

ORDINANCE NO. 131, SERIES 2017

AN ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (“LOUISVILLE METRO”) AUTHORIZING THE MAYOR TO ENTER INTO A SECOND AMENDED AND RESTATED MEMORANDUM OF AGREEMENT BY AND BETWEEN LOUISVILLE METRO AND THE LOUISVILLE ARENA AUTHORITY, INC. (THE “ARENA AUTHORITY”) TO ESTABLISH THE MONETARY OBLIGATIONS OF LOUISVILLE METRO FOR FINANCING A PORTION OF THE REFINANCING OF THE LOUISVILLE ARENA PROJECT, AND REQUESTING THAT THE KENTUCKY ECONOMIC DEVELOPMENT FINANCE AUTHORITY (“KEDFA”) ISSUE BONDS TO REFUND THE OUTSTANDING OBLIGATIONS OF THE ARENA AUTHORITY.

**SPONSORED BY: COUNCIL MEMBERS YATES, BUTLER AND
KRAMER**

WHEREAS, pursuant to actions taken by the Commonwealth of Kentucky (the “Commonwealth”), the Louisville/Jefferson County Metro Government (“Louisville Metro”), the University of Louisville, University of Louisville Athletic Association, Inc. and certain non-governmental entities, the Louisville Arena Project, a public project intended for multi-uses as a public, recreational and sports facility (the “Arena Project”), was undertaken, and the Arena Project has significantly benefitted Louisville Metro and the Commonwealth by increasing state and local tax revenues, creating new jobs, enhancing regional tourism, increasing property tax values and stimulating private investment in and around the Louisville Metro area;

WHEREAS, the Louisville Arena Authority, Inc., a Kentucky non-stock, nonprofit corporation (the “Arena Authority”) was created as an independent entity to oversee the acquisition, development, construction, and financing of the Arena Project;

WHEREAS, the Legislative Council of Louisville/Jefferson County Metro Government (the “Council”) enacted Resolution No. 81, Series 2006, ratifying, approving and adopting a Memorandum of Agreement, dated July 21, 2006, by and

between Louisville Metro and the Arena Authority (the "Guarantee Agreement") pursuant to which Louisville Metro guaranteed to the Arena Authority, to the fullest extent permitted by law, the payment of funds to pay a portion of the debt costs for the Arena Project during a period commencing on November 1, 2010, to and including November 1, 2039, in an aggregate principal amount not to exceed \$309,000,000 (the "Guaranteed Payments");

WHEREAS, Resolution No. 81, Series 2006, and the Guarantee Agreement were adopted by Louisville Metro with the intent that the Guaranteed Payments agreed to be made by Louisville Metro in order to fund a portion of the costs of the Arena Project by paying a portion of the debt to be represented by bonds issued by the Kentucky Economic Development Finance Authority ("KEDFA") would constitute a long-term monetary obligation of Louisville Metro payable from (i) legally available Louisville Metro revenues, moneys and funds and (ii) moneys derived from the imposition of existing general taxes in the same manner as for payment of other outstanding monetary obligations of Louisville Metro, including ad valorem property taxes, as permitted by law, occupational license fees, insurance premium taxes, excises, permits, licenses, fines, available moneys from tax increment districts, or other sources of revenues of, or distributions to, Louisville Metro (collectively, the "Pledged Receipts") as selected by Louisville Metro, provided that such long-term monetary obligation shall not constitute a general obligation indebtedness of Louisville Metro within the meaning of the Constitution or Statutes;

WHEREAS, to effectuate the intent of Louisville Metro to make the Guaranteed Payments, the Council enacted Ordinance No. 143, Series 2007, to legally comply with

the requirements and utilize the authority of KRS Chapters 58 and 67C, KRS Sections 83.420 and Sections 91.200 – 91.280, inclusive;

