the City's Share of Ticket  
5 Revenues. Peregrine shall have the right to rely in good faith on the report and records of  
6 Event promoters and ticket sellers. On a monthly basis, Peregrine shall provide to the City  
7 statements of monthly and Operating Year-to-date Ticket Revenue and the City's Share of  
8 Ticket Revenues. The City and its representatives shall have the right upon reasonable  
9 notice at reasonable times during normal business hours and at reasonable frequencies (but  
10 not more frequently than once every sixty (60) days) to examine Peregrine's relevant books  
11 and records in order to confirm the amount of the City's Share of Ticket Revenues.  
12 Peregrine shall cooperate with the City in determining the amount of the City's Share of  
13 Ticket Revenues owed on account of that Event.

14 6.4 Payment of the City's Share of Ticket Revenues for Operating Years 8-25

15 During each of Operating Years 8-25, Peregrine shall comply with Sections  
16 6.3.1 through 6.3.4; however, no payment shall be made by Peregrine pursuant to Section  
17 6.3.1 and instead, Peregrine shall only be obligated to pay to the City any Surplus as it may  
18 be generated during an Operating Year and then only to the extent allocated to the City  
19 pursuant to Section 6.7.

20 6.5 Payments of City's Guaranteed Annual Revenue

21 If by January 31 after the end of each Operating Year between of Operating  
22 Years 1 through 7, inclusive, the City's Actual Annual Revenue for such Operating Year is  
23 less than the City's Guaranteed Annual Revenue, then Peregrine shall pay to the City the  
24 difference within seven (7) Business Days. Peregrine shall be obligated to make such  
25 payments even if this Agreement has been terminated, except if the termination is on

1 account of a City Event of Default, in which case, Peregrine shall have no obligation under  
2 this Section 6.

3 6.6 Prepayment of License Payment and City's Share of Ticket Revenue for Year  
4 8 through Year 25

5 Pursuant to Section 17 of the Redevelopment Agreement, Peregrine shall pay  
6 to the Project Funding Agent an amount equal to the amount set forth in Section 17.1.1(b) of  
7 the Redevelopment Agreement. The foregoing payment shall fully satisfy Peregrine's  
8 obligation to pay License Payments and City's Share of Ticket Revenues for Operating  
9 Years 8 through 25, inclusive, except for payment of Surplus.

10 6.7 Allocation of Surplus

11 The Surplus for any Operating Year shall be allocated between the Parties as  
12 follows:

13 6.7.1 If no payment has yet been made by Peregrine pursuant to Section 6.5  
14 in any prior Operating Year, then Peregrine shall pay any Surplus to the City, pursuant to  
15 Section 6.3 and 6.9.

16 6.7.2 If one or more payments have been made by Peregrine pursuant to  
17 Section 6.5 in a prior Operating Year, then Peregrine shall be entitled to retain an amount  
18 equal to the lesser of (a) the total of such prior payments, reduced by any amount of Surplus  
19 recovered by Peregrine pursuant to this Section 6.7.2; or (b) seventy percent (70%) of the  
20 Surplus for the current Operating Year, and Peregrine shall pay an amount equal to thirty  
21 percent (30%) of the Surplus for the current Operating Year to the City pursuant to Section  
22 6.3.

23 6.7.3 By January 31 of each Operating Year, the Parties shall review the  
24 payments, if any of Surplus made during the immediately preceding Operating Year so as to

1 confirm that on an Operating Year basis, total Surplus has been properly allocated pursuant  
2 to the allocation in Section 6.7.2. If the MLS season shifts to a fall-winter season, the date  
3 of January 31 shall be replaced with that Business Day closest to the 60<sup>th</sup> day after the end  
4 of the MLS season.

5           6.8    Late Charges

6                   In the event that Peregrine does not pay an amount owed to the City when and  
7 as due, then that amount shall bear Default Interest from the date it was due until the date it  
8 is paid.

9           6.9    Partial Operating Year

10                   During any Operating Year in which there is a Temporary Closure, or in the  
11 event that the first or last Operating Year is less than 365 days or in the event of an Early  
12 Termination, then there shall be no proration of the City's Guaranteed Annual Revenue.

13           6.10 Overpayment

14                   In the event that Peregrine determines that it has made a payment to the City  
15 in excess of its obligations under this Section 6, Peregrine shall advise the City in writing of  
16 the amount of the overpayment and the reason that Peregrine determined it made such  
17 overpayment. If the City agrees with Peregrine's determination, then the City shall pay such  
18 amount to Peregrine without interest. If the City does not agree with Peregrine's  
19 determination, then the City shall advise Peregrine of the reasons for its disagreement in  
20 writing within thirty (30) days, and Peregrine may thereafter submit the matter for Dispute  
21 Resolution, and the burden of proof shall be on Peregrine.

7. SECTION 7 OVERSIGHT

2           7.1 Financial Statements

3                   Within fifteen (15) days after the end of each Operating Year, Peregrine shall  
4 furnish to the City:

5                   7.1.1 A financial statement of Ticket Revenue for Events at the Stadium for  
6 that Operating Year showing the number of Events, paid and unpaid attendees per Event,  
7 and any other significant facts regarding Ticket Revenue; and

8                   7.1.2 A certificate signed by the manager of Peregrine stating that (i) the  
9 financial statement described in Section 7.1.1 has been prepared in accordance with GAAP,  
10 consistently applied throughout the periods covered by such statements, and fairly reflects  
11 Ticket Revenue at the Stadium for that Operating Year; and (ii) the statement referred to in  
12 Section 7.1.1 is accurate in all material respects.

13                   Subject to any contrary requirements of Law (including, but not limited to,  
14 ORS Chapter 192), the City agrees to keep confidential any information disclosed by  
15 Peregrine to the City and marked by Peregrine as "Proprietary Information."

16           7.2 City's Right of Financial Review

17                   7.2.1 At any time, the City may require a review of Peregrine's payments to  
18 the City required by Section 6 be conducted to determine if payments made by Peregrine to  
19 the City are accurate. The review shall be conducted by a nationally recognized accounting  
20 firm or an equivalent accounting firm mutually acceptable to Peregrine and the City (the  
21 "City's Review Accountants"). The cost of the City's Review Accountants' annual review  
22 shall be borne by the City unless such review determines an underpayment to the City by  
23 Peregrine of more than two percent (2%) in which case Peregrine shall promptly reimburse  
24 the City for such cost.



1                   7.2.1.1 Peregrine agrees to cooperate with the review and to make  
2 all of its books, records and relevant employees available to the City's Review Accountants.  
3 The City's Review Accountants are not agents of the City and their work product is not  
4 available to the City nor is their work product a public record.

5                   7.2.1.2 The City's Review Accountants shall only determine  
6 whether the amounts paid to the City by Peregrine for a given Operating Year are consistent  
7 with the requirements of Section 6. In reporting on their findings, the City's Review  
8 Accountants shall not disclose details of Peregrine's financial information but shall only  
9 determine whether the amount paid to the City for that Operating Year is consistent with the  
10 requirements of Section 6 and, if not, the variance from the requirements of Section 6. If the  
11 City's Review Accountants determine that Peregrine has paid the City an amount that is less  
12 than required by Section 6, then within thirty (30) days of the report of the City's Review  
13 Accountants, Peregrine shall pay the deficiency to the City with Default Interest. If the  
14 City's Review Accountants determine that Peregrine has paid the City an amount that is  
15 greater than required by Section 6, then within thirty (30) days of the report of the City's  
16 Review Accountants, the City shall pay the excess amount to Peregrine with Economic  
17 Interest. The determination of the City's Review Accountants shall be binding upon the  
18 City and Peregrine.

### 19           7.3    Accounts, Books, and Records

20                   Peregrine shall keep true and complete accounts, books, and records relating  
21 to the management, administration, operation, use, scheduling, advertising, marketing,  
22 promotion, licensing, provision of concessions, Maintenance, and Repair, of or at the  
23 Stadium. All such books and records shall be maintained at Peregrine's offices in Portland,  
24 Oregon. All such books and records shall be retained by Peregrine and available to the City  
25 for a period of five (5) years after such books or records were generated. The City shall be

1 entitled, at any reasonable time, to review such books and records for purposes of  
2 determining compliance with this Agreement; provided that the City shall have the right to  
3 inspect and review such accounts, books, and records at any time and without notice to  
4 Peregrine if the City reasonably believes that employees or contractors of Peregrine or its  
5 Affiliates have engaged in fraud, misappropriation of funds, or other misconduct relating to  
6 the operation of the Stadium. To the extent permitted under applicable Law, and provided  
7 Peregrine establishes and keeps in force security, back-up and anti-tampering safeguards  
8 reasonably acceptable to the City, Peregrine may maintain records of transactions and  
9 inventory on electronic media.

#### 10 7.4 Review by the City

11 The City may enter the Stadium at any time to determine whether Peregrine is  
12 operating the Stadium in compliance with the terms of this Agreement, including, without  
13 limitation, in accordance with the Maintenance and Repair obligations of Peregrine  
14 described in Section 4.5. The City may perform the inspection activities from time to time  
15 at the expense of the City. In performing such activities, the City will use reasonable efforts  
16 to avoid interfering with Peregrine's performance of its obligations under this Agreement.

#### 17 7.5 Noncompliance by Peregrine

18 Without limitation of any other rights of the City under this Agreement, in the  
19 event the City believes that Peregrine has failed to accomplish the Performance Standards,  
20 Operational Goals or the Public Goals set forth in Sections 3.5 and 3.8, the City may give  
21 notice of that belief to Peregrine. Within thirty (30) days after the date of the City's notice,  
22 Peregrine shall prepare and submit to the City a written plan setting forth Peregrine's  
23 proposed remedial action with respect to such noncompliance for the City's reasonable  
24 approval. If the City approves such plan, Peregrine shall promptly commence and diligently  
25 perform the remedial actions set forth therein. If the City does not approve such plan, then

1 the City shall submit to Peregrine a modified plan setting forth the City's proposed remedial  
2 action within thirty (30) days after the City's receipt of Peregrine's plan. If the Parties are  
3 unable to agree on a plan of remedial action within ten (10) days after submission of the  
4 City's modified plan, either Party may initiate Dispute Resolution. Notwithstanding  
5 anything in this Agreement to the contrary, the arbitrator of any Dispute regarding  
6 Peregrine's accomplishing the Performance Standards, Operational Goals or the Public  
7 Goals set forth in Section 3.5 or in Section 3.8 shall not have the power or authority to  
8 terminate or modify this Agreement or any of the terms hereof. This Section 7.5 does not  
9 limit a Party's rights with respect to an Event of Default, as those rights are set forth in  
10 Section 18.1.

#### 11 7.6 Annual Maintenance Review

12 During the Operations Term, the City may conduct maintenance reviews of  
13 the physical condition of the Stadium and the FF&E. The City shall advise Peregrine of the  
14 date of such review not later than ten (10) days before the same is to be conducted. The  
15 City shall use reasonable efforts to coordinate such review with Peregrine so as not to  
16 unreasonably disrupt Peregrine's activities. Peregrine shall cooperate with such  
17 maintenance review as the City may reasonably request and shall have the right to have a  
18 representative accompany the City or its contractors or agents in performing such review.  
19 As part of this review, the Parties will assess compliance with the then in effect Preventive  
20 Maintenance Plan and Scheduled Maintenance and Repair Plan. In the event that after such  
21 review the City concludes that Maintenance or Repair to the Stadium and/or the FF&E are  
22 necessary for optimum operations at the Stadium and/or to protect the City's ownership  
23 interest in the Stadium, the Party responsible under Section 4 shall promptly undertake and  
24 complete such Maintenance or Repair unless Peregrine, in its reasonable discretion,  
25 disagrees as to the necessity of such Maintenance or Repair. In that case, the Consulting  
26 Engineer shall determine to what extent the Maintenance or Repair is necessary to assure

1 optimum operations at the Stadium and/or to protect the City's ownership interest in the  
2 Stadium. The decision of the Consulting Engineer shall be binding upon the Parties and the  
3 responsible Party under Section 4 shall promptly undertake and complete such Maintenance  
4 or Repair.

5 SECTION 8 ENHANCEMENTS TO THE STADIUM IMPROVEMENTS

6 The parties acknowledge that outside the scope of the Repairs and  
7 Maintenance described in Section 4, Peregrine or the City may desire to construct  
8 Enhancements to the Stadium. Enhancements expressly exclude any action required of a  
9 Party as Maintenance or Repair pursuant to Section 4.

10 8.1 Approval by the City and Peregrine

11 No Enhancements shall be performed without the prior written approval by  
12 the City and Peregrine, each in their reasonable discretion, of the contracts for the labor and  
13 materials for such Enhancements, and plans and specifications for the Enhancement.  
14 Subject to such approvals having been given, an Enhancement shall be constructed in  
15 accordance with plans and specifications approved by the Parties. The allocation of the  
16 costs of an Enhancement between the Parties will be as agreed at the time of approval of an  
17 Enhancement. In the event the Parties are unable to agree on the need for, and terms of  
18 construction of (including the allocation of costs), an Enhancement, the Enhancement will  
19 not be constructed, unless a Party agrees to pay the cost of the Enhancement without  
20 contribution from the other Party.

21 8.2 Standards

22 Enhancements shall be performed in accordance with the standards and  
23 requirements set forth in Section 12.4 with respect to Restoration of the Stadium.

1           8.3    Scheduling

2                   Enhancements shall be scheduled and conducted in a manner designed to  
3 minimize interference with the operation of the Stadium to the extent reasonably practicable.

4           8.4    Approval of Plans

5                   The process for the design, construction and installation of Enhancements  
6 shall be reasonably agreed upon between Peregrine and the City; provided, however, that the  
7 process shall afford Peregrine and the City at least an equivalent degree of prior approval,  
8 control and supervision as that accorded to each with respect to Project Improvements  
9 constructed under the Redevelopment Agreement.

10    SECTION 9 NAMING RIGHTS, ADVERTISING

11           9.1    Authority To Sell Naming Rights

12                   The right to apply a non-temporary name to the entire Stadium itself is the  
13 “Stadium Naming Right.” The rights to apply a non-temporary name to a portion of the  
14 Stadium, such as the playing field, the press box, entryways, or a concourse are “Naming  
15 Rights.” Peregrine shall have the exclusive right to offer for sale the Stadium Naming Right  
16 and all Naming Rights. Any sale of the Stadium Naming Right or other Naming Rights  
17 shall occur only pursuant to a written agreement (a “Naming Rights Agreement”) setting  
18 forth the price, payment terms, and any other terms for the sale of the Stadium Naming  
19 Rights or a Naming Right. The association of a name, on a non-permanent basis, with a part  
20 of the Stadium is included in Advertising and not Naming Rights, and Advertising is subject  
21 to the restrictions in Section 9.5.

22           9.2    Approval by City

23                   The proposed form of any Naming Rights Agreement proposed by Peregrine  
24 shall be submitted to the City for review and reasonable approval by the CAO, within ten

1 (10) days of receipt by the CAO. Once the proposed form of the Naming Rights Agreement  
2 is approved by the CAO, the CAO need only approve substantive changes from the  
3 approved form in the case of an actual Naming Rights Agreement. Peregrine will not enter  
4 into a Naming Rights Agreement unless it is approved by the City or deemed approved  
5 through Dispute Resolution. The City's approval is subject to the limitations and standards  
6 set forth below. The City may only disapprove a Naming Rights Agreement if its terms and  
7 conditions are inconsistent with the terms of the Redevelopment Agreement or this  
8 Agreement, or if such Naming Rights Agreement, if assumed by the City, would impose  
9 unacceptable obligations or liabilities on the City. A Naming Rights Agreement shall  
10 specify a specific name to be applied to the Stadium or a portion of the Stadium. If the  
11 entity that holds a Stadium Naming Right or a Naming Right changes its name, or is  
12 acquired by another entity and changes its name and the entity desires to change its name on  
13 the Stadium or portion of the Stadium, then such name change shall again be subject to City  
14 approval in accordance within the standards of this Section 9.

15 9.3 Limitations on Stadium Naming Rights and Naming Rights

16 The following limitations apply to Peregrine's sale or offering of Stadium  
17 Naming Rights or Naming Rights:

18 9.3.1 The Stadium Naming Rights may be conveyed to a business (but not  
19 an individual or political entity), but may not be to a business associated with or that  
20 connotes: tobacco products, gun manufacturers or businesses whose primary business is  
21 selling guns, gambling, gambling facilities or sexual products. The Stadium Naming Rights  
22 may be conveyed to a business associated with or connoting alcohol products, but only with  
23 the prior approval of the City in its sole discretion. The name may include the name of a  
24 state, but not the name of a city of more than 1,000 residents in Oregon or Washington,  
25 except for the name "Portland."

1           9.3.2 Peregrine may convey Naming Rights applicable to components or  
2 elements of the Stadium contained within the Stadium's perimeter walls, and in this  
3 instance, the name may connote alcohol products or gambling, but may not connote any of  
4 the other categories prohibited in Section 9.3.1.

