

GUARANTY

This Guaranty (the “**Guaranty**”) is made as of December 18, 2018 (the “**Execution Date**”) by TEAM COLUMBUS SOCCER, L.L.C., a Delaware limited liability company (“**Team**”) (also, “**Guarantor**”) in favor of CITY OF AUSTIN, a Texas home rule municipal corporation (“**Landlord**”).

RECITALS

A. AUSTIN STADCO LLC, a Delaware limited liability company (“**Tenant**”), and Landlord are parties to that certain LEASE AND DEVELOPMENT AGREEMENT (“**Lease and Development Agreement**”) dated as of even date herewith, pursuant to which Tenant will, among other things, (i) design, develop and construct certain improvements and (ii) lease the Leased Premises from Landlord, all on the terms and conditions set forth in the Lease and Development Agreement.

B. The Lease and Development Agreement provides for a Guaranty in the form of this Guaranty, and Landlord has made it a Condition to Continuation that such a Guaranty be executed and delivered by Guarantor.

C. Guarantor is an Affiliate of Tenant and Guarantor expects to receive substantial direct and indirect benefits from Landlord entering into the Lease and Development Agreement with Tenant.

D. Guarantor wishes to guarantee the payment and performance of all of Tenant’s obligations under the Lease and Development Agreement as provided herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises set forth above and other good and valuable consideration, the adequacy, receipt and sufficiency of all of which are hereby acknowledged, Guarantor hereby covenants and agrees as follows:

1. Definitions.

1.1 **Capitalized Terms.** All capitalized terms used herein without definition shall have the respective meanings provided therefor in the Lease and Development Agreement. The meanings of all defined terms used in this Guaranty shall be equally applicable to the singular and plural form of the terms defined.

1.2 **Additional Definitions.** As used in this Guaranty, the following terms shall have the respective meanings set forth below in this **Section 1.2:**

“**Bankruptcy Code**” means the Bankruptcy Reform Act of 1978, as heretofore and hereafter amended, as codified at 11 U.S.C. §101 et seq.

“**Bankruptcy Proceeding**” means any case or proceeding under any law relating to bankruptcy, insolvency, reorganization, receivership, winding-up, liquidation,

dissolution or composition or adjustment of debt, including any voluntary or involuntary proceeding pursuant to Sections 301, 302, 303 and/or 304 of the Bankruptcy Code.

“**Material Adverse Effect**” means any event, development, condition or circumstance that (a) has a material adverse effect on the business, assets, properties, performance, operations, financial condition or prospects of Guarantor and Tenant, as a whole, (b) materially impairs the ability of Guarantor or Tenant to perform their obligations under this Guaranty or the Lease and Development Agreement, or (c) materially and adversely affects the rights or remedies of, or benefits available to, Landlord under this Guaranty or the Lease and Development Agreement.

“**Obligations**” means, collectively, all indebtedness, obligations and liabilities, whether or not matured or unmatured, liquidated or unliquidated, or secured or unsecured and whether or not arising by contract, operation of law, or otherwise.

“**Solvent**” means, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities as determined under GAAP, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not reasonably believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature and (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute an unreasonably small capital. The determination of whether a Person is Solvent and the facts and circumstances relevant thereto (including the amount of contingent and actual liabilities) on the applicable date shall be computed in the light of all the facts and circumstances existing at such time.

2. **Guaranty of Payment and Performance.**

- 2.1 Guarantor hereby irrevocably, absolutely and unconditionally guarantees (as primary obligor and not merely as a surety) to Landlord the full, faithful and punctual payment and performance by Tenant of each and every one of Tenant’s Obligations of every nature whatsoever under the Lease and Development Agreement (collectively, the “**Guaranteed Obligations**”), including, without limitation, all Guaranteed Obligations that would become due but for the operation of the automatic stay pursuant to §362(a) of the Bankruptcy Code or the operation of Sections 365, 502(b) or 506(b) of the Bankruptcy Code or any other provision of the Bankruptcy Code which would limit payment or performance of any Obligations of the Tenant.

This Guaranty is direct, immediate and primary and is a guarantee of the full payment and performance of all Guaranteed Obligations and not of their

collectability only and is in no way conditioned or contingent upon any requirement that Landlord first attempt to collect or enforce any of the Guaranteed Obligations from the Tenant or upon any other event, contingency or circumstance whatsoever. It is expressly understood and agreed by Guarantor that to the extent Guarantor's obligations hereunder relate to Guaranteed Obligations which require performance other than the payment of money, Landlord may proceed against Guarantor to effect specific performance thereof or for payment of damages resulting from the Tenant's nonperformance.