WHEREAS, Ordinance No. 143, Series 2007, amended, readopted, and restated Resolution No. 81, Series 2006 and the Guarantee Agreement to conform Louisville Metro’s final terms of the Guarantee Agreement as those identified in the Amended and Restated Memorandum of Agreement, including the “Modified Exhibit B,” dated July 30, 2007, (the “Amended Guarantee Agreement”);

WHEREAS, in addition to the Guaranteed Payments, other security, as such is identified in the Loan Agreement dated August 1, 2008, by and between KEDFA and the Arena Authority, and the Bond Trust Indenture dated August 1, 2008, by and between KEDFA and U.S. Bank National Association, as Bond Trustee, was pledged to the payment of bonds issued by KEDFA;

WHEREAS, pursuant to KRS Chapter 154, KEDFA on September 3, 2008 issued its bonds (the “Series 2008 Arena Bonds”) and loaned the proceeds thereof to the Arena Authority to provide financing for the Arena Project;

WHEREAS, due to increasing debt service, the Series 2008 Arena Bonds need to be refinanced and the revenues which support the payment of the obligations of the Arena Authority need to be increased;

WHEREAS, the General Assembly passed on March 30, 2017 and the Governor signed into law on April 11, 2017 House Bill 330, which, among other things, allows for the extension of the Commonwealth of Kentucky’s tax increment financing program which supports the Arena Authority (the “TIF Program”) for an additional twenty-five (25) years (until September 30, 2054, at the latest);

WHEREAS, the University of Louisville and the University of Louisville Athletic Association have agreed to amend their lease with the Arena Authority to extend the term (until September 30, 2054, at the latest) and to increase the amount of rent paid to the Arena Authority by \$2,420,000 a year;

WHEREAS, Louisville Metro desires to amend the Amended Guarantee Agreement to change the term of the agreement and the annual payment amount to commit additional funding to assist in refinancing the Series 2008 Arena Bonds; and

WHEREAS, the parties desire to request that KEDFA issue its refunding bonds (the "Refunding Bonds") in order to refinance and refund the Series 2008 Arena Bonds.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE "COUNCIL"):

SECTION I: Incorporation of Preamble. The facts and recitations set out in the preamble of this Ordinance are adopted and incorporated as a part hereof, and the terms defined in the preamble shall have the same meanings when used herein.

SECTION II: Mayor Authorized to Enter into a Second Amended and Restated Memorandum of Agreement. The Council authorizes the Mayor to enter into a Second Amended and Restated Memorandum of Agreement between Louisville Metro and the Arena Authority. In entering into the Second Amended and Restated Memorandum of Agreement, the Mayor is authorized to obligate Louisville Metro, as permitted by law, to a new annual payment, which new annual payment shall be \$10.8 million in each year and for a new term which shall end on the first to occur of (i) September 30 of the year in the which the commitment of the Commonwealth of Kentucky to pay tax increments to the Arena Authority under the TIF Program has

ceased (such that Louisville Metro and the Commonwealth are making the same number of annual payments with respect to their respective obligations), (ii) the date of final payment of the Refunding Bonds (or any bond which refund the Refunding Bonds) or (iii) September 30, 2054. In providing this authorization, the Council notes that House Bill 330 requires the Arena Authority to use all excess revenues (moneys which exceed operating costs, capital expenditures and regularly scheduled debt service) to redemption of the Refunding Bonds, once the Refunding Bonds are callable, at least every thirty-six months.

SECTION III. Request to KEDFA to issue Refunding Bonds. In accordance with the provisions of KRS 103.210(1) and KRS Chapter 154, Louisville Metro hereby officially requests that KEDFA issue its Refunding Bonds in such principal amount, not to exceed \$450 million, as may be appropriate, for the purpose of refunding the Series 2008 Arena Bonds.

SECTION IV. Series 2008 Arena Bonds not to be Affected. Nothing in this Ordinance shall be read to affect the rights of the bondholders of the Series 2008 Arena Bonds. Louisville Metro will continue to abide by the covenants and conditions agreed upon in the Amended Guarantee Agreement until such contractual duties and obligations shall cease to exist.