5           9.4   Standards of Approval

6           The standards for approval by the City of the Stadium Naming Right is  
7 whether or not the name is within the range of names sold for other sporting facilities in the  
8 United States within the last ten (10) years and whether the business meets the following  
9 criteria, as demonstrated to the City, by sworn affidavit of an officer of the company:

10           9.4.1 The company has an adopted policy supporting diversity in its hiring;

11           9.4.2 The company is an equal opportunity employer;

12           9.4.3 The company has not been convicted of, or plead guilty to, a felony  
13 charge involving discrimination, environmental damage, consumer fraud, bribery or a  
14 similar charge within the last five (5) years; and

15           9.4.4 The company is not then suing the City, except for litigation involving  
16 land use appeals involving company-owned land, condemnation or personal injury claims,  
17 or litigation that the City determines in its sole discretion is not a bar to that company  
18 acquiring the Stadium Naming Right.

19           Peregrine may, but need not, submit information to the City with respect to  
20 the criteria set forth in this Section 9.4. If the City determines that the criteria are not  
21 satisfied, then the criteria will be deemed unsatisfied. In addition to applying the above  
22 criteria, the City may make comments to Peregrine about the proposed names, which  
23 comments are not binding. The standard does not limit an acceptable name to only those

1 industries or types of businesses represented by companies that have purchased naming  
2 rights in the last ten (10) years.

3 9.5 Limitation on Advertising

4 “Advertising” consists of the display of a company’s name, logo, trademarks,  
5 trade names, images, or products on a temporary basis, even though the advertising may be  
6 contractually committed for more than one (1) year, where the physical representation of  
7 such name, logo, trademarks, trade names, images, or products can be readily removed or  
8 replaced with another company’s name, logo, trademark, trade name, image or product.  
9 Advertising includes sponsorships and promotions.

10 9.5.1 With respect to Advertising that occurs on the outside face of the  
11 perimeter walls of the Stadium or outside of the perimeter walls of the Stadium, such  
12 Advertising may not connote guns, sexual products, gambling, or tobacco products, unless  
13 in the case of tobacco products the Advertised name applies to a series of events, one of  
14 which is to be held at the Stadium. Advertising that occurs outside of the perimeter walls  
15 may connote alcohol products.

16 9.5.2 With respect to Advertising that occurs within the perimeter walls of  
17 the Stadium, such Advertising may not connote guns or sexual products, but may connote  
18 alcohol, gambling or tobacco products.

19 9.6 End of Term

20 Upon the expiration of the Operations Term (except for an Early  
21 Termination), as extended, all Peregrine rights under this Section 9 shall terminate, and  
22 Peregrine shall retain all revenue and other benefits previously received from the sale of  
23 Naming Rights or the Stadium Naming Right or Advertising, licensing of trade name or  
24 logo, or otherwise pursuant to rights granted herein, for the period applicable to the term of



1 the Operations Term, and the City may, but shall have no obligation to, assume any Naming  
2 Rights Agreement, Advertising contract, or similar obligation. Peregrine shall not contract  
3 for, or collect any sum applicable to, Naming Rights or Stadium Naming Rights or  
4 Advertising for the period after the end of the Operations Term, except in the circumstance  
5 when there is an Early Termination. In the event of an Early Termination, the revenue and  
6 fair market value of other benefits received by Peregrine for the Naming Rights or the  
7 Stadium Naming Rights or Advertising shall be prorated based upon the length of the term  
8 of such agreements, and Peregrine shall promptly pay to the City that portion of such  
9 amounts as is properly allocated to the period of time occurring after the Early Termination.

10. SECTION 10 INSURANCE

11 10.1 Insurance to be Maintained by Peregrine

12 The obligations of Peregrine under this Section 10 shall not in any way be  
13 affected or limited by the absence in any case of insurance coverage or by the failure or  
14 refusal of any insurance carrier to perform any obligation on its part to be performed under  
15 insurance policies affecting the Stadium.

16 10.1.1 Peregrine shall procure and maintain, or cause to be procured and  
17 maintained, during the Operations Term the insurance described in this Section 10 (or the  
18 then-available commercial equivalent of such insurance). Policy limits and coverages shall  
19 be reviewed annually by the City and Peregrine and shall be adjusted as the City and  
20 Peregrine agree, each in its reasonable judgment to reflect inflation, changes in coverage  
21 customarily obtained for comparable properties, and other relevant factors. If the City and  
22 Peregrine do not agree, the matter is subject to Dispute Resolution. By not later than thirty  
23 (30) days prior to the commencement of the Operations Term, Peregrine shall provide the  
24 City with binders evidencing the existence and coverage of the policies required under  
25 Section 10.1.2. Thereafter, as soon as is reasonably possible, Peregrine shall provide the

1 City with a copy of each policy of insurance required under Section 10.1.2. At least sixty  
2 (60) days prior to the expiration of any such policy, a copy of the renewal policy or renewal  
3 binder shall be provided to the City. To the extent allowed by applicable law, Peregrine  
4 may provide some or all of the insurance required by this Section 10 under blanket or  
5 umbrella type policies.

6 10.1.2 Peregrine, as a Peregrine Cost, shall procure and maintain the  
7 following types of insurance as those types are generally understood in the insurance  
8 industry:

9 10.1.2.1 Commercial General Liability insurance and/or such other  
10 similar or supplemental insurance providing, without limitation, the following specific  
11 coverages as they relate to the Stadium or Stadium-related operations or activities:

12 (i) Bodily Injury and Property Damage for premises and  
13 operations liability including products and completed operations, blanket contractual (including  
14 but without limitation, coverage for Peregrine's tort liability indemnification obligations  
15 pursuant to this Agreement);

16 (ii) Peregrine's Personal and Advertising Injury Liability;

17 (iii) Liquor Liability Endorsement for the serving and selling of  
18 alcoholic beverages;

19 (iv) Business Auto Coverage - "Symbol 1" to insure against  
20 liability arising out of the use of any automobile including bodily injury and property damage.

21 (v) Such insurance shall specifically refer to and describe the  
22 Stadium as that term is defined in this Agreement. Such insurance shall be maintained in an  
23 amount of no less than One Million Dollars (\$1,000,000) per occurrence and Three Million

1 Dollars (\$3,000,000) in the aggregate with Ten Million (\$10,000,000) of additional coverage  
2 through an umbrella policy. Such insurance shall provide coverage with respect to any costs or  
3 expenses, including attorneys' fees, incurred by the City (or City Related Persons) in connection  
4 with any claim or proceeding. Such insurance shall be primary and non-contributory.

5 (vi) Such policy shall not contain an Other Insurance Clause  
6 affecting any other insurance policy carried by the City or impacting any self-insurance  
7 maintained by the City.

8 10.1.2.2 During any period of construction at the Stadium for which  
9 Peregrine is responsible under Section 4 or Section 8, in addition to the other coverages  
10 required under this Section 10, standard "all risk" builder's risk insurance (including,  
11 without limitation, coverage against collapse), or equivalent coverage, written on a  
12 completed value basis, in an amount not less than the projected total cost of construction of  
13 such improvements as reasonably estimated by Peregrine's architect and as approved by the  
14 City not more than sixty (60) days prior to the commencement of construction and as  
15 thereafter revised by the City and Peregrine during the course of such construction. This  
16 policy shall cover debris removal, building materials and supplies of others, transportation  
17 of materials and supplies, and building ordinance coverage. The policy under this Section  
18 10.1.2.2 may be procured by the construction contractor.

19 10.1.2.3 Worker's compensation and disability benefits insurance  
20 covering all Persons employed by Peregrine and covered by the term Direct Labor in  
21 amounts no less than those required by applicable Law. Peregrine shall require all of its  
22 contractors and subcontractors and all others providing construction services on the Stadium  
23 to maintain worker's compensation coverage as required by Law.

24 10.1.2.4 Peregrine shall require all concessionaires to carry  
25 commercial general liability insurance with coverage in the amount of Ten Million Dollars

1 (\$10,000,000) per occurrence and shall require the emergency medical provider to carry  
2 commercial general liability insurance with coverage in the amount of One Million Dollars  
3 (\$1,000,000) per occurrence and Three Million (\$3,000,000) in the aggregate.

4 10.1.2.5 Such other and additional insurance, including increases in  
5 the insurance required above, in such amounts as may from time to time be reasonably  
6 required by the City or by Law that is then being carried by the owners or operators of a  
7 majority of the Comparable Facilities.

8 10.2 Terms of Insurance

9 The policies required under Section 10.1.2 and 10.4 shall:

10 10.2.1 Be written as primary policies not contributing with and not in excess  
11 of coverage that the City may carry.

12 10.2.2 Name Peregrine, as the named insured and the City and the City's  
13 Related Persons as additional insureds.

14 10.2.3 Expressly provide that the City shall not be required to give notice of  
15 accidents or claims and that the City shall have no liability for premiums.

16 10.2.4 Provide that such policies shall not be renewed, canceled, or materially  
17 modified without sixty (60) days' prior written notice to the City.

18 10.2.5 Be fully paid for and not assessable.

19 10.2.6 Be issued by an insurer of recognized standing, rated A or better as  
20 established by Best's Rating Guide or an equivalent rating issued by such other publication  
21 of a similar nature as shall be in current use, and licensed to do business in the State of  
22 Oregon.

1           10.2.7 Be written on an occurrence basis, rather than on a “claims made”  
2 basis, but only if occurrence basis coverage is then available from the insurer. If occurrence  
3 basis coverage is not then available from the insurer, Peregrine and the City shall cooperate  
4 in good faith to obtain alternative coverage from an insurer that does make such coverage  
5 available.

6           10.2.8 Provide that the insurer waives subrogation as to any rights to recovery  
7 resulting from the conduct of the City and the City’s elected officials, officers, employees,  
8 agents or from the conduct of Peregrine and Peregrine’s owners, employees and agents;  
9 provided, however, that such provision need not be included with respect to workers’  
10 compensation policies or in any policy in which the City is a named insured.

11           10.2.9 Be issued by companies which are equal opportunity employers.

12           10.2.10        Contain deductibles or retainage limits reasonably acceptable to  
13 the City.

14           10.3   No Effect on Indemnity

15           Peregrine’s procurement of the insurance required under this Section 10 shall  
16 in no manner affect or limit Peregrine’s indemnification obligations pursuant to Section 11.

17           10.4   Additional Insurance Provisions

18           10.4.1 If Peregrine at any time during the Operations Term fails to procure or  
19 maintain any insurance coverage required under Section 10.1, or to pay premiums for such  
20 insurance, the City shall have the right to procure insurance with the same coverage and  
21 deductibles as Peregrine’s terminated coverage and to pay any and all premiums for such  
22 insurance, and any amounts paid by the City in connection with the acquisition of such  
23 insurance shall be due and payable to the City by Peregrine upon demand.

1           10.4.2 Peregrine shall keep the City reasonably advised of its efforts to obtain  
2 or renew any insurance policies subject to Section 10.1 so that the City will have an  
3 opportunity to price alternative policies, including giving the City reasonable advance notice  
4 of the prospective termination of any policy, the insurance company from which Peregrine  
5 intends to obtain a replacement or renewal policy, and the terms (including, without  
6 limitation, premiums) of such proposed policy.

7           10.5 Insurance to be Maintained by the City

8           The City shall procure and maintain, or cause to be procured or maintained,  
9 during the Operations Term and at its cost and expense Commercial Property Insurance  
10 covering the Stadium and the Stadium Equipment providing Special Perils coverage (ISO  
11 1991 edition, as amended) (all risk), including endorsements to cover earthquake, flood,  
12 debris removal, sprinkler leakage, building ordinance coverage in the broadest form  
13 (including all three coverage parts), demolition and off-premises services due to power  
14 failure, with Inflation Guard and Replacement Cost endorsements, in an amount not less  
15 than the actual replacement value of the Stadium and its improvements and all Stadium  
16 Equipment (except for equipment and personal property owned by parties other than the  
17 City). Such replacement value shall be determined from time to time by the City's insurer  
18 or, if Peregrine objects to the insurer's valuation, then by a qualified appraiser, jointly  
19 selected and paid for by the City and Peregrine.

20           10.6 Cooperation

21           Peregrine and the City shall cooperate in connection with the collection of any  
22 insurance proceeds which may be payable in the event of casualty and shall execute and  
23 deliver such proofs of loss and other instruments as may be required for such collection.

1           10.7 Termination of Required Insurance, Insurance Alternatives

2           10.7.1 With respect to any type of insurance coverage required under this  
3 Section 10, or with respect to a specific insured risk, Peregrine's obligation to provide such  
4 coverage shall be suspended in the event that: (i) at least a majority of all Comparable  
5 Facilities which have historically carried the coverage in question no longer carry such  
6 coverage at the time in question because of the expense of such coverage, and (ii) there is no  
7 such coverage available through a pool arrangement among other Comparable Facilities.  
8 Peregrine's obligations to carry such coverage in the amounts required in this Section 10  
9 shall be suspended for as long as the above criteria are met, provided Peregrine complies  
10 with the following procedure. Prior to suspending the coverage, Peregrine shall give the  
11 City ninety (90) days' written notice of its intention to discontinue carrying the coverage.  
12 The notice shall specify the premium quoted to Peregrine for the coverage and evidence that  
13 a majority of Comparable Facilities have discontinued such coverage and have not  
14 substituted for the coverage risk pooling alternatives that are available to such facilities.

15           10.7.2 The provisions of Section 10.4 shall control over any conflicting  
16 provisions of this Section 10.7, to the extent the insurance premium for any policy obtained  
17 by the City pursuant to Section 10.4 is materially less than prevailing insurance premium  
18 rates for comparable policies available for the Comparable Facilities which discontinued  
19 their coverage as described in this Section 10.7 at the latest time that such facilities  
20 continued to maintain such policies.

21           10.7.3 Any Dispute regarding this Section 10.7 shall be subject to Dispute  
22 Resolution. The Dispute Resolution process shall be completed and resolved in Peregrine's  
23 favor before Peregrine suspends coverage. At any time that the criteria for suspension are  
24 no longer met, Peregrine's obligation to carry the suspended insurance coverage shall be  
25 reinstated.

11. SECTION 11 INDEMNIFICATIONS

2           11.1 Scope of Peregrine Indemnification

3           Peregrine shall, at Peregrine's cost, defend, indemnify and hold harmless the  
4 City and the City Related Persons from and against any and all liabilities, obligations,  
5 penalties, fines, damages, claims, suits, costs, remediation costs, and expenses (including,  
6 without limitation, attorneys' fees) (collectively, "Damages") which may be imposed upon,  
7 incurred by, or asserted against the City or any of the City Related Persons arising from any  
8 of the matters set forth in Sections 11.1.1 through 11.1.6. Peregrine shall not be obligated to  
9 defend, indemnify, or hold harmless the City and the City Related Persons under the terms  
10 of this Section 11 from Damages attributable to the negligence or willful misconduct of the  
11 City or any of the City Related Persons or Damages directly related to the City's failure to  
12 perform an obligation under this Agreement, whether or not such failure was negligent or  
13 not, Damages caused by the presence of Hazardous Substances in, at or beneath the  
14 Stadium prior to the Operations Term, except for the period of time referred to in Section  
15 11.6.2 when Shortstop operated the Stadium, Hazardous Substances that migrate into or  
16 onto the Stadium property from other adjacent property or brought upon the Site by the City  
17 or its contractors, or City Related Parties, or Damages caused by any breach of this  
18 Agreement by the City.

19           11.1.1 Any conduct, act, or omission of Peregrine or Peregrine's members,  
20 directors, officers, employees, agents, contractors, subcontractors, licensees, or invitees  
21 occurring during the Operations Term.

22           11.1.2 Any accident, injury, death, or damage caused to any Person or to the  
23 property of any Person occurring during the Operations Term on or about the Stadium  
24 except to the extent such accident, injury, death, or damage occurs during or as a result of



1 (a) any City review or inspection allowed under this Agreement or (b) Repair undertaken by  
2 the City.

3 11.1.3 Except as to any City responsibility under this Agreement, any use,  
4 non-use, possession, occupation, operation, scheduling, advertising, marketing, promotion,  
5 Maintenance, Repair, licensing, provision of concessions, Restoration (as defined in Section  
6 12.2.1), or management of all or any part of the Stadium and/or the FF&E.

7 11.1.4 Any Peregrine Event of Default of any obligations of Peregrine under  
8 this Agreement, or a Peregrine default under any agreement affecting any part of the  
9 Stadium not cured within any applicable cure period provided in such other agreement.

10 11.1.5 Negligence or willful misconduct of Peregrine in the construction of  
11 any Emergency Repairs pursuant to Section 4.5.13.

12 11.1.6 The actual or alleged presence, use, treatment, storage, generation,  
13 manufacture, transport, release, leak, spill, disposal, or other handling of Hazardous  
14 Substances on, from, or about the Stadium during the Operations Term caused by Peregrine,  
15 except migration from adjoining property.