- 2.2 If Tenant fails to pay or perform any Guaranteed Obligation when due or required for any reason (which failure constitutes an Event of Default under the Lease and Development Agreement), Guarantor will pay or cause to be paid, or perform or cause to be performed, as applicable, such Guaranteed Obligation directly upon Landlord's demand therefor and without Landlord having to make prior demand on Tenant. Except as otherwise provided in the Lease and Development Agreement, all payment or performance hereunder shall be made without reduction, whether by offset, payment in escrow, or otherwise. Guarantor is liable for, and hereby indemnifies Landlord for, Landlord's reasonable costs and expenses, including reasonable attorneys' fees, costs and disbursements, incurred in any effort to collect or enforce any of the Guaranteed Obligations under this Guaranty, whether or not any lawsuit is filed.
- 2.3 All payments made by Guarantor hereunder shall be made to Landlord, in the manner and at the place of payment specified therefor in the Lease and Development Agreement.

3. **Guaranty Absolute, Irrevocable and Unconditional.**

- 3.1 The obligations of Guarantor under this Guaranty are absolute, irrevocable and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Lease and Development Agreement or any other agreement or instrument, the insolvency, bankruptcy, reorganization, dissolution or liquidation of Tenant or any change in ownership of Tenant or any assignment by Tenant or any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor. Guarantor hereby expressly waives all setoffs and counterclaims it may have against Landlord arising under any agreements or other instruments. This Guaranty is an unlimited and continuing guarantee of payment and performance of the Guaranteed Obligations and is applicable to the Lease and Development Agreement and all amendments, changes, modifications and extensions thereof as the parties thereto may from time to time agree upon. It is part of Guarantor's agreement herein that Tenant and Landlord may deal freely and directly with each other without notice to or consent of Guarantor and may enter into such amendments, changes, modifications and extensions to Tenant's covenants, duties and obligations under the Lease and Development Agreement as the parties thereto may agree upon and deal with all related matters without diminishing or discharging to any extent Guarantor's liability hereunder. Guarantor hereby waives all notice to which Guarantor might

otherwise be entitled by law in order that the guarantee herein should continue in full force and effect, including, without limiting the generality of the foregoing, notice of any change, modification or extension of the Lease and Development Agreement or notice of any default of Tenant in performance or payment thereunder.

- 3.2 Without limiting the foregoing, the obligations of Guarantor hereunder shall not be affected, modified or impaired, and Guarantor shall have no right to terminate this Guaranty or to be released, relieved or discharged, in whole or in part, from its payment or performance obligations referred to in this Guaranty by reason of any of the following:
- (a) any amendment, supplement or modification to, settlement, release, waiver or termination of, consent to or departure from, or failure to exercise any right, remedy, power or privilege under or in respect of the Lease and Development Agreement, the Guaranteed Obligations, or any other agreement or instrument relating thereto to which the Tenant or Landlord is a party; or
 - (b) any insolvency, bankruptcy, reorganization, dissolution or liquidation of, or any similar occurrence with respect to, or cessation of existence of, or change of ownership of the Tenant or Landlord or any rejection of any of the Guaranteed Obligations in connection with any Bankruptcy Proceeding or any disallowance of all or any portion of any claim by Landlord, its successors and assigns, in connection with any Bankruptcy Proceeding; or
 - (c) any lack of validity, enforceability or value of or defect or deficiency in any of the Guaranteed Obligations, the Lease and Development Agreement or any other agreement or instrument relating thereto; or
 - (d) the failure to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, any Person; or
 - (e) any substitution, modification, exchange, release, settlement or compromise of any security or collateral for or guarantee of any of the Obligations, or failure to apply such security or collateral or failure to enforce such guarantee; or
 - (f) any failure on the part of the Tenant to perform or comply with any term of the Lease and Development Agreement or any other Person's (except Landlord) failure to perform or comply with any term of the Lease and Development Agreement; or
 - (g) the assignment or transfer of (i) this Guaranty, (ii) the Lease and Development Agreement (whether or not in accordance with the terms thereof) or any other agreement or instrument referred to in the Lease and Development Agreement or applicable thereto or (iii) the Guaranteed Obligations, by Tenant to any other Person (in each case, except to the

extent permitted under this Guaranty or the Lease and Development Agreement); or

- (h) any change in the ownership of any equity interest in Tenant (including any such change that results in Guarantor no longer being under common control with Tenant); or
- (i) any other event, circumstance, act or omission whatsoever that might in any manner or to any extent vary the risk of Guarantor or otherwise constitute a legal or equitable defense or discharge of a surety or guarantor responsible for the performance of any of the Guaranteed Obligations.