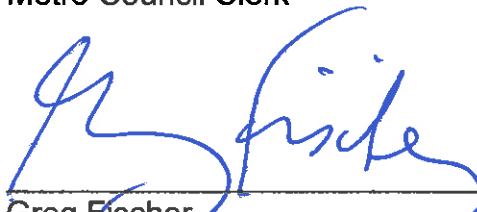
SECTION V. Further Acts and Deeds. The Mayor, the Council Clerk, and other appropriate officers, officials, and employees of Louisville Metro are hereby authorized and directed to execute, acknowledge, and deliver on behalf of Louisville Metro any and all documents, and to do and cause to be done, any and all acts and things necessary or proper, in order to effectuate the foregoing provisions of this Ordinance.

SECTION VI. Headings. The headings of the sections in this Ordinance are incorporated only for reference and are not to be made a part of this Ordinance.

SECTION VII. Severability. The provisions of this Ordinance are severable and, if any section, phrase, or provision hereof shall for any reason be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION VIII. Supplements. The provisions of this Ordinance may be supplemented from time to time by ordinance or resolution of the Council.

SECTION IX. Effective Date. This Ordinance shall take effect upon passage and approval.

 _____ H. Stephen Ott Metro Council Clerk	 _____ David Yates President of the Council
 _____ Greg Fischer Mayor	8/15/2017 _____ Approval Date

APPROVED AS TO FORM AND LEGALITY:
Michael O'Connell
Jefferson County Attorney

BY: 

Assistant Jefferson County Attorney

**LOUISVILLE METRO COUNCIL
READ AND PASSED**
August 10, 2017

**SECOND AMENDED AND RESTATED
MEMORANDUM OF AGREEMENT**

This SECOND AMENDED AND RESTATED MEMORANDUM OF AGREEMENT (hereinafter the "Amended Memorandum") is made and entered into this 21st day of November, 2017, by and between LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, a municipal governmental body within the Commonwealth of Kentucky, with the address at the Metro Hall, 4th Floor, 527 West Jefferson Street, Louisville, KY 40202, (hereinafter "Louisville Metro") and the LOUISVILLE ARENA AUTHORITY, INC., a Kentucky non-stock, non-profit corporation, with an address of One Arena Plaza, Louisville, KY 40202, (hereinafter the "Arena Authority").

WITNESSETH:

WHEREAS, the Louisville Arena project, under the auspices of the Arena Authority, a public project intended for multiple uses as a public, recreational, cultural, and sports facility ("Project"), has benefitted and continues to significantly benefit Louisville Metro and the Commonwealth of Kentucky (the "Commonwealth") by increasing state and total tax revenues, creating new jobs, enhancing regional tourism, increasing property tax values and stimulating private investment in the area where the Project is located;

WHEREAS, the Arena Authority was created in order to facilitate public improvements and publicly promoted private area improvements and complementary amenities, to serve as an economic development stimulus in Louisville Metro and the Commonwealth as a whole and for the purpose of creating, financing, developing and overseeing the construction, management and operation of a multi-use arena constructed in Louisville, Jefferson County, Kentucky;

WHEREAS, the General Assembly of the Commonwealth in 2006 enacted House Bill 380 authorizing the expenditure of up to seventy-five million dollars (\$75,000,000) in state-supported bonds to pay a portion of the cost of constructing the Project;

WHEREAS, the release of the state-supported bond funds to the Arena Authority on or near July 1, 2006, was contingent upon the execution of various agreements, in form and substance satisfactory to the Commonwealth, acting by and through its Finance and Administration Cabinet, including an agreement between the Arena Authority and Louisville Metro setting forth the amount of financial support for the Project to be provided by Louisville Metro;

WHEREAS, Louisville Metro in 2007 adopted Ordinance No. 143, Series 2007 ("Ordinance No. 143, Series 2007") authorizing and guaranteeing payments to the Arena Authority to be used for the purpose of financing a portion of the Project and authorizing the Mayor to enter into an Amended and Restated Memorandum of Agreement dated as of July 30, 2007 (the "2007 Memorandum of Agreement");