16 11.2 Scope of City Indemnification

17 Subject to the limitations of the Oregon Constitution and the Oregon Tort  
18 Claims Act, the City shall defend, indemnify and hold harmless Peregrine, and Peregrine's  
19 members, directors, officers and employees ("Peregrine Related Persons") from and against  
20 any and all Damages which may be imposed upon, incurred by, or asserted against  
21 Peregrine or any of the Peregrine Related Persons arising from any negligent act, conduct,  
22 or omission of the City or a City Related Person occurring during the Operations Term or  
23 the breach of this Agreement by the City. The City shall not be obligated to defend,  
24 indemnify, or hold harmless Peregrine and the Peregrine Related Persons under the terms of

1 this Section 11.2 from Damages directly attributable to matters where Peregrine is obligated  
2 to indemnify the City under Section 11.1, Damages caused by Peregrine's breach of this  
3 Agreement, or Damages caused by the presence of Hazardous Substances that are the  
4 responsibility of Peregrine under Section 11.6.2.

#### 5 11.3 Defense of Claims by Peregrine

6 If any claim, action, or proceeding is made or brought against the City or any  
7 of the City Related Persons by reason of any event or condition described in Section 11.1 for  
8 which Peregrine owes a duty of indemnification to the City or City Related Persons, then,  
9 upon demand by the City or the affected City Related Person(s), Peregrine shall resist and  
10 defend such claim, action, or proceeding in the name of the City or such City Related  
11 Person(s) by the attorneys for Peregrine's insurance carrier (if such claim, action, or  
12 proceeding is covered by insurance), or by such attorneys as Peregrine shall select subject to  
13 the reasonable approval of the City. Notwithstanding the foregoing, after notice to  
14 Peregrine, the City or such City Related Person(s) shall have the right to appear, defend, or  
15 otherwise take part in such claim, action, or proceeding, at the election of the City or such  
16 City Related Person(s), by counsel of its or their own choosing, at their own expense, except  
17 as otherwise provided herein.

#### 18 11.4 Defense of Claims by City

19 If any claim, action, or proceeding is made or brought against Peregrine by  
20 reason of any event or condition described in Section 11.2 for which City owes a duty of  
21 indemnification to Peregrine, then, upon demand by Peregrine, the City shall resist and  
22 defend such claim, action, or proceeding in the name of Peregrine by the attorneys for the  
23 City's insurance carrier (if such claim, action, or proceeding is covered by insurance), or by  
24 such attorneys as the City shall select subject to the reasonable approval of Peregrine.  
25 Notwithstanding the foregoing, after notice to the City, Peregrine shall have the right to

1 appear, defend, or otherwise take part in such claim, action, or proceeding, at the election of  
2 Peregrine, by counsel of its or their own choosing, at their own expense, except as otherwise  
3 provided herein

#### 4 11.5 Effect of Approval

5 The obligations of either Party set forth in Section 11.1 or 11.2 shall not be  
6 diminished, altered, or affected by the approval (prior to or after the fact), whether explicit  
7 or implied, by the other Party, either exercising its rights under this Agreement or the  
8 Redevelopment Agreement or in the exercise of the City's regulatory authority, of any plan,  
9 action, or activity for which the Party obtained the other Party's approval either as required  
10 by this Agreement or as required by any ordinance of the City, even if such plan, action, or  
11 activity approved by the other Party is a factual basis, in whole or in part, for a claim for  
12 which the Party is entitled to indemnification pursuant to Section 11.1 or Section 11.2  
13 respectively.

#### 14 11.6 Hazardous Substances

15 11.6.1 The City agrees to be responsible for any remediation of Hazardous  
16 Substances existing at, upon, under or within the Stadium prior to the date on which  
17 Shortstop commenced operations at the Stadium (except to the extent exacerbated by  
18 Peregrine), or Hazardous Substances that migrate on or to the Stadium property from  
19 adjacent property, or Hazardous Substances brought on to the property by the city or the  
20 City's contractors, where the remediation is required by Laws and where the failure to  
21 remediate would result in a governmental order closing the Stadium or a material part of the  
22 Stadium adversely affecting Peregrine's operations. The City shall owe no indemnity  
23 obligation to Peregrine, except for the City's failure to perform any governmentally required  
24 remediation.

1           11.6.2 Peregrine shall be responsible for any remediation of Hazardous  
2 Substances at, upon or under the Stadium after the date on which Shortstop commenced  
3 operations at the Stadium and continuing during the Operations Term, except for Hazardous  
4 Substances existing at, upon, under or within the Stadium prior to the date on which  
5 Shortstop commenced operations at the Stadium, except for Hazardous Substances that are  
6 the City's responsibility under Section 11.6.1. Peregrine shall perform such remediation in  
7 accordance with applicable procedures and standards set forth in Section 8 of the  
8 Redevelopment Agreement (with Peregrine acting in the role of the City in Section 8 of the  
9 Redevelopment Agreement), except to the extent the City reasonably directs otherwise. If  
10 the contamination of the Stadium with Hazardous Substances is caused by the City or is  
11 contamination referred to in Section 11.6.1, then the cost of remediation shall be borne by  
12 the City. If the contamination of the Stadium with Hazardous Substances is caused by  
13 Shortstop or Peregrine, or their respective Related Persons or by a third party (which is a  
14 party other than Peregrine or the City or their respective Related Persons), then the cost of  
15 remediation shall be borne by Peregrine.

16. SECTION 12 DAMAGE OR DESTRUCTION

17           12.1 Peregrine's Notice Obligation

18           If all or any material part of the Stadium or the FF&E is destroyed or  
19 damaged in whole or in part by fire or other casualty of any kind, Peregrine shall give notice  
20 to the City immediately following such occurrence.

21           12.2 Insured Loss

22           12.2.1 If all or any material part of the Stadium or the FF&E is destroyed or  
23 damaged in whole or in part by fire or other casualty and the cause of the damage is an  
24 insured event under the policy required pursuant to Section 10.1.2.2 (as applicable), then,  
25 except as provided in Section 12.7, Peregrine shall promptly repair, alter, restore, replace,

1 and rebuild (collectively "Restore") the damaged portion of the Stadium and/or the damaged  
2 FF&E to a condition, character, and nature at least the functional equivalent to those  
3 existing immediately prior to such occurrence (such repairs, alterations, restoration,  
4 replacements, and rebuilding is collectively "Restoration") all in accordance with the  
5 requirements of this Section 12.

6 12.2.2 The cost of Restoration shall be paid out of net insurance proceeds  
7 recovered by the City or Peregrine on account of such loss. The amount of any deductible  
8 shall be paid 50% by the City and 50% by Peregrine. If the cost of Restoration exceeds the  
9 amount of net insurance proceeds, then any further excess shall be paid by the City.

10 12.2.3 If the insurance proceeds exceed the cost of Restoration, the excess  
11 shall be paid into the Capital Reserve Account. If both Parties elect not to restore, this  
12 Agreement shall terminate and all insurance proceeds shall be allocated between the Parties  
13 and paid as provided for Condemnation proceeds in Section 13.1.2 below.

### 14 12.3 Uninsured Loss

15 12.3.1 If all or any part of the Stadium or the FF&E is destroyed or damaged  
16 due to a cause which is not an insured event under the policies required pursuant to Section  
17 10.1 or 10.5 (as applicable), then, except as provided in Section 12.7, the City shall, within  
18 ninety (90) days of the loss, obtain estimates from two (2) qualified contractors of the cost  
19 of Restoring the damage (the "Damage Estimate"). The City shall have sixty (60) days from  
20 the above-referenced ninety (90) days to give Peregrine written notice electing, in its sole  
21 discretion, whether or not to Restore the Stadium, provided that if the Damage Estimate is  
22 \$1,000,000 or less, the City shall fund the amount of the Damage Estimate, and Peregrine  
23 shall Restore the Stadium. If the City elects not to Restore or if the Damage Estimate  
24 exceeds \$1,000,000, then this Agreement shall terminate sixty (60) days after the effective  
25 date of the City's notice of termination, unless within thirty (30) days of the City's notice of

1 termination, Peregrine elects in writing to fund the Restoration, with a contribution of  
2 \$1,000,000 from the City for Restoration Costs, and in that event, this Agreement shall not  
3 terminate, and Peregrine shall fund the cost of the Restoration except for the City's  
4 \$1,000,000 contribution. If the City or Peregrine elects to Restore the Stadium then, this  
5 Agreement shall remain in force and effect, but the obligation of the Parties are suspended  
6 during the period of Restoration except for the provisions applicable to Restoration, and  
7 Peregrine shall promptly Restore the Stadium using funds to be provided by the Parties as  
8 set forth above. Upon Restoration, the obligations of the Parties under this Agreement shall  
9 resume and continue for the balance of the Operations Term, as extended by the Temporary  
10 Closure.

11 12.3.2 If, pursuant to Section 12.3.1, the City elects not to Restore the  
12 Stadium and Peregrine elects not to pay the cost of Restoration, but within two (2) years of  
13 the casualty loss the City officially commits to Restore the Stadium, then Peregrine shall  
14 have the option, exercisable within sixty (60) days of when Restoration work commences  
15 (based on the City's notice to Peregrine), to elect in writing to resume operations of the  
16 Stadium under the terms of this Agreement. If Peregrine so elects, the obligations of the  
17 Parties under this Agreement shall resume upon completion of the Restoration, but the  
18 period of time from the City's election through Restoration shall be a Temporary Closure.

#### 19 12.4 Manner of Restoration

20 Any Restoration of the Stadium shall be of first-class quality and  
21 workmanship according to the standards then prevailing in the Portland metropolitan area  
22 for comparable improvements of similar age. Any Restoration of Stadium FF&E shall be  
23 performed in a good and workmanlike manner. The City or Peregrine, as the case may be  
24 (the "Restoring Party"), shall diligently commence and continuously carry out such  
25 Restoration to full completion as soon as possible, except to the extent of delays due to

1 strikes, lockouts, shortages of labor or materials after due diligence in seeking the same,  
2 governmental restrictions, fire, casualty, riot, Force Majeure, or other causes beyond the  
3 reasonable control of the Restoring Party. The Restoring Party shall be responsible for  
4 obtaining all permits and authorizations required by Governmental Authorities with respect  
5 to any Restoration. All Restoration shall be conducted in accordance with all Laws  
6 (including but not limited to ORS Chapters 279A, 279B and 279C) and with plans and  
7 specifications approved by the other Party pursuant to Section 12.5. All Restoration shall  
8 be performed by duly licensed, bonded, and qualified contractors.

#### 9 12.5 Plans and Specifications

10 Prior to commencing any Restoration or applying for any governmental  
11 approvals required for such Restoration, the Restoring Party shall submit plans and  
12 specifications for the Restoration to the other Party for the other Party's approval using the  
13 approval process set forth in Section 11 of the Redevelopment Agreement. The Restoring  
14 Party shall not be required to submit any plans and specifications for Restoration reasonably  
15 estimated by the City to cost less than \$50,000 (Indexed).

#### 16 12.6 Disbursement of Insurance Proceeds

17 The proceeds of any insurance required pursuant to Section 10.5 and payable  
18 as a result of any occurrence requiring Restoration by Peregrine, including, without  
19 limitation, the insurance coverage described in Section 10.1, shall be paid to the City and  
20 shall be disbursed by the City to pay for the cost of the Restoration pursuant to the  
21 procedures in Section 24 of the Redevelopment Agreement.

#### 22 12.7 Casualty At End of Term

23 If the Operations Term shall expire prior to the completion of any Restoration,  
24 and insurance proceeds from the coverage obtained pursuant to Section 10.5 are insufficient

1 to cover the remaining cost of the Restoration, Peregrine shall not be responsible for any  
2 deficiency, if the City elects to continue the Restoration.

3 12.8 No Termination

4 Except to the extent expressly provided in this Section 12, this Agreement  
5 shall not terminate by reason of damage to or total, substantial, or partial destruction of the  
6 Stadium or the Stadium Equipment, for or due to any reason or cause whatsoever. During  
7 Restoration, Peregrine shall be relieved of its obligations to operate the Stadium according  
8 to this Agreement, but may continue to occupy the office space in the Stadium if such office  
9 space is usable. To the extent insurance proceeds are used to pay all of the unpaid City's  
10 Guaranteed Annual Revenue, the Revenue Stream Guaranty shall terminate.

11 113. SECTION 13 CONDEMNATION

12 13.1 Total or Substantial Condemnation

13 13.1.1 If, at any time during the Operations Term, the exercise by any  
14 Governmental Authority of the right of eminent domain, or the sale, transfer, or other  
15 disposition of all or part of the Stadium to a Governmental Authority under threat of  
16 condemnation (either such event, a "Condemnation"), shall result in the acquisition by the  
17 Governmental Authority of all or a Substantial Portion (as defined in this Section 13.1) of  
18 the Stadium, then either Party may elect to terminate this Agreement by notice given to the  
19 other within thirty (30) days after the date upon which notice of such Condemnation shall  
20 have been received. For purposes of this Section 13, a "Substantial Portion" of the Stadium  
21 means any portion of the Stadium for which the estimated cost of Restoration to a condition,  
22 character, and nature substantially equivalent to those existing immediately prior to such  
23 Condemnation, in the joint determination of the City and Peregrine, each in their reasonable  
24 judgment, exceeds the amount of the Condemnation award and the balance then held in the  
25 Capital Reserve Account, if any, or if the City and Peregrine cannot agree, then as



1 determined through Dispute Resolution. A Condemnation of a Substantial Portion of the  
2 Stadium also includes a condemnation of a portion of the Stadium which will substantially  
3 and adversely change the economics of the operations of the Stadium or render the Stadium  
4 not suitable for MLS soccer, as jointly determined by the City and Peregrine, each in their  
5 reasonable judgment, or if the City and Peregrine cannot agree, then as determined through  
6 Dispute Resolution. Notwithstanding the foregoing, Peregrine shall not have the right to  
7 terminate this Agreement pursuant to Section 13.1 if the City agrees to pay the cost of  
8 Restoration as described in Section 13.2.1.

9           13.1.2 In the event of the Condemnation of a Substantial Portion of the  
10 Stadium and the termination of this Agreement, the proceeds of the condemnation shall be  
11 allocated and paid as follows: First, to the City in the amount of the unpaid City's  
12 Guaranteed Annual Revenue, next to Peregrine in the Unamortized Amount of the sum of:  
13 (i) its Peregrine Contribution (as defined in the Redevelopment Agreement); (ii) its Prepaid  
14 License Payment; and (iii) its Prepaid City's Share of Ticket Revenue, and the balance of  
15 the award shall be paid to the City. If the Parties are unable to agree on the above  
16 allocation, or the court hearing the Condemnation does not establish the allocation, then the  
17 matter shall be resolved through Dispute Resolution. To the extent Condemnation proceeds  
18 are used to pay all of the unpaid City's Guaranteed Annual Revenue, the Revenue Stream  
19 Guaranty shall terminate.

## 20           13.2 Partial Condemnation

21           13.2.1 In the event of a Condemnation occurring during the Operations Term  
22 involving less than a Substantial Portion of the Stadium, or should neither Party elect to  
23 terminate this Agreement pursuant to Section 13.1, this Agreement shall remain in full force  
24 and effect. The City and Peregrine shall attempt to agree on those improvements, alterations  
25 or changes which must be made to the Stadium so that the Stadium will be a facility suitable

1 for MLS soccer games (a Restoration), with each Party exercising its commercially  
2 reasonable judgment. If after ninety (90) days following the effective date of the  
3 Condemnation, the Parties cannot agree on the above, the matter shall be resolved through  
4 Dispute Resolution.

5 13.2.2 If the Parties agree on the scope of the Restoration pursuant to Section  
6 13.2.1, then Peregrine shall be responsible for the Restoration, and the City will make the  
7 total Condemnation award available to fund the Restoration. Any such Restoration shall be  
8 performed in accordance with the provisions of Section 12. If any portion of the  
9 Condemnation award is remaining upon completion of the Restoration, such portion shall be  
10 paid to the City and Peregrine in proportion to the City's Share and Peregrine's Share.

11 13.2.3 In the event the Condemnation award is insufficient to cover the cost  
12 of the Restoration, then either (i) the City may elect to pay the deficiency; or (ii) the City  
13 may terminate this Agreement and cease use of the Stadium as a Spectator Facility. If the  
14 City notifies Peregrine of its election to trigger option (ii), Peregrine may instead pay the  
15 deficiency, in which event this Agreement shall remain in effect and the cost of such  
16 Restoration shall be considered a Cost Overrun.

17 13.3 Successive Condemnations

18 Should an additional partial Condemnation or Condemnations occur from  
19 time to time, Section 13.2 shall govern each such Condemnation.

20 SECTION 14 LIENS

21 Peregrine shall not allow or suffer any encumbrance, charge, or other lien  
22 against or in any way applicable to all or any part of the Stadium, the Stadium FF&E, or any  
23 of the receipts, income, proceeds, or revenues derived or to be derived from the Stadium, or  
24 any bond or deposit required by the Little Miller Act. If any such lien or claim shall be

1 allowed or suffered to exist, Peregrine shall cause such lien or claim to be discharged or  
2 bonded within fifteen (15) days following the filing or other assertion of such lien. If  
3 Peregrine fails to cause the discharge of such lien or claim to the satisfaction of the City  
4 within this period, the City may (but shall not be obligated to), in addition to any other right  
5 or remedy available to it under this Agreement or applicable Law, discharge such lien or  
6 claim in any manner it determines. Any amount paid by the City to discharge any such lien  
7 or claim, as well as all costs and expenses incurred by the City in connection with such  
8 discharge, shall be payable to the City by Peregrine on demand. This Section 14 does not  
9 apply to liens allowed or executed by the City or which arise solely out of the City's actions  
10 as owner of the Stadium or its actions allowed under this Agreement.

