

## **FIFTH AMENDMENT TO PREMIUM CONCESSION MANAGEMENT AND LICENSE AGREEMENT**

THIS FIFTH AMENDMENT TO PREMIUM CONCESSION MANAGEMENT AND LICENSE AGREEMENT (the "Fifth Amendment") is dated as of January 15, 2021, 2021 (the "Fifth Amendment Effective Date"), among the METROPOLITAN FOOTBALL STADIUM DISTRICT, a body corporate and politic and a political subdivision of the State of Colorado (the "District"), STADIUM MANAGEMENT COMPANY, LLC, a Colorado limited liability company ("SMC"), PDB SPORTS, LTD., a Colorado limited partnership ("PDB"), and EPICUREAN ENTERTAINMENT, LLC d/b/a EPICUREAN SPORTS ENTERPRISES, LLC, a Colorado limited liability company ("Premium Concessionaire"). (The District, SMC, PDB and Premium Concessionaire are sometimes collectively referred to herein as the "Parties").

### **RECITALS**

A. The District, SMC, PDB and Premium Concessionaire entered into that certain Premium Concession Management and License Agreement dated as of October 28, 1999 (the "Original Management and License Agreement"), concerning the management and operation of certain Catering services at the Stadium, as amended by (i) that certain First Amendment to Premium Concession Management and License Agreement dated as of May 25, 2001 (the "First Amendment"), (ii) that certain Second Amendment to Premium Concession Management and License Agreement dated as of June 20, 2001 (the "Second Amendment"), (iii) that certain letter agreement dated as of May 8, 2002 (the "Letter Agreement"), (iv) that certain Third Amendment to Premium Concession Management and License Agreement dated as of June 30, 2002 (the "Third Amendment"), and (v) that certain Fourth Amendment to Premium Concession Management and License Agreement dated as of February 1, 2011 (the "Fourth Amendment"). The Original Management and License Agreement, the First Amendment, the Second Amendment, the Letter Agreement, the Third Amendment, and the Fourth Amendment shall be collectively referred to as the "Management and License Agreement."

B. The Parties now desire to amend the Management and License Agreement as set forth herein.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises, covenants, agreements and conditions hereinafter contained, and for other good and valuable consideration the receipt, adequacy and sufficiency of which are hereby confessed and acknowledged, the Parties hereby amend the Management and License Agreement and otherwise agree as follows:

1. **Term.** Section 3.1 of the Management and License Agreement is amended and restated to provide in its entirety as follows:

3.1 Subject to the provisions of Article 59, the term of this Agreement (the "Term") shall commence on the Effective Date and shall expire on the first Business Day following the expiration of thirty (30) days from the date the

last Home Game is played at the Stadium at the conclusion of the twenty-first (21<sup>st</sup>) NFL Season played, in whole or in part, at the Stadium (the "Expiration Date"). The Parties acknowledge that twenty (20) NFL Seasons have been completed as of Fifth Amendment Effective Date.

2. **Naming Rights Agreements.** Premium Concessionaire acknowledges that the District has entered into a Naming Rights Agreement with a third party, and may enter into other Naming Rights Agreements in the future with other parties to be determined, and SMC and PDB have entered and anticipate entering further into related SMC Sponsorship Agreements with such third party(ies). With respect to any Naming Rights Agreement entered into by the District, Premium Concessionaire agrees that the Premium Concessionaire Parties shall, when making reference to the Stadium in any and all advertising, marketing, agreements, arrangements, correspondence, communications, and media in any form whatsoever, including whether in printed, audio, video, or electronic form or otherwise, refer to the Stadium by such name as SMC and the District may advise Premium Concessionaire from time to time. Premium Concessionaire shall not abbreviate or shorten the names designated (provided, however, that abbreviation or shortening of such name for use as a defined term in legal documents and agreements shall not be a violation of this Section). Premium Concessionaire acknowledges that SMC, the District, and PDB may enter into different or replacement Naming Rights Agreements and SMC Sponsorship Agreements in the future over the Term, and the terms of this Section shall apply to such future agreements as well. This Section supersedes and replaces the terms set forth in Section 2 of the First Amendment and Section 4 of the Fourth Amendment, as of the Fifth Amendment Effective Date.

3. **Uniforms.** Premium Concessionaire agrees that the uniforms of Stadium Employees who have general access to Patrons shall bear identification consistent with the terms of the Naming Rights Agreement, as may be requested from time to time by the District, SMC and PDB in accordance with the provisions of Section 37.1 of the Management and License Agreement. The terms and provisions of Section 37.1 of the Management and License Agreement, as modified by this Section, shall remain in full force and effect.

4. **Innovations Fund.** The Parties agree that the third-to-last sentence in Section 12 of the Fourth Amendment ("The Parties agree that the balance in the Innovations Fund as of the end of any Contract Year shall not be in excess of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00).") is hereby deleted. The Parties agree that there will be no limit on the balance in the Innovations Fund at any time.