WHEREAS, the Mayor and the Arena Authority did enter into the 2007 Amended Memorandum of Agreement;

WHEREAS, the Kentucky Economic Development Finance Authority (“KEDFA”) issued its Louisville Arena Project Revenue Bonds, Series 2008A (Louisville Arena Authority, Inc.), consisting of Subseries 2008A-1 Fixed Rate Bonds and Subseries 2008A-2 Capital Appreciation Bonds, Louisville Arena Project Revenue Bonds, Taxable Series 2008B (Louisville Arena Authority, Inc.) and Louisville Arena Project Revenue Bonds, Taxable Subordinate Series 2008C (Louisville Arena Authority, Inc.), in the aggregate principal amount of \$349,218,518.30 (the “Series 2008 Bonds”), the proceeds of which were loaned to the Arena Authority to defray the costs of construction of the Project;

WHEREAS, the Arena Authority caused the construction of the Project, which was completed and which opened for public events in 2010;

WHEREAS, in order to strengthen the revenues which are available to pay the Series 2008 Bonds and any refunding bonds, the Arena Authority requested that the Commonwealth extend the term of the Louisville Arena tax increment financing district (the “Louisville Arena TIF District”) to not later than September 30, 2054 and remove the \$265 million cap on state tax increments used to pay the Series 2008 Bonds and any refunding bonds, and the General Assembly agreed to such request and in 2017 passed House Bill 330 (“House Bill 330”) effecting such changes;

WHEREAS, in order to further strengthen the revenues which are available to pay the Series 2008 Bonds and any refunding bonds, the Arena Authority requested that University of Louisville Athletic Association (“ULAA”) amend the Lease Agreement between the Arena Authority and ULAA dated July 3, 2008 (the “2008 Lease Agreement”) and ULAA agreed to such request and entered into the First Amendment to Lease Agreement dated as of July 20, 2017 (the “First Amendment to Lease Agreement”) (the 2008 Lease Agreement, as amended by the First Amendment to Lease Agreement, the “Lease Agreement”), providing for an additional payment by ULAA each year in the amount of \$2,420,000 and making certain other changes;

WHEREAS, in order to further strengthen the revenues which are available to pay the Series 2008 Bonds and any refunding bonds, the Arena Authority has requested that Louisville Metro adopt a new ordinance authorizing the annual payment of \$10,800,000 to the Arena Authority, extending the term of such commitment to 2054 and making certain other changes to be effected through an amendment and restatement of the 2007 Memorandum of Agreement;

WHEREAS, the Louisville Metro Council on August 10, 2017 did adopt Ordinance No. 131, Series 2017 (“Ordinance No. 131, Series 2017”) authorizing the guaranteed annual payment of \$10,800,000 to the Arena Authority, extending the term of such commitment to not later than September 30, 2054 and making certain other changes to be effected through an amendment and restatement of the 2007 Memorandum of Agreement;

WHEREAS, Louisville Metro and the Arena Authority now wish to amend and restate the 2007 Memorandum of Agreement, consistent with the provisions of Ordinance No. 131, Series 2017;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt, mutuality, and sufficiency of which is hereby acknowledged by the parties hereto, Louisville Metro and the Arena Authority agree as follows:

SECTION 1. DEFINITIONS

Definitions. For the purposes hereof, the following words and phrases shall have the meanings ascribed thereto:

“Amended Memorandum” shall mean this Second Amended and Restated Memorandum of Agreement, by and between Louisville Metro and the Arena Authority.

“Authorizing Ordinance” shall mean Ordinance No. 143, Series 2007, of Louisville Metro, adopted and ordained by the Legislative Council of Louisville Metro on July 30, 2007, as modified by Ordinance No. 131, Series 2017, of Louisville Metro, adopted and ordained by the Legislative Council of Louisville Metro on August 10, 2017, and in full force and effect.