115. SECTION 15 ASSIGNMENT AND TRANSFER

12 15.1 Prohibition on Transfer

13 Peregrine acknowledges that the City has entered into this Agreement in  
14 express reliance on the qualifications and financial condition of Peregrine. Under no  
15 circumstances shall Peregrine make or suffer to be made a Transfer (as defined in Section  
16 15.1.2) of any or all of its right, title, or interest in or to this Agreement, nor shall a Change  
17 of Control occur (as defined in Section 15.1.3), without the prior written approval of the  
18 City, pursuant to Section 15.1.5. Peregrine may not Transfer this Agreement unless at the  
19 same time Peregrine is conveying Control of Peregrine's Team to the proposed transferee of  
20 this Agreement and may not convey Control of Peregrine's Team unless at the same time  
21 Peregrine complies with this Section 15 to affect a valid Transfer of this Agreement to the  
22 proposed transferee of Peregrine's Team. Any attempted or purported Transfer or Change  
23 of Control shall be void and of no force or effect.

24 15.1.1 For purposes of this Agreement, a "Transfer" shall include any sale,  
25 assignment, pledge, conveyance, encumbrance, subcontract, delegation, or other disposition,

1 whether direct or indirect, voluntary or involuntary, other than to an Affiliate of Peregrine,  
2 of Peregrine's interest in this Agreement.

3 15.1.2 For purposes of this Agreement, "Control" shall mean the power,  
4 directly or indirectly, to direct or cause the direction of the management or policies of the  
5 Person in question, by virtue of ownership of voting securities, partnership interest, member  
6 interests or otherwise.

7 15.1.3 A "Change of Control" shall refer to a change in the control of  
8 Peregrine, which shall be deemed to have occurred if:

9 15.1.3.1 Control of Peregrine is not held by Henry Merritt Paulson  
10 Jr. or his estate (the "Principal").

11 15.1.3.2 Peregrine approves an agreement to merge or consolidate  
12 with another Person, unless following the consummation of such transaction the Principal  
13 shall have Control of the surviving Person; or

14 15.1.3.3 Peregrine approves an agreement (including, without  
15 limitation, a plan of liquidation) to sell or otherwise dispose of all or substantially all of the  
16 business or assets of Peregrine to one or more Persons other than Persons with respect to  
17 which the Principals have Control.

18 15.1.4 If Peregrine desires to effect a Transfer, then Peregrine shall promptly  
19 deliver to the City any and all information that the City may reasonably request regarding a  
20 prospective transferee of Peregrine's interest in this Agreement or a prospective transferee  
21 of Control of Peregrine, including, without limitation, information pertaining to the identity,  
22 financial condition, and professional experience of such transferee and its principals.

1           15.1.5 The City, in exercising its approval rights with respect to a Transfer or  
2 Change of Control pursuant to Section 15.1, will approve the Person to whom the Transfer  
3 will be made or to whom Control will be conveyed if:

4           15.1.5.1 The Person and its controlling owners and principal officers,  
5 if any, have never been convicted of a felony; have never lost a liquor license due to a  
6 violation of applicable Law; and have never filed for or been the subject of any form of  
7 bankruptcy action in the immediately preceding ten (10) years;

8           15.1.5.2 The Person has at least five (5) years of experience  
9 operating at least one sports facility used as the home venue for a professional sports team  
10 or for another comparable facility, and has never been terminated as the operator of such  
11 facility due to such Person's lack of competence; or the Person either has: (i) engaged a  
12 manager for the Stadium having the above qualifications under a management agreement  
13 with a term of at least five (5) years from the date of Transfer or Change of Control or (ii)  
14 engaged to manage the Stadium the persons who are the then key management personnel of  
15 Peregrine under an employment agreement with a term of at least five (5) years. If clause (i)  
16 or (ii) of the preceding sentence applies as the basis for approving a Transfer or Change of  
17 Control, and for any reason such manager or key management personnel leaves the employ  
18 of the Person within two (2) years following the Transfer or Change in Control, such Person  
19 shall be obligated immediately to replace such management with management of  
20 comparable or better experience and expertise. The previous sentence does not limit the  
21 obligation of the Person to fulfill its management duties under this Agreement for the full  
22 Operations Term. The City shall have the right to approve of any proposed management  
23 agreement for the Stadium and of the Person who will manage the Stadium based on the  
24 above standards;

1                   15.1.5.3 The Person has a liquid net worth which in the City's  
2 reasonable judgment is reasonably sufficient in light of the responsibilities to be assumed by  
3 such Person under this Agreement;

4                   15.1.5.4 The Person has a demonstrated record of business  
5 successes;

6                   15.1.5.5 Unless MLS has disbanded or ceased to exist, the Person  
7 has received all approvals from Major League Soccer, or any other soccer authority whose  
8 consent is necessary, for a Transfer of Peregrine's Team to such Person; and

9                   15.1.5.6 Unless the Person is a publicly-traded company whose  
10 shares are listed on a nationally recognized stock market, the individual with the largest  
11 equity interest in the Person has agreed in writing to assume and be bound by the Exclusive  
12 Use and Guaranty Agreement as the guarantors thereof in lieu of Henry Merritt Paulson Jr.,  
13 and Henry Merritt Paulson III.

14                   15.1.6 Without limitation of other conditions that may be imposed by the  
15 City, Peregrine agrees that it shall be a condition precedent to the consummation of any  
16 Transfer of Peregrine's interest in this Agreement or any Change of Control that the  
17 transferee agrees in writing to comply, without modification or qualification, with the  
18 covenants and restrictions applicable to Peregrine under this Agreement. Any such Transfer  
19 made without execution by the transferee of the instrument described in the preceding  
20 sentence shall be null and void and of no force or effect, but the failure to execute such  
21 instrument shall in no event limit or modify the obligations of such transferee to perform the  
22 obligations of Peregrine under this Agreement. Any such instrument shall identify the City  
23 as an express third-party beneficiary of such covenants and restrictions, with full standing to  
24 enforce the same, as if the City were a party to such instrument.

1           15.1.7 If a Transfer or Change of Control is made or attempted to be made in  
2 violation of the provisions of this Section 15, such Transfer shall be null and void and of no  
3 force or effect. Notwithstanding the foregoing, the City shall have the right to collect from  
4 any such transferee the amounts payable to the City under this Agreement.

5           15.1.8 Peregrine shall cause the Operating Agreement of Peregrine to include  
6 the following language:

7           “THE MEMBERSHIP INTERESTS IN THIS COMPANY,  
8 INCLUDING ANY SALE OR TRANSFER THEREOF, ARE  
9 SUBJECT TO RESTRICTIONS SET FORTH IN THAT  
10 CERTAIN STADIUM OPERATING AGREEMENT DATED  
11 \_\_\_\_\_, 2010, BETWEEN THE CITY AND THE  
12 COMPANY. THE MEMBERSHIP INTERESTS, OR ANY  
13 INTEREST THEREIN, SHALL NOT BE TRANSFERRED OR  
14 OTHERWISE DISPOSED OF EXCEPT AS PERMITTED BY  
15 SUCH AGREEMENT. A COPY OF THE OPERATING  
16 AGREEMENT IS ON FILE AND AVAILABLE FOR  
17 INSPECTION WITHOUT CHARGE IN THE OFFICE OF THE  
18 COMPANY.”

19           15.1.9 Within fifteen (15) days of receiving the written request of Peregrine,  
20 accompanied by information referred to in Section 15.1.5, the City will advise Peregrine of  
21 whether or not a proposed transferee meets the requirements of Section 15.1.5.

## 22           15.2 Liability of Peregrine

23           A consent by the City given pursuant to this Section 15 shall not be deemed a  
24 waiver by the City of any term, covenant, or condition of this Agreement. Upon any  
25 Transfer approved of by the City, Peregrine shall remain liable to the City for the full  
26 performance of all of its obligations under this Agreement due prior to the effective date of  
27 the Transfer, but after the effective date of the Transfer, Peregrine shall not be liable for the  
28 performance of obligations due the City after the effective date of the Transfer.

116. SECTION 16 AGREEMENTS AFFECTING STADIUM

2           16.1 Conditions to Agreements

3           Peregrine may enter into agreements with third parties relating to the  
4 management, administration, operation, use, scheduling, advertising, marketing,  
5 merchandising, vending, promotion, security, licensing, provision of concessions,  
6 Maintenance or Repair of or at the Stadium (any such agreement, a "Stadium Agreement")  
7 upon compliance with the following requirements and any other applicable requirements of  
8 this Agreement:

9           16.1.1 Each Stadium Agreement shall be in the name of Peregrine.

10           16.1.2 Prior to the execution by Peregrine of any Stadium Agreement which  
11 would extend beyond the Term, Peregrine shall submit such Stadium Agreement to the City  
12 and receive the City's approval of such Stadium Agreement which may or may not be given  
13 in the City's sole discretion.

14           16.1.3 Each Stadium Agreement shall expressly provide that, upon the  
15 occurrence of an Early Termination pursuant to Section 3.2 (except pursuant to Section  
16 3.2.6), either: (i) the Stadium Agreement shall terminate; or (ii) the City shall have the right  
17 to assume the rights and obligations of Peregrine under such Stadium Agreement, and that in  
18 the event of an assumption by the City, the City shall not assume any liability arising from  
19 any act or failure to act prior to the assumption. Each such Stadium Agreement shall  
20 designate the City as an express third-party beneficiary.

21           16.1.4 Each Stadium Agreement shall require the contracting party to provide  
22 insurance sufficient, in the reasonable judgment of Peregrine, for the services to be  
23 performed or the materials to be furnished under that Agreement.



1           16.1.5 Each Stadium Agreement shall expressly provide that the City shall  
2 have no liability with respect to any services performed or to be performed at the Stadium or  
3 any materials furnished or to be furnished at the Stadium, and that no mechanic's or other  
4 lien for such services or materials shall attach to or affect the interest of the City in the  
5 Stadium or any other asset or property of the City. Each party to any Stadium Agreement  
6 relating to the construction of improvements at the Stadium shall provide notice to the City  
7 sufficient to permit the City to post a notice of non-responsibility at the construction site  
8 prior to the commencement of construction, but the failure of the City to post such a notice  
9 shall in no event impose liability on the City with respect to such construction.

10           16.2 Assumption by the City Upon Termination

11           Except in the case of an Early Termination pursuant to Section 3.2.6, the City  
12 agrees that upon an Early Termination of this Agreement, the City will assume the then  
13 existing Stadium Agreements approved of by the City pursuant to Section 16.1.2, and after  
14 assumption will perform the obligations required during the period of time after assumption,  
15 but not before. If a Stadium Agreement does not conform to the requirements of Section  
16 16.1, the City shall have the option, but not the obligation, to assume that Stadium  
17 Agreement, and any assumption shall be on the terms of Section 16.1.3. In the event that  
18 Peregrine holds any advance deposits from a third party pursuant to a Stadium Agreement,  
19 Peregrine will immediately transfer any such deposit to the City upon any Early  
20 Termination. The burdens and benefits of a Stadium Agreement assumed by the City upon  
21 an Early Termination shall be prorated between the City and Peregrine as of the date of  
22 Early Termination.

23           16.3 Assignment by Peregrine

24           Peregrine hereby assigns to the City, for security purposes, Peregrine's right,  
25 title, and interest in and to any and all Stadium Agreements, whether now existing or

1 hereafter made. The Parties acknowledge and agree that Peregrine shall have the right to  
2 exercise all rights and enjoy all benefits conferred on Peregrine pursuant to any Stadium  
3 Agreement until the occurrence of an Early Termination under Section 18.1.2. The  
4 assignment contained in this Section 16.3 shall not be construed to impose any additional  
5 responsibility on the City for the management, administration, operation, use, scheduling,  
6 advertising, marketing, merchandising, vending, promotion, security, licensing, provision of  
7 concessions, Maintenance or Repair, of or at the Stadium. This Section 16.3 does not  
8 obligate the City to perform or discharge any obligation of Peregrine under any Stadium  
9 Agreement. Peregrine may not assign any Stadium Agreement to any other party except as  
10 part of an approved Transfer or Change of Control pursuant to Section 15 herein. If  
11 requested by the City in writing, Peregrine will execute a Uniform Commercial Code, ORS  
12 Chapter 79 financing statement giving the City a security interest in all Stadium  
13 Agreements.

#### 14 16.4 Agreement With Affiliates

15 All agreements between Peregrine and a Peregrine Affiliate which affect the  
16 Stadium or its operations, including Stadium Agreements, shall automatically terminate  
17 upon any termination of this Agreement.

### 187. SECTION 17 REPRESENTATIONS, WARRANTIES, AND COVENANTS

19 All representations, warranties, and covenants of the City contained in this  
20 Section 17 shall not limit, restrict, or otherwise affect any ordinance, consent, decree, or  
21 other action of the City issued, promulgated, granted, or taken in the City's governmental,  
22 regulatory, legislative, or quasi-judicial capacity.

#### 23 17.1 Representations and Warranties of the City

24 Subject to the qualifications set forth in Exhibit 17.1 hereto, the City hereby  
25 represents and warrants to Peregrine, as of the Effective Date as follows:

1           17.1.1 This Agreement is the valid and binding obligation of the City,  
2 enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency,  
3 reorganization, moratorium, and other laws applicable to creditors' rights and remedies and  
4 to the exercise of judicial discretion in accordance with general principles of equity, and  
5 subject to a judicial interpretation of Portland City Charter, Section 2-105(a)(3). The  
6 execution, delivery, and performance by the City of this Agreement have been duly  
7 authorized by all necessary action of the City.

8           17.1.2 The execution, delivery, and performance by the City of this  
9 Agreement and the transactions contemplated by this Agreement are not prohibited by and  
10 do not conflict with any other agreements, instruments, judgments, or decrees to which the  
11 City is a party or is otherwise subject.

12           17.1.3 The execution, delivery, and performance by the City of this  
13 Agreement do not violate any ordinance, rule, or regulation of the City. The City has  
14 received no notice as of the date of this Agreement asserting any noncompliance in any  
15 material respect by the City with any Laws binding on the City with respect to the matters  
16 contemplated by this Agreement. The City is not in default with respect to any judgment,  
17 order, or decree of any Governmental Authority which is in any respect material to the  
18 matters contemplated by this Agreement.

19           17.1.4 The City has not been served in and has not received a written threat of  
20 litigation, suit, or other proceeding pending before or by any Governmental Authority  
21 seeking to restrain or prohibit, or seeking damages or other relief in connection with the  
22 execution, delivery, or performance by the City of this Agreement or the consummation of  
23 the transactions contemplated by this Agreement or which may materially and adversely  
24 affect the use and operation of the Stadium as contemplated by this Agreement except for  
25 such litigation, if any, previously disclosed in writing to Peregrine.

1           17.1.5 The City is the owner of the Stadium, except for the MAC Site, upon  
2 which the City holds an easement, subject to the Permitted Encumbrances as those terms are  
3 defined in the Redevelopment Agreement.

4           17.1.6 No consent, approval, or waiver of any Person is necessary in  
5 connection with the execution, delivery, or performance by the City of this Agreement or of  
6 the performance by the City of its obligations under this Agreement.

7           17.2 Representations and Warranties of Peregrine

8           Subject to the qualifications in paragraphs 1 and 6 of Exhibit 17.1 (which  
9 shall be applicable to Peregrine as well as the City), Peregrine hereby represents and  
10 warrants to the City, as of the Effective Date, as follows:

11           17.2.1 Peregrine is a limited liability company duly organized and validly  
12 existing under the laws of the State of Delaware and duly qualified to do business in the  
13 State of Oregon. Peregrine has all required power and authority to perform its obligations  
14 under this Agreement.

15           17.2.2 This Agreement is the valid and binding obligation of Peregrine,  
16 enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency,  
17 reorganization, moratorium, and other laws applicable to creditors' rights and remedies and  
18 to the exercise of judicial discretion in accordance with general principles of equity. The  
19 execution, delivery, and performance by Peregrine of this Agreement have been duly  
20 authorized by all necessary action of Peregrine.

21           17.2.3 The execution, delivery, and performance by Peregrine of this  
22 Agreement and the transactions contemplated by this Agreement are not prohibited by and  
23 do not conflict with any other agreements, instruments, judgments, or decrees to which  
24 Peregrine is a party or is otherwise subject.

1           17.2.4 Peregrine has received no notice, as of the date of this Agreement,  
2 asserting any noncompliance in any material respect by Peregrine with any Laws with  
3 respect to the matters contemplated by this Agreement. Peregrine is not in default with  
4 respect to any judgment, order, or decree of any Governmental Authority which is in any  
5 respect material to the matters contemplated by this Agreement.