5. **Fourth Amendment Investment.** Premium Concessionaire agrees that neither SMC nor the District shall be obligated to pay the Unamortized Fourth Amendment Investment in the event of the termination of the Management and License Agreement for any reason since the Fourth Amendment Investment has been fully amortized as of the Fifth Amendment Effective Date.

6. **Liaison Updates.** SMC and the District hereby notify the other Parties that their respective liaisons under the Management and License Agreement are updated as follows:

SMC Liaison: Jay Roberts  
District Liaison: Matt Sugar

7. **Conflict.** The Parties agree that the terms, covenants and conditions of the Management and License Agreement, as modified by this Fifth Amendment, shall remain and continue in full force and effect. Except as modified by this Fifth Amendment, the terms, covenants and conditions of the Management and License Agreement are ratified and affirmed. If there is any conflict between the terms and provisions of this Fifth Amendment and the terms and provisions of the Management and License Agreement, the terms and provisions of this Fifth Amendment shall govern.

8. **Defined Terms.** Capitalized terms used herein but not defined herein shall have the respective meanings ascribed to them in the Management and License Agreement, unless the context requires otherwise.

9. **Construction and Headings.** The language in all parts of this Fifth Amendment shall be in all cases construed simply according to its fair meaning and not strictly for or against any of the Parties. The headings of the several sections of this Fifth Amendment are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Fifth Amendment.

10. **Governing Law.** This Fifth Amendment shall be governed by and construed in accordance with the laws of the State of Colorado, without giving effect to conflicts of law principles.

11. **Amendment.** No amendment or modification of this Fifth Amendment shall be valid or binding on the Parties unless made in writing and signed on behalf of each of the Parties by their respective authorized representatives.

12. **Counterparts; Electronic Signatures.** This Fifth Amendment may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument. This Fifth Amendment may be executed via electronic signatures.

13. **No Third Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Fifth Amendment, and all rights of action relating to such enforcement, shall be strictly reserved to the District, SMC, PDB and Premium Concessionaire and nothing contained in this Fifth Amendment shall give or allow any such claim or right of action by any other or third person. It is the express intention of the District, SMC, PDB and Premium Concessionaire that any Person other than the District, SMC, PDB and Premium Concessionaire receiving benefits under this Fifth Amendment shall be deemed to be an incidental beneficiary only.

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14. **Entire Agreement.** With respect to the matters addressed herein, this Fifth Amendment constitutes the entire understanding and agreement among the Parties and supersedes all prior written or oral understandings and agreements among the Parties.

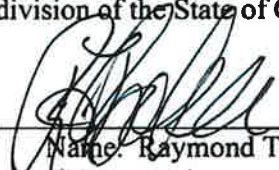
15. **Successors and Assigns.** Subject to the provisions of Section 69.15 of the Management and License Agreement, this Fifth Amendment and the terms, conditions and obligations herein contained shall be binding upon and inure to the benefit of the Parties and each of their respective successors and assigns.

*[SIGNATURES APPEAR ON FOLLOWING PAGE]*

IN WITNESS WHEREOF, the District, SMC, PDB and Premium Concessionaire duly execute this Fifth Amendment as of the date first written above.

**DISTRICT:**

METROPOLITAN FOOTBALL STADIUM DISTRICT, a body corporate and politic and a political subdivision of the State of Colorado

By:   
Name: Raymond T. Baker  
Title: Chairman

**SMC:**

STADIUM MANAGEMENT COMPANY, LLC, a Colorado limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PDB:**


PDB SPORTS, LTD., a Colorado limited partnership

By: Bowlen Sports, Inc., an Arizona corporation, general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PREMIUM CONCESSIONAIRE:**

EPICUREAN ENTERTAINMENT, LLC d/b/a EPICUREAN SPORTS ENTERPRISES, LLC, a Colorado limited liability company

By:   
Name: PAUL G. AYMER  
Title: President of CEO

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**DISTRICT:**

METROPOLITAN FOOTBALL STADIUM DISTRICT, a body corporate and politic and a political subdivision of the State of Colorado

By: \_\_\_\_\_  
Name: Raymond T. Baker  
Title: Chairman

**SMC:**

STADIUM MANAGEMENT COMPANY, LLC, a Colorado limited liability company

By: \_\_\_\_\_  
Name: RICHARD P. SLIVKA  
Title: General Counsel

**PDB:**

PDB SPORTS, LTD., a Colorado limited partnership

By: Bowlen Sports, Inc., an Arizona corporation, general partner

By: \_\_\_\_\_  
Name: RICHARD P. SLIVKA  
Title: General Counsel

**PREMIUM CONCESSIONAIRE:**

EPICUREAN ENTERTAINMENT, LLC d/b/a EPICUREAN SPORTS ENTERPRISES, LLC, a Colorado limited liability company

By: \_\_\_\_\_  
Name: PAUL C. MYCIEL  
Title: President of CEO