3.3 There are no conditions precedent to the enforcement of this Guaranty. It shall not be necessary for Landlord, in order to enforce payment by Guarantor under this Guaranty, to exhaust its remedies against Tenant, any other guarantor, or any other Person liable for the payment or performance of the Guaranteed Obligations. Guarantor waives any rights under Chapter 43 of the Texas Civil Practice and Remedies Code, Section 17.001 of the Texas Civil Practice and Remedies Code, and Rule 31 of the Texas Rules of Civil Procedure related to the foregoing. Landlord shall not be required to mitigate damages or take any other action to reduce, collect, or enforce the Guaranteed Obligations.

3.4 Notwithstanding anything to the contrary contained in this Guaranty, Guarantor shall be permitted to assert as a defense in any action by Landlord to enforce the obligations of Guarantor under this Guaranty that Landlord's failure to perform its obligations as Landlord under the Lease and Development Agreement rendered Tenant not liable for the Guaranteed Obligations for which payment or performance is being sought by Landlord thereby relieving Guarantor of its liability under this Guaranty for such Guaranteed Obligations, but only to the extent such assertion is proven to be accurate.

4. **Reinstatement.** This Guaranty shall continue to be effective or be automatically reinstated, as the case may be, and Guarantor shall continue to be liable hereunder, if at any time any payment or performance of any of the Guaranteed Obligations are annulled, set aside, invalidated, declared to be fraudulent or preferential, rescinded or must otherwise be returned, refunded, restored or repaid by Landlord, its successors or assigns, for any reason, including as a result of the insolvency, bankruptcy, dissolution, liquidation or reorganization of Tenant or any guarantor, or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, Tenant or any guarantor or any substantial part of its property or otherwise, all as though such payment or performance had not occurred.

5. **Interest.** The Guaranteed Obligations shall include, without limitation, interest accruing at the Default Rate following the commencement by or against Tenant of any Bankruptcy Proceeding, whether or not allowed as a claim in any such Bankruptcy Proceeding to the extent such interest is provided for under the Lease and Development Agreement.

6. **Unenforceability of Obligations Against Tenant.** If for any reason Tenant has no legal existence or is under no legal obligation to discharge any of the Guaranteed Obligations, or if any of the Guaranteed Obligations have become irrecoverable from Tenant by reason of Tenant's insolvency, bankruptcy or reorganization or by other operation of law or for any other reason (other than a Landlord Default under the Lease and Development Agreement), this Guaranty shall nevertheless be binding on Guarantor to the same extent as if Guarantor at all times had been the principal obligor on all such Guaranteed Obligations. If acceleration of the time for payment of any of the Guaranteed Obligations pursuant to the Lease and Development Agreement is stayed upon the insolvency, bankruptcy or reorganization of Tenant, or for any other reason, all such Guaranteed Obligations otherwise subject to acceleration under the terms of the Lease and Development Agreement or any other agreement, evidencing, securing or otherwise executed in connection with any Guaranteed Obligation shall be immediately due and payable by Guarantor.
7. **Waiver.** Guarantor hereby waives:
- (a) notice of acceptance of this Guaranty, of the creation or existence of any of the Guaranteed Obligations and of any action by Landlord in reliance hereon or in connection herewith;
 - (b) presentment, demand for payment, notice of dishonor or nonpayment, protest and notice of protest with respect to the Guaranteed Obligations; and
 - (c) any requirement that suit be brought against, or any other action by Landlord be taken against, or any notice of default or other notice be given to (except as required by the Lease and Development Agreement), or any demand be made on, Tenant or any other Person, or that any other action be taken or not taken as a condition to Guarantor's liability for the Guaranteed Obligations under this Guaranty or as a condition to the enforcement of this Guaranty against Guarantor.
8. **Subrogation.** Until all of the Guaranteed Obligations shall have been irrevocably paid to Landlord in full, Guarantor shall not exercise, and during such period hereby waives, any rights against Tenant arising as a result of any payment or performance by Guarantor hereunder by way of subrogation, reimbursement, restitution, contribution or otherwise, and will not prove any claim in competition with Landlord in respect of any payment or performance hereunder in any Bankruptcy Proceeding. Guarantor will not claim setoff, recoupment or counterclaim against Tenant in respect of any liability of Guarantor to Tenant, and Guarantor waives any benefit of and any right to participate in any collateral security that may be held by Landlord. If any amount shall be paid to the Guarantor on account of such subrogation, reimbursement, restitution, contribution or other rights at any time when all the Guaranteed Obligations shall not have been irrevocably paid to Landlord in full, such amount shall be held in trust for the benefit of Landlord and shall forthwith be paid to Landlord to be applied to the Guaranteed Obligations.