6           17.2.5 Peregrine has not been served in and has not received a written threat  
7 of any litigation, suit, or other proceeding pending before or by any Governmental Authority  
8 seeking to restrain or prohibit, or seeking damages or other relief in connection with, the  
9 execution, delivery, or performance by Peregrine of this Agreement or the consummation of  
10 the transactions contemplated by this Agreement or which may materially and adversely  
11 affect the use and operation of the Stadium as contemplated by this Agreement, except for  
12 any litigation that Peregrine has previously disclosed to the City in writing.

13           17.2.6 No consent, approval, or waiver of any Person which has not already  
14 been obtained is necessary in connection with the execution, delivery, or performance by  
15 Peregrine of this Agreement or the performance by Peregrine of its obligations under this  
16 Agreement.

17           17.3 Mutual Covenants

18           17.3.1 The City and Peregrine shall execute or cause to be executed such  
19 further documents and take such further actions as may be reasonably requested by the other  
20 Party in order to consummate the transactions provided for in, and to give effect to the  
21 provisions of, this Agreement. In exercising its rights and performing its obligations under  
22 this Agreement, both the City and Peregrine shall act at all times in good faith.

1           17.3.2 During the Operations Term, each of the City and Peregrine shall, in  
2 connection with the exercise of their rights and the performance of their obligations under  
3 this Agreement, comply with all Laws.

4           17.3.3 The Parties acknowledge that all records, books, and documents  
5 generated or received by the City as a result of this Agreement may be public records as that  
6 term is used in ORS 192.005(5) and disclosable or exempt from disclosure as set forth in  
7 ORS 192.501 and ORS 192.502. To the extent records, books, and documents generated by  
8 or received by the City as a result of this Agreement are not disclosable public records, the  
9 City agrees to keep such information confidential.

10           17.3.4 Recognizing that the Stadium is a publicly owned facility, Peregrine  
11 agrees that in its management and operations of the Stadium it will be bound by all Laws  
12 which would be binding on a publicly owned and operated facility, with respect to rights  
13 granted to the general public by the Constitutions of the United States and the State of  
14 Oregon and by local governmental ordinances and regulations, and all laws which bar  
15 discrimination on account of race, color, age, sex, national origin, and similar protected  
16 categories. However, this Section 17.3.4 shall not be interpreted to treat Peregrine's  
17 employees as employees of a public entity nor to deprive Peregrine of the right to participate  
18 in good faith in any proceeding determining the application of any Laws to the Stadium or  
19 to Peregrine.

20           17.4 Covenants of the City

21           17.4.1 During the Term, the City shall not: Participate in any Competing  
22 Facility or Participate In any Person that owns, manages, or operates a Competing Facility.

23           17.4.2 For purposes of this Agreement, "Participate In" shall mean to, directly  
24 or indirectly, own, manage, operate, control, or actively participate in the ownership,

1 management, operation, development, planning, financing, or control, but does not mean the  
2 exercise by the City of its regulatory authority. Participate In does not mean being a ground  
3 lessor, even if a portion of the rent is based on gross or net revenues.

4 17.4.3 For purposes of this Agreement, "Competing Facility" shall mean any  
5 outdoor Spectator Facility located within the City or within sixty (60) miles of the City  
6 having more than 10,000 seats, to which the general public is from time to time invited, with  
7 an admission charge, for outdoor sporting events, concerts, and other events of a type  
8 typically conducted at facilities comparable to the Stadium ("Comparable Events"),  
9 provided that the following shall be excluded from the definition of Competing Facility: (i)  
10 a Spectator Facility hosting the home games of a Major League Baseball team, a National  
11 Basketball Association Team, a National Hockey League Team, or a National Football  
12 League team, (ii) The Rose Garden Arena, (iii) a Spectator Facility which may be built at  
13 the Portland International Raceway, (iv) the Memorial Coliseum, or (v) a Spectator Facility  
14 replacing an existing Spectator Facility. However, notwithstanding the above, the City  
15 agrees that throughout the Operations Term, the City will not Participate In a Competing  
16 Facility designed to accommodate professional soccer games.

17 17.4.4 Notwithstanding the provisions of Section 17.4.1, Peregrine agrees that  
18 its sole remedy in the event of a breach by the City of the City's obligations under Section  
19 17.4.1, shall be to obtain an injunction or decree of specific performance from any court of  
20 competent jurisdiction to restrain or compel the City in connection with the City's  
21 obligations pursuant to Section 17.4.1, and not obtain money damages. In the event of a  
22 breach by the City of the City's obligations under Section 17.4.1, Peregrine shall be relieved  
23 of its covenants and obligations under Section 17.5.

24 17.4.5 If any provision contained in this Section 17.4 shall be deemed to be  
25 invalid, illegal, or unenforceable by reason of its extent, duration, geographical scope, or

1 otherwise, then the court or arbitrator making such determination shall have the right to  
2 reduce such extent, duration, geographical scope, or other provisions, and in its reduced  
3 form such restriction shall then be enforceable in the manner contemplated by this Section  
4 17.4. If the court or arbitrator determines that any provision in this Section 17.4 is invalid in  
5 its entirety, then that provision shall be eliminated from this Agreement.

6 17.5 Covenants of Peregrine

7 17.5.1 Except as otherwise provided herein, during the Term, neither  
8 Peregrine nor any Affiliate of Peregrine shall sponsor, conduct, underwrite, or promote the  
9 performance of Comparable Events at any Competing Facility, without the consent of the  
10 City, which consent shall not be unreasonably withheld. No provision of this Agreement  
11 including the preceding sentence, shall be construed to prohibit or limit Peregrine from, or  
12 require Peregrine to obtain the City's consent to:

13 17.5.1.1 Sponsor, conduct, underwrite, or promote the performance  
14 of any Events at any Competing Facility, under any of the following circumstances:

15 (a) Any event that is prohibited under the terms of the Good  
16 Neighbor Agreement after reasonable attempt to obtain a variance to allow the Event;

17 (b) Any Event that is part of a series of Events, one or more  
18 of which Events is held at the Stadium;

19 (c) Any Event scheduled for the Stadium that is required to  
20 be relocated due to damage or destruction to the Stadium, or other cause beyond the control  
21 of Peregrine, such as court order;



1 (d) Any Event held at a time when a different event is being  
2 held at the Stadium provided that such scheduling conflict was not otherwise within the  
3 reasonable control of Peregrine.

4 17.5.1.2 Hire out customer service, grounds keeping, and similar  
5 personnel to Competing Facilities or to Comparable Events, provided that the hiring out of  
6 such personnel does not interfere with or compromise Peregrine's performance of its  
7 obligations under this Agreement.

8 17.5.2 Notwithstanding the provisions of Section 17.5.1, the City agrees that  
9 its sole remedy in the event of a breach by Peregrine of Peregrine's obligations under  
10 Section 17.5.1 shall be to obtain an injunction or decree of specific performance from any  
11 court of competent jurisdiction to restrain or compel Peregrine in connection with  
12 Peregrine's obligations pursuant to Section 17.5.1, and not obtain money damages. In the  
13 event of a breach by Peregrine of Peregrine's obligations under Section 17.5, the City shall  
14 be relieved of its covenants and obligations under Section 17.4.

15 17.5.3 If any provision contained in this Section 17.5 shall be deemed to be  
16 invalid, illegal, or unenforceable by reason of its extent, duration, geographical scope, or  
17 otherwise, then the court or arbitrator making such determination shall have the right to  
18 reduce such extent, duration, geographical scope, or other provisions, and in its reduced  
19 form such restriction shall then be enforceable in the manner contemplated by this Section  
20 17.5. If the court or arbitrator determines that any provision in this Section 17.5 is invalid in  
21 its entirety, then that provision shall be eliminated from this Agreement.

118. SECTION 18 DEFAULT, REMEDIES, TERMINATION

2           18.1 Peregrine Default; Remedies

3                   18.1.1 A "Peregrine Event of Default" shall be deemed to have occurred  
4 under this Agreement in the event that:

5                           18.1.1.1 Peregrine fails to pay the City in full any amount due under  
6 this Agreement within thirty (30) days after written notice from the City that such amount is  
7 due;

8                           18.1.1.2 Peregrine makes a Transfer of all or part of its interest in  
9 this Agreement, or a Change of Control occurs, in violation of Section 15 and such event  
10 shall cause an immediate Event of Default;

11                           18.1.1.3 Peregrine fails to perform any obligation under this  
12 Agreement other than those referred to in Sections 18.1.1.1 through 18.1.1.2 and Peregrine  
13 fails to cure such failure within thirty (30) days after the effective date of written notice  
14 from the City describing the failure with reasonable specificity or if such failure cannot be  
15 cured solely by the payment of money and cannot be cured within such thirty (30) day  
16 period despite the exercise of due diligence, Peregrine fails to commence curative action  
17 within such thirty (30) day period and to continue such action to completion with due  
18 diligence. If Peregrine fails to comply with the terms of the Good Neighbor Agreement, a  
19 Violation (as defined in the Good Neighbor Agreement), for which Peregrine has paid the  
20 levied fine or performed whatever action is required by the Code Hearings Officer, shall not  
21 constitute an Event of Default, but such Violation will constitute an Event of Default if  
22 Peregrine fails to pay the fine or perform whatever action is required by the Code Hearings  
23 Officer after all appeals, unless relieved of such action or payment upon appeal;

1                   18.1.1.4 If any representation or warranty made by Peregrine in this  
2 Agreement is determined to have been materially false or misleading when made;

3                   18.1.1.5 If Peregrine commits: fraud, intentional misrepresentation,  
4 breach of fiduciary duty with respect to handling funds, or intentional misconduct, in  
5 connection with the obligations of Peregrine owed to the City under this Agreement;

6                   18.1.1.6 If Peregrine commences a voluntary case under the federal  
7 bankruptcy laws or under any other federal or state law relating to insolvency or debtor's  
8 relief; an involuntary bankruptcy is commenced against Peregrine or its general partner by  
9 any Person and is not dismissed within sixty (60) days; a decree or order for relief is entered  
10 against Peregrine in an involuntary case under the federal bankruptcy laws or under any  
11 other applicable federal or state Law relating to insolvency or debtor's relief; there is  
12 appointed, or Peregrine consents to the appointment of, a receiver, trustee, or custodian of  
13 any of Peregrine's assets or the assets of its general partner; or Peregrine or its general  
14 partner makes a general assignment for the benefit of creditors.

15                   18.1.1.7 If the Redevelopment Agreement is terminated pursuant to  
16 Section 27.2 thereof, in the case of a Peregrine Event of Default under the Redevelopment  
17 Agreement, the City need not give written notice of a default under this Agreement.

18                   18.1.1.8 If an Event of Default (as defined in the Redevelopment  
19 Agreement) occurs under the Redevelopment Agreement due to a failure of the condition set  
20 forth in Section 22.4.5 thereof; in the case of a Peregrine Event of Default; in the case of a  
21 Peregrine Event of Default under the Redevelopment Agreement, the City need not give  
22 written notice of a default under this Agreement.

23                   18.1.2 Upon the occurrence of a Peregrine Event of Default, the City shall be  
24 entitled to exercise of the following remedies:

1           18.1.2.1 The City may terminate this Agreement by notice to  
2 Peregrine given at least ten (10) days prior to the designated date of termination, provided  
3 that if any Peregrine Event of Default described in Section 18.1.1.5 through 18.1.1.7 shall  
4 occur, this Agreement shall terminate as of the date on which such Event of Default  
5 occurred. The ten (10) day notice period referred to above is not a cure period.

6           18.1.2.2 The City shall assume the Stadium Agreements to the extent  
7 required by Section 16, and as the City may otherwise elect to assume Stadium Agreements.

8           18.1.2.3 Without limitation of other cure rights provided in this  
9 Agreement, after Peregrine's failure to cure, the City may elect to cure the default(s) of  
10 Peregrine, and to recover from Peregrine on demand as a Peregrine Cost any costs or  
11 expenses incurred by the City in the course of such cure. Peregrine shall have no right of  
12 action against the City or the City's officials, employees, agents, or contractors arising from  
13 any cure undertaken pursuant to this Section 18.1.2.3.

14           18.1.2.4 The City may pursue or exercise any other right or remedy  
15 available to the City, at law, in equity, or under this Agreement.

16           18.1.2.5 To the extent permitted by Law, all remedies (except the  
17 election to cure as provided in Section 18.1.2.3 which precludes termination) provided for in  
18 this Section 18.1 are cumulative and may be exercised by the City concurrently,  
19 independently, or successively, in any order whatsoever.

20           18.1.3 Any damages payable by Peregrine under this Section 18 shall  
21 bear Default Interest beginning on the date such amount is due and payable to the City  
22 pursuant to this Agreement and ending on the date of payment.

1           18.2   City Default; Remedies

2                   18.2.1 A "City Event of Default" shall be deemed to have occurred under this  
3 Agreement in the event that:

4                           18.2.1.1 The City fails to pay in full any amount due under this  
5 Agreement within thirty (30) days after written notice from Peregrine that such amount is  
6 due;

7                           18.2.1.2 The City fails to perform any obligation under this  
8 Agreement and fails to cure such failure within thirty (30) days after the effective date of  
9 written notice from Peregrine describing the failure with reasonable specificity or if such  
10 failure cannot be cured solely by the payment of money and cannot be cured within such  
11 thirty (30) day period despite the exercise of due diligence, fails to commence curative  
12 action within such thirty (30) day period and to continue such action to completion with due  
13 diligence;

14                           18.2.1.3 If the City commits: fraud, intentional misrepresentation,  
15 breach of fiduciary duty with respect to handling funds, or intentional misconduct, in  
16 connection with the obligations of the City owed to Peregrine under this Agreement; or

17                           18.2.1.4 Any representation or warranty made by the City in this  
18 Agreement is determined to have been materially false or misleading when made.

19                           18.2.1.5 The Redevelopment Agreement is terminated pursuant to  
20 Section 27.2 thereof on account of a City Event of Default under the Redevelopment  
21 Agreement and, in that event, Peregrine need not give a written notice of default under this  
22 Agreement.

1           18.2.2 Upon the occurrence of a City Event of Default, Peregrine shall be  
2 entitled to pursue or exercise any right or remedy granted to it under this Agreement or  
3 available at law or in equity. To the extent permitted by applicable law, all remedies  
4 provided for in this Section 18.2 are cumulative and may be exercised by Peregrine  
5 concurrently, independently, or successively, in any order whatsoever. Any damages  
6 payable by the City under this Section 18 shall bear interest at the Default Rate beginning on  
7 the date such amount is due and payable to Peregrine pursuant to this Agreement and ending  
8 on the date of payment.

9           18.3 Rights and Obligations Upon Termination

10           Upon termination of this Agreement, the Parties shall have the following  
11 rights and be subject to the following obligations:

12           18.3.1 Within ten (10) Business Days after the Termination Date (or any  
13 Early Termination Date), Peregrine shall account for and deliver to the City all refundable  
14 deposits under Stadium Agreements. If the City does not elect to assume a Stadium  
15 Agreement with a refundable deposit, the City will immediately refund that deposit to  
16 Peregrine.

17           18.3.2 Within ten (10) Business Days after the Termination Date (or any  
18 Early Termination Date) the Parties shall jointly perform an inventory of all supplies,  
19 materials, and consumable items at the Stadium or located elsewhere but needed for the  
20 operations of the Stadium and the City may purchase all or part of the inventory of such  
21 inventoried items from Peregrine at Peregrine's book cost for such items. If the City does  
22 not elect to purchase such items, then Peregrine may either: retain the items as its property;  
23 liquidate such items; or relinquish the items to the City without charge. Within fifteen (15)  
24 days after the date of termination the Parties shall jointly perform an inventory of all  
25 Stadium FF&E used in the operations of at the Stadium. Peregrine shall turn over to City

1 the Existing FF&E, the New FF&E and all replacements of the same. Peregrine shall  
2 remove all of its personal property from the Stadium within thirty (30) days after the date of  
3 termination. If Peregrine fails to remove any such personal property in a timely manner, the  
4 City shall have the right to perform such removal as a Peregrine Cost (payable to the City  
5 upon demand), and without liability for any damage or loss occurring in connection with  
6 such removal.

7 18.3.3 All personnel of Peregrine, and any Affiliates of Peregrine, shall  
8 vacate the Stadium within thirty (30) days after the date of termination, other than in  
9 connection with the sale and removal of equipment described in Section 18.3.2.

10 18.3.4 All Stadium Revenues and Stadium Operating Expenses shall be  
11 prorated as of the Termination Date or the Early Termination Date, and, to the extent of  
12 information then available, such prorations shall be made on such date of termination. The  
13 Parties shall use their best efforts prior to such Termination Date to prepare a schedule of  
14 prorations covering as many items to be prorated as practicable so that prorations may be  
15 made on the Termination Date. Such prorations shall be adjusted, if necessary, and  
16 completed as soon as practicable after such Termination Date as soon as final information  
17 becomes available.

18 18.3.5 Within thirty (30) days of the Termination Date or an Early  
19 Termination Date, Peregrine shall apply the provisions of Section 6 to the last Operating  
20 Year of the Operations Term or that partial Operation Year caused by an Early Termination  
21 and pay all amounts then owed to the City pursuant to Section 6.