9. **Notices.** All demands, notices and other communications provided for hereunder shall, unless otherwise specifically provided herein, (a) be in writing addressed to the party receiving the notice at the address set forth below or at such other address as may be designated by written notice, from time to time, to the other party, and (b) be delivered by U.S. mail, registered or certified, return receipt requested, postage prepaid, by nationally recognized overnight courier or delivered personally, or delivered by telecopier. Notices shall be sent to the following addresses:

Landlord:

City of Austin
P.O. Box 1088
Austin, Texas 78767-1088
Attention: The Director of the Economic Development Department
Facsimile: 512-974-7525

with copies of all notices being sent to:

City of Austin
P.O. Box 1088
Austin, Texas 78767-1088
Attention: City Attorney
Facsimile: 512-974-2894

and

Greenberg Traurig, LLP
1000 Louisiana, Suite 1700
Houston, Texas 77002
Attention: Franklin D.R. Jones, Jr.
Facsimile: (713) 754-7530

Guarantor:

Team Columbus Soccer, L.L.C.
c/o Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
Attention: Richard Suttle

with a copy to:

Covington & Burling LLP
One CityCenter, 850 Tenth Street, NW
Washington, DC 20001-4956
Attention: Peter Zern
Facsimile: (202) 778-5679

Tenant:

Austin StadCo LLC
c/o Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
Attention: Richard Suttle

Notice given by personal delivery or mail shall be effective upon actual receipt. Notice given by telecopier shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. All notices by telecopier shall be confirmed promptly after transmission in writing by certified mail or personal delivery. Any party may change any address to which notice is to be given to it by giving notice as provided above of such change of address.

10. **No Waiver; Remedies.** No failure on the part of Landlord to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. Landlord may proceed to enforce its rights hereunder by any action at law, suit in equity, or other appropriate proceedings, whether for damages or for specific performance. Any remedies herein provided are cumulative and not exclusive of any remedies provided by law.
11. **Term; Termination.** This Guaranty shall remain in full force and effect until the later of a date (the "**Expiration Date**") that is (i) two years after the Lease Expiration Date and (ii) the date of payment in full of the Guaranteed Obligations and all other amounts payable under this Guaranty for which claims have been made in writing by Landlord on or before the date set forth in the preceding clause (i) of this Section 11.
12. **Successors and Assigns.** This Guaranty is a continuing guaranty, shall apply to all Guaranteed Obligations whenever arising, shall be binding upon the parties hereto and their successors, transferees and permitted assigns and shall inure to the benefit of and be enforceable by the parties hereto and their successors and permitted assigns; provided Guarantor shall have no right, power or authority to delegate, assign or transfer all or any of its obligations hereunder unless it has obtained the prior consent of Landlord, other than to any subsequent operator of the Team that assumes the obligations of Guarantor hereunder which shall relieve the Guarantor of all obligations hereunder and which shall not require Landlord's consent so long as any necessary consent from MLS has been obtained. Landlord may assign or otherwise transfer this Guaranty to any Person to whom it may transfer the Lease and Development Agreement in accordance with the terms thereof, and such Person shall thereupon become vested, to the extent set forth in the agreement evidencing such assignment, transfer or participation, with all rights in respect hereof granted to Landlord herein.
13. **Amendments, Etc.** No amendment of this Guaranty shall be effective unless in writing, and signed by Guarantor and Landlord. Landlord and Guarantor acknowledge that