22 18.3.6 Except for a termination of this Agreement pursuant to Section 12 or  
23 13 or on account of a City Event of Default, Peregrine's Team shall be obligated to play its  
24 home games at the Stadium, pursuant to the Exclusive Site and Guaranty Agreement, for the  
25 duration of original Operations Term, and Section 6 of this Agreement shall survive the

1 termination of this Agreement and remain binding on the Parties. Peregrine recognizes and  
2 agrees that in securing the covenants and agreements of Peregrine herein, the City is and  
3 shall be acting on behalf of and is vested with the public interests of the citizens of the City,  
4 that it is essential to the preservation and settlement of the public welfare that Peregrine  
5 perform and discharge its obligations hereunder, and that the loss of the presence of a MLS  
6 Team would constitute an irreparable harm that is not adequately compensable by money  
7 damages or other remedies available at law and, consequently, specific performance or  
8 another form of equitable relief for a breach by Peregrine of this Agreement is an essential  
9 remedy for the City. Peregrine further specifically agrees that, consistent with the  
10 applicable rules of civil procedure and interpretive case law and the most common use of  
11 terms therein, the injury to the City would be real, specific, immediate and irreparable, and  
12 that no bond shall be required to be posted by the City prior to the awarding of any  
13 temporary restraining order or injunction in furtherance of the enforcement of this provision.

#### 14 18.4 Indemnity

15 18.4.1 The City shall defend, indemnify and hold harmless Peregrine and  
16 Peregrine's Related Persons from and against any and all Damages which may be imposed  
17 upon, incurred by, or asserted against Peregrine or the Peregrine Related Persons by reason  
18 of any breach after the Termination Date of this Agreement by the City of any Stadium  
19 Agreement assumed by the City.

20 18.4.2 Peregrine shall defend, indemnify and hold harmless the City and the  
21 City Related Persons, from and against any and all Damages which may be imposed upon,  
22 incurred by, or asserted against the City or the City Related Persons by reason of any breach  
23 by Peregrine of any Stadium Agreement prior to the Termination Date of this Agreement.



1           18.5 Transition

2           18.5.1 From and after the Termination Date or any applicable Early  
3 Termination Date, the Parties shall use Reasonable Efforts to effect an orderly and efficient  
4 transition of operations of the Stadium to the City or the City's designee. The transition  
5 plan shall include, at a minimum, a mechanism for advance scheduling of events in the  
6 Stadium for the period after termination of this Agreement, training of City personnel by  
7 Peregrine regarding operations of the Stadium, and access to the Stadium by the City's (or  
8 its designee's) agents and employees during a reasonable transition period. The City (or its  
9 designees) shall be assisted by Peregrine in the orderly transition of operations of the  
10 Stadium for a period not to exceed sixty (60) days.

11           18.5.2 For a period of five (5) years after the Termination Date or an Early  
12 Termination Date, Peregrine shall provide the City with access to the accounts, books, and  
13 records to be maintained by Peregrine pursuant to Section 7.3.

14 ~~149.~~ SECTION 19 DISPUTE RESOLUTION

15           To the extent permitted by law, with respect to any disagreement between the  
16 Parties, any dispute, or any instance where mutual agreement is not reached (a "Dispute"),  
17 shall be resolved through dispute resolution pursuant to this Section 19 ("Dispute  
18 Resolution"). Except as provided in Section 19.7, Dispute Resolution shall be the exclusive  
19 means to resolve Disputes. Dispute Resolution does not apply where a decision or approval  
20 is subject to the Party's sole discretion, however to the extent that such a decision is subject  
21 to a Party's "reasonable discretion," the reasonableness of the decision shall be subject to  
22 Dispute Resolution.

23           19.1 Good Faith Negotiations

24           In the event either Party believes a Dispute exists, it shall give notice to the  
25 other specifying in reasonable detail the nature of such Dispute. The Parties shall seek in

1 good faith to negotiate a settlement of the Dispute, including, without limitation, by  
2 agreeing to reasonable requests of the other to hold a meeting to discuss such Dispute.

3 19.2 Designation of Arbitrator

4 If within ten (10) days after the effective date of any notice given pursuant to  
5 Section 19.1 the Parties have been unable to reach a resolution of the Dispute, the Parties  
6 shall attempt to agree on an arbitrator (the "Arbitrator"). If the Parties shall fail to agree on  
7 an Arbitrator within twenty (20) days after the effective date of the notice given pursuant to  
8 Section 19.1, the Parties shall each designate, by written notice to the other given not later  
9 than twenty-five (25) days after the effective date of the notice given pursuant to  
10 Section 19.1, a representative, who need not be neutral and who shall either: have at least  
11 five (5) years' of experience in connection with the management of public facilities or be a  
12 business lawyer with at least ten (10) years of experience. If either Party fails to designate a  
13 representative within this period, the representative of the Party who met the deadline shall  
14 act as Arbitrator. If both Parties meet the deadline, the two (2) representatives shall, within  
15 ten (10) days after the last of the two (2) representatives is designated, select an Arbitrator  
16 who shall either: have at least five (5) years' of experience in connection with the  
17 management of public facilities, or be a business lawyer with at least ten (10) years of  
18 experience. If the representatives cannot agree on an Arbitrator, the Presiding Judge of the  
19 Circuit Court for Multnomah County, Oregon shall, upon application by either Party,  
20 nominate three (3) arbitrators having such qualification. The Party initiating the Dispute  
21 Resolution shall have the right to strike one (1) arbitrator and thereafter the responding Party  
22 should have the right to strike one arbitrator. If either party fails to exercise its right to  
23 strike with five (5) days, then the right to strike passes to the other party. The Arbitrator  
24 chosen pursuant to this Section 19.2 shall be the sole arbitrator. The fee of the Arbitrator  
25 shall be shared equally by the City and Peregrine.

1           19.3   Scope of Arbitration

2           In connection with any arbitration proceeding, each Party shall submit, in  
3 writing, the specific requested action or decision it wishes to take, or make, with respect to  
4 the Dispute, and the arbitrator shall be obligated to choose one or the other of such specific  
5 requested actions or decisions, without being permitted to effectuate any compromise  
6 position unless the Parties otherwise agree.

7           19.4   Conduct of Arbitration

8           Except to the extent provided in this Agreement, or as the Parties may  
9 otherwise agree in writing, any arbitration proceeding shall be conducted in accordance with  
10 the Commercial Arbitration Rules and the Expedited Procedures of the American  
11 Arbitration Association (the "Arbitration Association") then in force. Although the  
12 Commercial Arbitration Rules of the Arbitration Association shall be used to govern the  
13 conduct of the arbitration, the Arbitrator shall be chosen by the procedure described in  
14 Section 19.2 and the arbitration shall not be administered through the Arbitration  
15 Association, unless the Parties otherwise agree. For purposes of an arbitration conducted  
16 under this Section 19, whenever the Arbitration Association Commercial Arbitration Rules  
17 refer to the "tribunal administrator," such reference shall be deemed to be the Arbitrator  
18 chosen under Section 19.2. The Parties expressly agree that any arbitration proceeding may  
19 proceed in the absence of any Party who, after due notice, fails to be present at such  
20 arbitration or to obtain an adjournment, and that, in such event, an award may be made  
21 based solely upon the evidence submitted by the Party who is present. All arbitration  
22 proceedings shall be conducted in Portland, Oregon or in such other location as the Parties  
23 may agree. In making any determination, the Arbitrator shall apply the pertinent provisions  
24 of this Agreement without modification or qualification in any respect. The Arbitrator shall  
25 have no power to award consequential or punitive damages or to terminate this Agreement.  
26 The Arbitrator shall furnish the Parties with a written decision within thirty (30) days after

1 the date the Arbitrator is selected, unless the Arbitrator determines that a longer period of  
2 time is required for a fair hearing to be held and a reasoned decision to be rendered.

3 19.5 Effect on Agreement

4 Unless otherwise agreed in writing, during the period that any arbitration is  
5 pending under this Agreement, the Parties shall continue to comply with all terms and  
6 provisions of this Agreement which are not the subject of the Dispute.

7 19.6 Effect of Determination

8 The decision or award rendered by the Arbitrator shall be final,  
9 nonappealable, conclusive and binding upon the Parties, and judgment may be entered upon  
10 it in accordance with applicable law in a court of competent jurisdiction subject, however, to  
11 appeal of any matters that are appealable from a binding arbitration under Oregon law.  
12 Neither the requirement to utilize the procedures set forth in this Section 19, nor the  
13 pendency of any arbitration proceeding, shall in any way invalidate any notices or extend  
14 any cure periods provided for in this Agreement.

15 19.7 Equitable Proceedings

16 In the event a Party desires to seek interim judicial relief, whether affirmative  
17 or prohibitive, in the form of a temporary restraining order, preliminary injunction, or other  
18 interim equitable relief with respect to a Dispute, either before or after the initiation of  
19 arbitration proceeding, that Party may initiate the judicial proceeding necessary to obtain  
20 such relief (an "Equitable Proceeding"). Nothing in this Section 19.7 shall be construed to  
21 suspend or terminate the obligation of the Parties to comply with the procedures set forth in  
22 this Section 19 with respect to the Dispute that is the subject of such Equitable Proceeding  
23 during the pendency of any such Equitable Proceeding, including any appeal or review.  
24 Notwithstanding the determination of the Arbitrator, any interim relief granted by such  
25 Equitable Proceeding shall not be reversed or modified by the Arbitrator's determination,

1 and any factual or legal determinations made in the permanent injunction stage of such  
2 Equitable Proceeding shall be binding upon the Parties in the Dispute before the Dispute  
3 Resolver.

#### 4 19.8 Further Disputes

5 The Parties agree that any Disputes which arise during the Term out of a  
6 settlement agreement or arbitrator's determination shall be resolved exclusively by the  
7 procedures set forth in this Section 19.

#### 8 19.9 Confidentiality

9 The arbitration proceedings shall be kept confidential, subject to the  
10 requirements of ORS Chapter 192, and the Parties and the arbitrator agree not to disclose  
11 any information regarding the arbitration to any third parties, except for Major League  
12 Soccer, employees, advisers, legal counsel, and accountants for the respective Parties on a  
13 need-to-know basis. However, the decision of the arbitrator with respect to the resolution of  
14 a Dispute need not be kept confidential.

### 15 SECTION 20 GENERAL PROVISIONS

#### 16 20.1 Exhibits

17 The Exhibits to this Agreement, referred to in the text and attached to this  
18 Agreement, are incorporated by reference and made an integral part of this Agreement.

#### 19 20.2 Notices

20 Notices under this Agreement shall be in writing and shall be effective when  
21 actually delivered, or upon sending of a confirmed facsimile copy (confirmed by automatic  
22 electronic confirmation), or three (3) Business Days after being deposited in the United  
23 States Mails, certified, return receipt requested, directed to the other Party at the address set

1     forth below, or to such other address as the Party may indicate by written notice to the other  
2     Party:

3             If to City:                     City of Portland  
4   1221 S.W. Fourth Avenue, 1<sup>st</sup> Floor  
5   Portland, Oregon 97204  
6   Attn: City Auditor  
7   Fax No.: 503-823-4751  
8   Confirmation No.: 503-823-4078

9             With a copy to:               Office of the City Attorney  
10    City of Portland, Oregon  
11    1221 S.W. Fourth Avenue, 4<sup>th</sup> Floor  
12    Portland, Oregon 97204  
13    Attn: City Attorney  
14    Fax No.: 503-823-3089  
15    Confirmation No.: 503-823-4047

16            And to:                       Office of Management and Finance  
17    City of Portland, Oregon  
18    1120 S.W. Fifth Avenue, 12<sup>th</sup> Floor  
19    Portland, Oregon 97204  
20    Attn: Chief Administrative Officer  
21    Fax No.: 503-823-5384  
22    Confirmation No.: 503-823-5288

23            And to:                       Ball Janik LLP  
24    101 SW Main Street, Suite 1100  
25    Portland, Oregon 97204  
26    Attn: Stephen T. Janik  
27    Fax No.: 503-295-1058  
28    Confirmation No.: 503-228-2525

29            If to Peregrine:             Peregrine Sports, LLC  
30    1844 SW Morrison Street  
31    Portland, Oregon 97205  
32    Attn: Merritt Paulson  
33    Fax No.: 503-553-5405  
34    Confirmation No.: 503-553-5401

35            With a copy to:               Jeannette Launer, Attorney  
36    5216 SW Burton Drive  
37    Portland, Oregon 97221  
38    Fax No.: 503-221-7045  
39    Confirmation No.: 503-502-1030

1                   And to:                   Mayer Brown LLP  
2   71 South Wacker Drive  
3   Chicago, Illinois 60606  
4   Attn: Daniel W. Luther  
5   Fax No. 312-706-9216  
6   Confirmation No. 312-701-7137

7                   20.3   Time of Essence

8                   Time is of the essence of the Parties' respective obligations under this  
9   Agreement.

10                  20.4   Conflict of Interest

11                  No member, official, or employee of City shall have any personal financial  
12   interest, direct or indirect, in this Agreement, nor shall any such member, official, or  
13   employee participate in any decision relating to this Agreement which affects his/her  
14   personal financial interest or the financial interest of any Person in which he/she is, directly  
15   or indirectly, interested. No member, official, or employee of City shall be personally liable  
16   to Peregrine or any successor in interest to Peregrine in the event of any default or breach by  
17   City or for any amount which may become due to Peregrine or such successor with respect  
18   to any obligations under the terms of this Agreement.

19                  20.5   Relationship of Parties

20                  No provision of this Agreement shall be construed to create a partnership or  
21   joint venture relationship, an employer-employee relationship, a landlord-tenant  
22   relationship, a principal-agent relationship, or any other relationship between the City and  
23   Peregrine other than that of owner and independent contractor.

24                  20.6   Severability

25                  If any term or provision of this Agreement or its application to any Party or  
26   circumstance shall to any extent be invalid or unenforceable, the remainder of this  
27   Agreement and the application of such term or provision to such Party or circumstances

1 other than those as to which it is held invalid or unenforceable shall not be affected, and  
2 each term or provision of this Agreement shall be valid and enforceable to the fullest extent  
3 permitted by law.

#### 4 20.7 Construction and Interpretation

5 To the extent consistent with the context, words in the singular shall include  
6 the plural, words in the masculine gender shall include the feminine gender and the neuter,  
7 and vice versa. All provisions of this Agreement have been negotiated at arms length, and  
8 this Agreement shall not be construed for or against any Party by reason of the authorship or  
9 alleged authorship of any provision of this Agreement.

#### 10 20.8 Binding Effect

11 The provisions of this Agreement shall be binding upon and inure to the  
12 benefit of the Parties and their respective successors and assigns, subject to the provisions of  
13 Section 15.

#### 14 20.9 Captions

15 The captions or titles of the sections of this Agreement are intended for ease  
16 of reference only and shall have no effect whatsoever on the construction or interpretation of  
17 any provision of this Agreement.

#### 18 20.10 Integration

19 This Agreement contains the entire agreement and understanding of the  
20 Parties with respect to the matters contemplated by this Agreement and supersedes all prior  
21 and contemporaneous agreements between them with respect to such matters, except the  
22 Redevelopment Agreement and the Related Agreements to the Redevelopment Agreement,  
23 as defined therein.



1           20.11 Amendment

2           This Agreement may not be modified or amended except by the written  
3 agreement of the Parties.

4           20.12 Waiver

5           Failure of any Party at any time to require performance of any provision of  
6 this Agreement shall not limit such Party's right to enforce such provision, nor shall any  
7 waiver of any breach of any provision of this Agreement constitute a waiver of any  
8 succeeding breach of such provision or a waiver of such provision itself. Any waiver of any  
9 provision of this Agreement shall be effective only if set forth in writing and signed by the  
10 Party to be bound.

11          20.13 Survival

12          All representations and warranties set forth in this Agreement, and all  
13 provisions of this Agreement, the full performance of which is not required prior to a  
14 termination of this Agreement, shall survive any such termination and be fully enforceable  
15 thereafter.

16          20.14 Attorneys' Fees

17          If a suit, action, arbitration, or other proceeding of any nature whatsoever  
18 (including any proceeding under the U.S. Bankruptcy Code but excluding Dispute  
19 Resolution) is instituted in connection with any controversy arising out of this Agreement or  
20 to interpret or enforce any rights under this Agreement, the prevailing Party shall be entitled  
21 to recover its attorneys', paralegals', accountants', and other experts' fees and all other fees,  
22 costs, and expenses actually incurred and reasonably necessary in connection with such  
23 proceeding, as determined by the arbitrator or the court at trial or on any appeal or review, in  
24 addition to all other amounts provided by law, as a City Cost or a Peregrine Cost, as the case  
25 may be.

1           20.15 Governing Law

2           This Agreement shall be governed by and construed in accordance with the  
3 laws of the State of Oregon, and without regard to any conflict of laws provisions.

4           20.16 Estoppel Certificates

5           Each Party shall at any reasonable time, within twenty (20) days after written  
6 request by the other Party, execute, acknowledge and deliver to the requesting Party or to  
7 any prospective lender, assignee or subtenant designated by the requesting Party, a  
8 certificate stating that (i) this Agreement is in full force and effect and has not been  
9 modified, supplemented or amended in any way, and if there have been modifications, the  
10 Agreement is in full force and effect as modified, identifying such modification agreement;  
11 and if the Agreement is not in force and effect, the certificate shall so state; (ii) the dates on  
12 which the term of this Agreement commenced; and (iii) whether all conditions under the  
13 Agreement to be performed by a designated Party, to the knowledge of the other Party, have  
14 been satisfied and, as of the date of such certificate, whether there are any existing defenses  
15 or offsets which one Party has against the enforcement of the Agreement by the other Party,  
16 or, if such conditions have not been satisfied or if there are any defenses or offsets, the  
17 certificates shall so state. The Party to whom any such certificate shall be issued may rely  
18 on the matters therein set forth and thereafter the Party issuing the same shall be estopped  
19 from denying the veracity or accuracy of the same. Any certificate required to be made by  
20 the City pursuant to this Section 20.16 may be made on its behalf by the City's Office of  
21 Management and Finance.

22           20.17 Waiver of Claim

23           Each of the City and Peregrine hereby waives any claim that this Agreement  
24 is invalid under or in violation of the Portland City Charter, Section 2-105(a)(3) and each of

1 the City and Peregrine agrees never to file any litigation or claim a Dispute with respect to  
2 the effect of the above referenced Charter section on this Agreement.

3 20.18 Non-Waiver of Government Rights

4 By entering into this Agreement, the City is specifically not obligating itself  
5 or any other agency with respect to any discretionary or regulatory action relating to  
6 redevelopment or operation of the Stadium, including, but not limited to, rezoning,  
7 variances, environmental clearances, regulatory plan approvals, code compliance or any  
8 other governmental agency approvals or regulatory actions which are or may be required or  
9 authorized.

10 20.19 No Third Party Beneficiaries

11 There are no third-party beneficiaries to this Agreement.

12 IN WITNESS WHEREOF, Peregrine and the City have executed this  
13 Agreement as of the date first set forth above.

14 City: CITY OF PORTLAND, OREGON, a municipal  
15 corporation of the State of Oregon  
16

17  
18  
19 By \_\_\_\_\_

20  
21 Its: Mayor  
22

23  
24 By \_\_\_\_\_

25  
26 Its: City Auditor

27 APPROVED AS TO FORM:

28  
29  
30 By: \_\_\_\_\_

31  
32 City Attorney

1  
2  
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5  
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8

Peregrine:

PEREGRINE SPORTS, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT 1****Legal Description**

A parcel of land in Section 33, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more fully described as follows:

Commencing at the Southwest corner of Block 5, Southeasterly portion of Amos N. King's Land Claim, recorded April 8, 1871, Multnomah County Plat Records, said point being also the intersection of the Easterly line of S.W. 20th Avenue (formerly Stout Street) with the Northerly line of S.W. Salmon Street (formerly West Salmon Street); thence Northeasterly along the Easterly line of S.W. 20th Avenue to a point in a line drawn 240.17 feet Northerly of and parallel with the Northerly line of S.W. Salmon Street when measured at right angles thereto, said point being also the true point of beginning of the parcel to be described; thence Northwesterly along the Northwesterly extension of said parallel line to an intersection with the center line of S.W. 20th Avenue 60 feet in width; thence Northeasterly along the center line of S.W. 20th Avenue to its intersection with the center line of S.W. Morrison Street 60 feet in width; thence Southeasterly along the center line of S.W. Morrison Street (formerly West Morrison Street) to its intersection with a line drawn 50.00 feet Easterly of and parallel with the Westerly line of S.W. 18th Avenue as now laid out and established 90 feet in width, said parallel line being also the center line of 14th Street as shown on the map of part of Ruth A. Semple's portion of the Nancy Lounsdale Donation Land Claim to the City of Portland, recorded May 23, 1873, in Book 2, at Page 45, Multnomah County Plat Records; thence Southwesterly along said parallel line to its intersection with a line drawn 240.17 feet Northerly of and parallel with the Easterly extension of the Northerly line of S.W. Salmon Street as now established 60 feet in width in the Southeasterly portion of Amos N. King's Land Claim, when measured at right angles thereto; thence Northwesterly along said parallel line to a point in the Easterly line of S.W. 20th Avenue, said point being also the point of beginning, subject to the rights of the public in and to that portion of the hereinabove described parcel now in street.

EXCEPTING that portion conveyed unto Tri County Metropolitan Transportation District of Oregon by Deed recorded February 14, 1994 as Recorder's Fee No. 94-025360.

TOGETHER WITH those certain easements granted by Multnomah Athletic Club in Amended and Restated Easement Agreement and Right of First Refusal and recorded \_\_\_\_\_, 2010, Fee No. 2010-\_\_\_\_\_, Multnomah County Deed Records.

**EXHIBIT 1.1****DEFINITIONS**

The following defined terms have the following defined meanings when used in this Operating Agreement or any of the Related Agreements. Where a term is defined in more than one document, it has the meaning for a particular document given to it in that document.

Defined terms may be used together, and when so used, will have the combined meaning of the two terms. For example, Peregrine Affiliate means an Affiliate of Peregrine. A defined term which is used as a noun may also be used as a verb, or similar transformation; and when so used, the term will have the original meaning changed to fit its use. For example, Repair may also be used as a verb. When a defined term is defined in the body of the Operating Agreement, that definition will not be repeated below but will be cross-referenced to the Section where it is defined.

1. **“Admission Tax”** is a tax, imposition, or charge, whether currently existing or subsequently enacted, including, without limitation, any ticket, admission or sales tax or imposition (other than the City’s Share of Ticket Revenues) which is imposed, in whole or in part, by the City on the issuance, purchase, sale or use of a ticket for Events at the Stadium. An Admission Tax does not include generally applicable sales taxes, but does include taxes imposed by the City on the issuance, purchase, sale or use of a ticket at only performance, spectator, or assembly type facilities.
2. **“Advertising”** is defined in Section 9.5.
3. **“Affected Part-Time Seasonal Employees”** is defined in Section 4.11.1.
4. **“Affiliate”** means an entity that is controlled by a Party, an entity that controls a Party, or an entity under common control with a Party and control means the power to govern an entity.
5. **“Agreement”** means this Stadium Operating Agreement.
6. **“Alcohol Policy”** is that policy described in Section 3.8.9.
7. **“Arbitration Association”** is defined in Section 19.4.
8. **“Arbitrator”** means each person chosen pursuant to Section 19.2.
9. **“Building Systems”** is defined in Section 4.5.9.
10. **“Business Days”** is defined in the Redevelopment Agreement.
11. **“CAO”** means the Chief Administrative Officer of the City of Portland, Oregon.

12. **“Capital Reserve Account”** means a fund established and maintained by the City, the funds in which shall be used for paying for those Repairs and Enhancements for which the City bears responsibility for the costs.

13. **“Change of Control”** is defined in Section 15.1.3.

14. **“City”** means the City of Portland, Oregon, a municipal corporation.

15. **“City Code”** means the Municipal Code of the City of Portland.

16. **“City Cost”** means a cost incurred by the City, other than the Public Contribution defined in the Redevelopment Agreement, for which the City is not entitled to reimbursement or to credit against any future obligations of the City under the Agreement.

17. **“City Council”** means the City Council of the City of Portland, Oregon.

18. **“City Directed Wages”** is defined in Section 4.11.1.

19. **“City Event of Default”** is defined in Section 18.2.1.

20. **“City Related Persons”** means the elected officials, officers, employees, agents, consultants, contractors, and legal counsel of or for the City of Portland, Oregon.

21. **“City Representative”** is defined in Section 1.2.

22. **“City’s Actual Annual Revenue”** is defined in Section 6.1.1.

23. **“City’s Directed Wages”** means the wages provided for in Chapter 3.99 of the City of Portland City Code and Charter, as the same may be amended by the City from time to time.

24. **“City’s Guaranteed Annual Revenue”** is defined in Section 6.1.2.

25. **“City’s Review Accountants”** is defined in Section 7.2.1.

26. **“City’s Share”** is defined in the Redevelopment Agreement.

27. **“City’s Share of Ticket Revenues”** is defined in Section 6.1.3.

28. **“City’s Share of Ticket Revenues Collection Policy”** is that policy referenced in Section 6.3.3 and set forth in Exhibit 6.3.3.

29. **“Clinic Facility”** is defined in the Redevelopment Agreement.

30. **“Code Hearings Officer”** means the City’s Code Enforcement Hearings Officer identified in Chapter 22 of the Portland Municipal Code.

31. **“Commencement Date”** is defined in Section 3.1.2.

32. **“Community Event”** means a non-commercial, community-oriented event taking place at the Stadium, which is sponsored by or primarily benefits a non-profit organization. A Community Event need not offer free admission.
33. **“Comparable Events”** is defined in Section 17.4.3.
34. **“Comparable Facilities”** means those facilities described on Exhibit 3.5.1.2.
35. **“Competing Facility”** is defined in Section 17.4.3.
36. **“Condemnation”** is defined in Section 13.1.1.
37. **“Consulting Engineer”** is defined in Section 4.5.11.
38. **“Control”** is defined in Section 15.1.2.
39. **“Cost Overruns”** is defined in the Redevelopment Agreement.
40. **“CTMP”** or **“Comprehensive Transportation Management Plan”** means the Comprehensive Transportation Management Plan defined in Section 3.8.2.
41. **“Damage Estimate”** is defined in Section 12.3.1.
42. **“Damages”** is defined in Section 11.1.
43. **“Default Interest”** means the “Default Interest” rate defined in the Redevelopment Agreement.
44. **“Direct Expenses”** means actual expenses incurred as a proximate result of an Event, but not an allocation of overhead or administrative expenses.
45. **“Direct Labor”** means full or part-time employees of Peregrine or a labor provider which provide labor services to promoters of Events at the Stadium.
46. **“Dispute”** is defined in Section 19.
47. **“Dispute Resolution”** is defined in Section 19.
48. **“Early Termination”** is defined in Section 3.2.
49. **“Early Termination Date”** is defined in Section 3.2.2.
50. **“Economic Interest”** is defined in the Redevelopment Agreement.
51. **“Effective Date”** means that date first stated above in this Agreement.
52. **“Emergency Contact”** is defined in Section 4.5.13.
53. **“Emergency Repairs”** is defined in Section 4.5.13.



54. **“Enhancements”** means improvements to the Stadium, but specifically excluding items of Maintenance or Repair pursuant to Section 4 and specifically excluding Project Improvements (as defined in the Redevelopment Agreement).

55. **“Equitable Proceeding”** is defined in Section 19.7.

56. **“Event”** means any spectator event or other event taking place at the Stadium.

57. **“Event Mix”** means that assortment of Event types set forth in Exhibit 3.5.2.2.

58. **“Event of Default”** means a default of this Agreement by a Party as set forth in Sections 18.1 and 18.2 of the Agreement.

59. **“Exclusive Use and Guaranty Agreement”** means that Exclusive Use and Guaranty Agreement entered into as of the date of this Agreement by Henry Merritt Paulson Jr., and Henry Merritt Paulson III in favor of the City of Portland.

60. **“Exempt Tickets”** is defined in Section 6.1.4.

61. **“Exercise Notice”** is defined in Section 3.1.3.2.

62. **“Existing Agreements”** is defined in Section 4.9.1 and are described on Exhibit 4.9.1.

63. **“Existing FF&E”** means the FF&E described as such in Exhibit 4.8.1.

64. **“Extended Operations Term”** means the period of time by which the Operations Term is extended pursuant to Section 3.1.3.1.

65. **“FF&E”** means furniture, moveable fixtures, and equipment and is further defined in the Redevelopment Agreement and described in Exhibit 4.8.1.

66. **“Final Completion”** is defined in the Redevelopment Agreement.

67. **“Force Majeure”** means any matter beyond the reasonable control of a party (financial inability excepted), including, without limitation, weather, labor unrest, labor disputes, picketing, failure of utilities, transportation shortages, energy shortages, governmental action or inaction, rationing, inability to obtain permits or third-party approvals, war, acts of terrorism, acts of vandalism, civil commotion, insurrection, local or national emergency, acts of God, natural disasters, or other casualty.

68. **“Free Extended Operations Term”** is defined in Section 3.1.3.1.

69. **“GAAP”** means generally accepted accounting principles.

70. **“Good Neighbor Agreement”** is defined in the Redevelopment Agreement and appears as an exhibit to that Agreement.

71. **“Goose Hollow Foothills League”** is the City recognized neighborhood association for the Goose Hollow area of the City.

72. **“Governmental Authority”** means any federal, state, regional, local or municipal government, municipal corporation, department, agency, district, court, tribunal, or other instrumentality having jurisdiction over the matter(s) in question.

73. **“Hazardous Substance”** means any hazardous or toxic substance, material, or waste, including but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials table (49 CFR 172.101) for the United States Environmental Protection Agency as hazardous substances (40 CFR Part 302) or those hazardous substances, materials and wastes regulated under Oregon law, petroleum products, or any other substances, materials or wastes that are or become regulated under any applicable local, state or federal law relating to the protection of human health or the environment.

74. **“Impositions”** means all taxes, including without limitation admissions taxes, parking taxes, sales taxes, gross receipts taxes, compensating or other retail excise taxes, special and general assessments, use and occupancy taxes, rent taxes, possessory interest taxes, excises, levies, license and sales and permit fees and taxes of general application and all other charges of general application which shall during the Operations Term of the Agreement be assessed, levied, charged, confirmed or imposed by any Governmental Authority against the Stadium or its operations, or which accrue or become due or payable on account of or become a lien on or against the Stadium or Project Improvements or any portion thereof, or any interest in the Stadium.

75. **“Index”** means the Consumer Price Index for All Urban Consumers (CPI-U), Portland-Salem, All Items (1982-1984 = 100), issued by the Bureau of Labor Statistics of the United States Department of Labor. If the CPI-U ceases to use the 1982-1984 average equaling 100 as the basis of calculation, or if a change is made in the term or number of items contained in the CPI-U, or the CPI-U is altered, modified, converted or revised in any other way, then the determination of the CPI Change shall be made with the use of such conversion factor, formula, or table for converting such index as may be published by the Bureau of Labor Statistics. If the CPI-U is no longer published by the Bureau of Labor Statistics, than any substitute or successor index published by said Bureau or other governmental agency of the United States will be used, as shall be agreed upon by the City and Peregrine, and, if agreement cannot be reached the matter will be subject to Dispute Resolution.

76. **“Indexed”** means adjusting a dollar value by the percentage change in the Index from the December 31 immediately preceding a “reference date” to the December 31 immediately preceding the Operating Year in which the “adjustment date” occurs. Unless another reference date is identified when the term “Indexed” is used (e.g., “Indexed as of the Effective Date”), the reference date is the Commencement Date. Unless another “adjustment date” is indicated, adjustment dates are anniversaries of the reference date. The dollar value is Indexed annually.

77. **“Intellectual Property”** means, without limitation, the image, name, and other such characteristics of the Stadium.

78. **“Laws”** means any applicable governmental rule, regulation, code, law, statute, ordinance, order, policy, or similar binding pronouncement enacted by any local, state, or federal government agency, bureau, department, or government.

79. **“License Payment”** is defined in Section 6.1.5.

80. **“License to Use Easement”** means that License to use the MAC Easement which the City has given Peregrine for the duration of the Operations Term.

81. **“Little Miller Act”** means ORS 279.526, et. seq.

82. **“MAC”** means the Multnomah Athletic Club located at 1849 SW Salmon St., Portland, Oregon.

83. **“MAC Easement”** is defined in the Redevelopment Agreement.

84. **“Maintenance”** is defined in Section 4.5.3.

85. **“Maintenance and Repair Plan”** means an annual preventive maintenance plan to be developed, submitted, and implemented by Peregrine in accordance with Section 4.5.4.

86. **“Maintenance and Repair Standard”** is defined in Section 4.5.1.

87. **“Major League Soccer”** or **“MLS”** means the top professional soccer league in the United States and sanctioned by the United States Soccer Foundation.

88. **“Naming Right”** is defined in Section 9.1.

89. **“Naming Rights Agreement”** is defined in Section 9.1.

90. **“New FF&E”** means the FF&E described as such in Exhibit 4.8.1.

91. **“Non-Exempt Tickets”** is defined in Section 6.1.6.

92. **“Northwest District Association”** is the City recognized neighborhood association for the Northwest area of the City.

93. **“Operating Year”** means the period of time from January 1 to December 31 of a calendar year, unless the first Operations Term commences on a date other than January 1 and in that event the first Operating Year is the first calendar year after the partial Operating Year.

94. **“Operational Goals”** is defined in Section 3.5.2.

95. **“Operations Term”** is defined in Section 3.1.2.

96. **“Oregon Tort Claims Act”** means ORS Chapter 30.

97. **“Oversight Committee”** means the committee charged with selecting those Community Events to take place at the Stadium each year. The Oversight Committee is selected pursuant to the Good Neighbor Agreement.