Guarantor may need consent from the MLS before executing any such amendment and that by executing any such amendment, Guarantor is confirming either (i) that no such consent from MLS is required or (ii) if such consent from MLS is required, then Guarantor has obtained such consent. No waiver of any provision of this Guaranty nor consent to any departure by Guarantor therefrom shall in any event be effective unless such waiver or consent shall be in writing and signed by Landlord. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

14. **Representation and Warranties of the Team.** As an inducement to Landlord to enter into the Lease and Development Agreement and accept this Guaranty, the Team represents and warrants to Landlord as follows:

- a. *Organization.* The Team is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware. The business which the Team carries on and which it proposes to carry on may be conducted by the Team. The Team is duly qualified to do business and is in good standing in all jurisdictions where such qualification might be required by reason of performance under this Guaranty.
- b. *Authority.* The execution, delivery and performance of this Guaranty by the Team and the consummation of the transactions contemplated hereby are within the Team's powers and have been duly authorized by all necessary action of the Team.
- c. *No Conflicts.* Neither the execution and delivery of this Guaranty nor the consummation of any of the transactions contemplated hereby nor compliance with the terms and provisions hereof will contravene the organizational documents of the Team or any Applicable Laws to which the Team is subject or any judgment, decree, license, order or permit applicable to the Team, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of a lien upon any of the property or assets of the Team pursuant to the terms of, any indenture, mortgage, deed of trust, agreement or other instrument (other than the Lease and Development Agreement and the Guaranty) to which the Team is a party or by which the Team is bound, or to which the Team is subject.
- d. *No Consents.* Except with respect to MLS approvals, no consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Governmental Authority or regulatory body or any other Person is required for the execution, delivery and performance by the Team of this Guaranty or the consummation of the transactions contemplated hereby.
- e. *Valid and Binding Obligation.* This Guaranty is the legal, valid and binding obligation of the Team, enforceable against the Team in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights or remedies of creditors generally and by general principles of equity.

- f. *No Pending Litigation, Investigation or Inquiry.* Except with respect to the Columbus, Ohio litigation, there is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the knowledge of the Team, threatened against or affecting the Team, which the management of the Team in good faith believe that the outcome of which would (a) materially and adversely affect the validity or enforceability of, or the authority or ability of the Team under, this Guaranty to perform its obligations under this Guaranty or (b) have a material and adverse effect on the consolidated financial condition or results of operations of the Team or on the ability of the Team to conduct its business as presently conducted or as proposed or contemplated to be conducted.
- g. *Solvency.* The Team is Solvent as of the Execution Date.
15. **Governing Law and Venue.** THE LAWS OF THE STATE OF TEXAS SHALL GOVERN THE VALIDITY, INTERPRETATION, CONSTRUCTION, AND PERFORMANCE OF THIS GUARANTY WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT SUCH PRINCIPLES WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER STATE. VENUE FOR ANY ACTION BROUGHT IN CONNECTION WITH THIS GUARANTY SHALL BE IN TRAVIS COUNTY, TEXAS.
16. **Further Assurances.** Guarantor agrees that it will from time to time, at the request of Landlord, do all such things and execute all such documents as Landlord may consider reasonably necessary or desirable to give full effect to this Guaranty and to perfect and preserve the rights and powers of Landlord hereunder. Guarantor acknowledges and confirms that Guarantor itself has established its own adequate means of obtaining from Tenant on a continuing basis all information desired by Guarantor concerning the financial condition of Tenant and that Guarantor will look to Tenant and not to Landlord in order for Guarantor to be kept adequately informed of changes in the Tenant's financial condition.
17. **Attorneys' Fees.** If any party shall prevail in any litigation instituted by or against the other related to this Guaranty, the prevailing party, as determined by the court, shall receive from the non-prevailing party all costs and reasonable attorneys' fees incurred in such litigation, including costs on appeal, as determined by the court.
18. **Miscellaneous.** This Guaranty constitutes the entire agreement and complete agreement of Guarantor with respect to the matters set forth herein. This Guaranty shall be in addition to any other guaranty or collateral security for any of the Guaranteed Obligations. If any provision of this Guaranty shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Guaranty and this Guaranty shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, but only to the extent of its invalidity, illegality or unenforceability. Captions and headings in this Guaranty are for reference only and do not constitute a part of the substance of this Guaranty.