98. **“Participate In”** is defined in Section 17.4.2.

99. **“Parties”** means the City and Peregrine.

100. **“Party”** means either the City or Peregrine.

101. **“Peregrine”** means Peregrine Sports, LLC, a Delaware limited liability company.

102. **“Peregrine Cost”** means a cost incurred by Peregrine, for which Peregrine is not entitled to reimbursement or to credit against any future obligations of Peregrine under this Agreement. A Peregrine Cost is to be paid solely from Peregrine funds and not, in any part, by the City.

103. **“Peregrine Event of Default”** is defined in Section 18.1.1.

104. **“Peregrine Related Persons”** is defined in Section 11.2.

105. **“Peregrine’s Share”** is defined in the Redevelopment Agreement.

106. **“Performance Standards”** means those standards that Peregrine must meet in performing its obligations under the Agreement and which are described in Section 3.5.1.

107. **“Permitted Encumbrances”** is defined in the Redevelopment Agreement.

108. **“Person”** means an individual, corporation, partnership, joint venture, limited liability company, municipal government, association or any other entity that has the power to contract.

109. **“Personal Property”** means movable items of property located at the Stadium and not included in Stadium FF&E.

110. **“Portland Building”** means the Portland Municipal Services Building located at 1120 SW 5<sup>th</sup> Avenue, Portland, Oregon.

111. **“Portland City Charter” or “Charter”** means the Charter of the City of Portland, Oregon.

112. **“Prepaid City’s Share of Ticket Revenue”** is defined in Section 6.1.8.

113. **“Prepaid License Payment”** is defined in Section 6.1.7.

114. **“Preventive Maintenance Plan”** is described in Section 4.5.4.1.

115. **“Principal”** is defined in Section 15.1.3.1.

116. **“Project Cost”** is defined in the Redevelopment Agreement.
117. **“Project Funding Agent”** is defined in the Project Funding Agreement entered into by and between the City and Peregrine as of the date of this Agreement.
118. **“Project Improvements”** means all physical improvements to be completed at the Stadium by Peregrine under the terms of the Redevelopment Agreement based upon plans and specifications approved of by the City, pursuant to the Redevelopment Agreement.
119. **“Project Site”** is defined in the Redevelopment Agreement.
120. **“Proprietary Information”** is defined in Section 7.1.
121. **“Providence Hospital”** is defined in Section 4.13.
122. **“PSU”** is defined in Section 3.8.6.
123. **“Public Goals”** is defined in Section 3.8.
124. **“Reasonable Efforts”** means the taking, in good faith, of reasonable actions under the circumstances presented to accomplish an objective, whether or not the objective sought is accomplished. With respect to the City, the notion of reasonable actions allows the City to take into account adopted statutes, ordinances, policies and goals, to the extent reasonably applicable to the operation of the Stadium and consistently applied.
125. **“Redevelopment Agreement”** is defined in the Recitals.
126. **“Related Persons”** means with respect to a Party, the entities that are part of that Party or Persons who are elected officials, officers, members, directors, employees, or agents of such Party or its constituent entities.
127. **“Repair”** is defined in Section 4.5.5.1.
128. **“Restoration”** is defined in Section 12.2.1.
129. **“Restoration Costs”** means the cost necessary to effect the Restoration of the Stadium after a casualty loss.
130. **“Restore”** is defined in Section 12.2.1.
131. **“Restoring Party”** is defined in Section 12.4.
132. **“Retained Party”** is defined in the Redevelopment Agreement.
133. **“Rose Festival”** is an annual civic festival held during the month of June in Portland, Oregon organized by the Portland Rose Festival Association.

134. “**Scheduled Maintenance and Repair Plan**” means an annual plan to be prepared by Peregrine pursuant to Section 4.5.4.2 that sets forth the planned Maintenance and Repair activities for each Operating Year.

135. “**Settlement Statement**” is defined in Section 6.3.2.

136. “**Shortstop**” is defined in the Recitals.

137. “**Special Olympics**” means a local, national, regional, or international competition for people who have disabilities.

138. “**Spectator Facility**” means a commercial venue to which the general public is invited from time to time, with an admission charge, for the purpose of viewing spectator events.

139. “**Stadium**” is defined in the Recitals.

140. “**Stadium Agreement**” is defined in Section 16.1.

141. “**Stadium Bonds**” is defined in the Redevelopment Agreement.

142. “**Stadium Equipment**” means equipment used in the operation of the Stadium.

143. “**Stadium Naming Right**” is defined in Section 9.1.

144. “**Stadium Operating Expenses**” means all expenses incurred in connection with the operation of the Stadium, and not the operation of Peregrine’s MLS Team.

145. “**Stadium Revenues**” means that portion of gross revenue attributable to the operation of the Stadium and not the operation of Peregrine’s MLS Team, including but not limited to rent for the use of the Stadium, revenue from Stadium Naming Rights, revenue from Naming Rights, and revenue from food and beverage concessions.

146. “**Structural Repair**” is defined in Section 4.5.7.

147. “**Substantial Portion**” is defined in Section 13.1.1, for the purposes of Section 13 only.

148. “**Surplus**” is defined in Section 6.1.9.

149. “**TCS**” is defined in Section 4.14.1.

150. “**TCS Protective Measures**” are defined in Section 4.14.1 of the Agreement.

151. “**Team**” is defined in the Recitals.

152. “**Temporary Closure**” is defined in Section 3.1.4.

153. “**Termination Date**” means the date that is the last day before the twenty-fifth (25<sup>th</sup>) anniversary of the Commencement Date, unless Peregrine has, and properly exercises, a

right to extend the Operations Term pursuant to Section 3.1.1, in which case the Termination Date shall be the last day of the Extended Operations Term.

154. **“Ticket Revenue”** is defined in Section 6.1.10.

155. **“Transfer”** is defined in Section 15.1.1.

156. **“Unamortized Amount”** means a sum of money equal to a principal amount multiplied by a fraction, the numerator of which is the then number of Operating Years left in the Operations Term, before any extensions, divided by 25.

157. **“Violation”** is defined in the Good Neighbor Agreement.

**Exhibit 3.1.3**  
**Free Extended Operations Term**

<b>Contingent Cost Overrun Recovery Period</b>						
<b>Calendar Year</b>	<b>Year</b>	<b>License Payments</b>	<b>City's Share of Ticket Revenue</b>	<b>Total</b>	<b>Total Discounted to Present Value</b>	<b>Cumulative Total Discounted to Present Value</b>
2036	26	1,500,000	1,122,930	2,622,930	354,625	354,625
2037	27	1,525,000	1,152,243	2,677,243	335,155	689,780
2038	28	1,550,000	1,182,435	2,732,435	316,727	1,006,507



## EXHIBIT 3.5.1.2

**COMPARABLE FACILITIES****Stadium**

Home Depot Center  
Toyota Park  
Dick's Sporting Goods Park  
Crew Stadium  
Pizza Hut Park  
Robertson Stadium  
Red Bull Arena  
TBD  
Buck Shaw Stadium  
BMO Field

**Franchise**

Chivas USA/LA Galaxy  
Chicago Fire  
Colorado Rapids  
Columbus Crew  
FC Dallas  
Houston Dynamo  
New York Red Bulls  
Philadelphia Union  
San Jose Earthquakes  
Toronto FC

EXHIBIT 3.5.2.1

**EVENT MIX**

Major League Soccer  
PSU Football  
Soccer Exhibitions  
Collegiate Soccer  
Amateur Soccer  
High School Football  
Concerts  
Rose Festival Battle of the Bands  
Community Events

## Exhibit 4.8.1

## Existing FF&amp;E

<u>City Asset Number</u>	<u>Asset Description</u>
50049	SOFT-SERVE DISPENSER
50481	2001 FORD F150 4X4 SUPERCAB XLT
50062	UMBRO DIMENSIONAL ICON
50063	GI JOES DIMENSIONAL ICON
50067	FRED MEYER DIMENSIONAL ICON
50053	MULTI-USE 6X4 GATOR
50054	STADIUM VACUUM GATOR ATTACHMENT
50040	PLATING TABLE W/WALTER PICK-UP
50058	MILNOR 55LB WASHER
50059	MILNOR 55LB WASHER
50060	MILNOR 55LB WASHER
50061	MILNOR 55LB WASHER
50055	TENANT 5700 FLOOR SCRUBBER
50056	TENNANT 3640 FLOOR SCRUBBER
50013	GRILL KIOSK
50014	GRILL KIOSK
50015	GRILL KIOSK
50022	PORTABLE SODA FOUNTAIN
50046	TURBOCHEF OVEN
50057	TRASH COMPACTOR
50443	TURBOCHEF OVEN
50074-95	22 TURNSTILES(50074-50095)
50066	LARRY THE LIGHTBULB
50073	PGE PARK NEWSSTAND
50024	BEER COOLER
50025	WALK IN FREEZER
50026	WALK IN COOLER
50027	REFRIGERATION UNIT-BEER SYSTEM
50028	REFRIGERATION UNIT-BEER SYSTEM
50029	REFRIGERATION UNIT-BEER SYSTEM
50030	REFRIGERATION UNIT-BEER SYSTEM
50031	REFRIGERATION UNIT-BEER SYSTEM
50032	REFRIGERATION UNIT-BEER SYSTEM
50033	REFRIGERATION UNIT-BEER SYSTEM
50034	REFRIGERATION UNIT-BEER SYSTEM
50035	REFRIGERATION UNIT-BEER SYSTEM
50036	REFRIGERATION UNIT-BEER SYSTEM
50037	REFRIGERATION UNIT-BEER SYSTEM
50039	ICE MAKE W/BIN
50041	ICE MAKER W/BIN
50042	ICE MAKER W/BIN
50043	ICE MAKER W/BIN
50048	ICE MAKER W/BIN
50050	KEG COOLER
50070	KEG COOLER
50051	ARTICULATED BOOM LIFT
50052	ELECTRIC SCISSOR LIFT
50001	ROASTED PEANUT CART
50002	MERCHANDISE CART
50012	LEMONDADE CART
50016	ROASTED PEANUT CART
50018	KETTLE KORN CART
50020	MERCHANDISE CART
50021	MERCHANDISE CART
50071	PORTABLE EXPRESSO CART
50072	PORTABLE EXPRESSO CART
50442	LEMONDADE CART
A22740	WELLS GRIDDLE
A22741	WELLS FRYER
A22742	WELLS FRYER
A23300	DRAG BRUSH
A23309	CATERPILLAR FORKLIFT MODEL EP20K-USED
A23299	JOHN DEERE TRACTOR
A23296	PAINT SPRAYER
A23297	PAINT EXTRACTOR
A23298	PAINT REMOVER & GROOMER
A23488	Mechanical Spatula for PGE Park Turf
B01608 02	PGE Park-Elevators
B01608 21	PGE Park-Electronic Scoreboard System
B01608	PGE Park Awnings (2 Awnings)
B01608 22	PGE Park Electronic Scoreboard System Addition

The following list was taken from the City's SAP System, Capital Asset Inventory as of 12/31/2009

## New FF&E

### PGE PARK

Upgrade Existing Telephone/Data System

#### Home Team Locker/Training

Furniture

Training Room Equipment

Weight Room Equipment

Hydro-Therapy Built-ins

Hydro-Therapy Potables

Flat Panel TV's -- Ten (10)

#### Team/Ops Office Furniture

#### Storage Area

Fence/Gates/Shelving

#### Press Box

Furniture

Flat Panel TV's -- Ten (10)

#### Team Store

Office Furniture

Display Racks

Extend POS

Flat Panel TV's -- Four (4)

#### Club Furniture (including 8 flat screens)

Conference Center furniture

Concourse Group area furniture

#### General Building Maintenance

#### Miscellaneous Requirements

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### Systems and Equipment

#### Stadium Technical Systems

Audio System

Broadcast Cabling

MATV

Video Production

**EXHIBIT 4.9.1****Existing Agreements**

1. Food Service License Agreement between Volume Services, Inc., d/b/a Centerplate, a Delaware corporation, and Shortstop, LLC, dated March 23, 2005, as amended September 9, 2008.
2. Licensed User Agreement between Ticketmaster, L.L.C., a Virginia limited liability company, and Beavers PCL Baseball L.L.C., a Delaware limited liability company, dated January 1, 2007, and assigned to Shortstop, LLC on June 1, 2007.
3. All sponsorship agreements between Shortstop, LLC and a sponsor that are on file at the offices of Shortstop, LLC and are in effect as of the Effective Date.

**Exhibit 6**  
**Schedule of License Payments**  
**and Minimum City's Share of Ticket Revenues**

<b>Calendar Year</b>	<b>Operating Year</b>	<b>License Payment</b>	<b>Minimum City's Share of Ticket Revenues</b>	<b>Total</b>
2010				
2011	1	\$875,000	\$612,500	\$1,487,500
2012	2	900,000	626,500	1,526,500
2013	3	925,000	640,920	1,565,920
2014	4	950,000	655,772	1,605,772
2015	5	975,000	671,070	1,646,070
2016	6	1,000,000	686,828	1,686,828
2017	7	1,025,000	703,057	1,728,057
2018	8	1,050,000	719,774	1,769,774
2019	9	1,075,000	736,992	1,811,992
2020	10	1,100,000	754,727	1,854,727
2021	11	1,125,000	772,994	1,897,994
2022	12	1,150,000	791,809	1,941,809
2023	13	1,175,000	811,188	1,986,188
2024	14	1,200,000	831,149	2,031,149
2025	15	1,225,000	851,708	2,076,708
2026	16	1,250,000	872,884	2,122,884
2027	17	1,275,000	894,696	2,169,696
2028	18	1,300,000	917,162	2,217,162
2029	19	1,325,000	940,302	2,265,302
2030	20	1,350,000	964,136	2,314,136
2031	21	1,375,000	988,685	2,363,685
2032	22	1,400,000	1,013,970	2,413,970
2033	23	1,425,000	1,040,015	2,465,015
2034	24	1,450,000	1,066,840	2,516,840
2035	25	1,475,000	1,094,471	2,569,471

The following defined terms in the Operating Agreement refer to the above schedule as follows:

1. City's Guaranteed Annual Revenue defined in Section 6.1.2 consists of the payments for Operating Years 1 through 7 inclusive under the column labeled "Total."
2. The License Payment defined in Section 6.1.5 consists of the payments for Operating Years 1 through 7 inclusive under the column labeled "License Payment."

3. Surplus defined in Section 6.1.9 consists of actual City's Share of Ticket Revenue for a given Operating Year in excess of the amount shown for that Operating Year in the column labeled Minimum City's Share of Ticket Revenue.

**EXHIBIT 6.3.3****CITY'S SHARE OF TICKET REVENUES  
COLLECTION POLICY**

With respect to the City's Share of Ticket Revenues (the "CSTR"), Peregrine shall comply with the following.

1. Ticket agencies and other third-party ticket sellers shall remit all advance ticket sale collections the earlier of the collection of \$10,000 or more, at the end of the week, or the Event. Third-party ticket sellers may remit by check.
2. Ticket sellers shall post a fidelity bond in a form and amount to be agreed upon by Peregrine and the City in their respective reasonable judgment.
3. Peregrine shall pay to the City all interest earned by Peregrine on the CSTR while the CSTR is being held by Peregrine.



**EXHIBIT 17.1****QUALIFICATIONS AND INDEMNIFICATIONS RELATING TO CITY'S  
REPRESENTATIONS AND WARRANTIES**

The City's representations and warranties contained in Section 17.1 are qualified as follows:

1. No representation or warranty is made regarding the effect on the enforceability of the Agreement of federal or state Laws regarding regulation of competition, or the compliance with such Laws.
2. By Ordinance No. 183035, dated July 23, 2009, the City exempted, on stated conditions, this Agreement from the public bidding process under ORS 279.015(2) (the "Exemption Ordinance"). No representation or warranty is made regarding the effect on the enforceability of portions of the Agreement relating to the Exemption Ordinance, or that findings supporting the Exemption Ordinance are sufficient to comply with the Laws relating to exemption of contracts for public improvements from the requirements of competitive bidding.
3. The validity and enforceability of the Agreement may be limited by the application of Section 2-105(a)(3) of the City Charter.
4. The validity and enforceability of this Agreement may be limited by the U.S. Constitution and the Oregon Constitution to the extent they afford citizens rights of speech and assembly at publicly-owned facilities.
5. To fully redevelop the Stadium as contemplated in the Redevelopment Agreement and this Agreement, it will be necessary for Peregrine to obtain discretionary land use approvals, building permits and other regulatory approvals. None of the City statements in Section 17.1 of the Agreement constitutes a representation or warranty that the City will exercise its legislative or quasi-judicial authority in a manner that guarantees a certain outcome. As stated elsewhere in the Agreement, the Agreement does not bind the City Council in the exercise of its legislative powers and does not impair the City's obligation to perform its regulatory or quasi-judicial functions in an impartial and unbiased manner.
6. As recognized in the Agreement, it will be necessary to reach or modify agreements with various third parties in order to operate the Stadium as contemplated. None of the City statements in Section 17.1 of the Agreement is intended to constitute a representation or warranty that such agreements or modifications have been accomplished or can be.