“Authorizing Resolution” means Resolution No. 81, Series 2006, of Louisville Metro, adopted by the Legislative Council of Louisville Metro on July 25, 2006, that authorized and guaranteed the payment of funds from Louisville Metro to the Arena Authority for the purpose of financing a portion of the Project.

“Bond Insurer” shall mean Assured Guaranty Municipal Corp., its successors and assigns, as provider of one or more bond insurance policies and municipal bond debt service reserve policies for the Refunding Bonds.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or as hereafter amended, including valid Regulations of the Department of the Treasury thereunder and Rulings of the Commissioner of the Internal Revenue Service thereunder; reference to a provision of the Code by number or letter includes reference to any law hereafter enacted as an amendment to or substitution for such provision; words which are used herein and in the Code shall have the meaning given to such words in or pursuant to the Code.

“Commonwealth” shall mean the Commonwealth of Kentucky and all governmental agencies, authorities and political subdivisions thereof, including without limitation the Finance and Administration Cabinet, a governmental agency of the Commonwealth of Kentucky.

“Guaranteed Annual Payments” shall mean the guaranteed annual distribution of funds, directly or through appropriate debt installments of its own or one or more of its agencies, to support a portion of the development, financing and construction of the Louisville Arena Project and the payment of the Series 2008 Bonds and the Refunding Bonds, paid by Louisville Metro to the Refunding Bonds Trustee pursuant to Section 2 of this Amended Memorandum and reflected in the schedule attached hereto as Modified Exhibit B, commencing November 1, 2010 and on each November 1 thereafter (unless the term of this Amended Memorandum runs to September 30, 2054, in which case the final payment shall be on such date), concluding with the first to occur of: (i) September 30 of the year in the which the commitment of the Commonwealth of

Kentucky to pay tax increments to the Arena Authority from the Louisville Arena TIF District has ceased (such that Louisville Metro and the Commonwealth are making the same number of annual payments with respect to their respective obligations), (ii) the date of final payment of the Refunding Bonds (or any bonds which refund the Refunding Bonds) or (iii) September 30, 2054.

“Laws” shall mean and include all laws, statutes, court decisions, rules, orders and regulations of the United States of America, the States thereof and of their respective counties, municipalities and other subdivisions, and shall include without limitation the laws, statutes, court decisions, rules, orders and regulations of any other applicable jurisdiction.

“Person” shall include an individual, firm, trust, estate, association, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

“Project” or “Arena Project” shall refer to the development, construction and financing, including but not limited to all reasonable and/or necessary costs incurred or estimated to be incurred in connection with and any such costs incidental to the development, construction and financing, of the downtown Louisville Arena, a public project intended for multiple uses as a public, recreational, cultural, and sports facility.

“Refunding Bonds” shall refer to the bonds to be issued by KEDFA to refund the outstanding Series 2008 Bonds.

“Refunding Bonds Indenture” shall refer to the Bond Trust Indenture dated as of December 1, 2017 by and between KEDFA and the Refunding Bonds Trustee.

“Refunding Bonds Trustee” shall refer to Regions Banks as trustee for the Refunding Bonds, its successors and assigns.

“Sixth Amended and Restated Grant Agreement” shall mean the Sixth Amended and Restated Grant Agreement between the Arena Authority and the Commonwealth of Kentucky, providing for payment of incremental state tax revenues from the Louisville Arena TIF District for the benefit of the Arena Authority.

SECTION 2. OBLIGATIONS OF METRO LOUISVILLE

Louisville Metro covenants and agrees to undertake the following obligations:

A. Pursuant to the Authorizing Ordinance, the Authorizing Resolution and the written direction of the Arena Authority, Louisville Metro covenants and agrees to disburse directly to the Refunding Bonds Trustee the Guaranteed Annual Payments as described in Modified Exhibit B hereto conditioned upon the following:

(i) the execution and delivery of this Amended Memorandum, in form and substance satisfactory to the Commonwealth, by the parties hereto;

(ii) the execution of the Sixth Amended and Restated Grant Agreement by the Arena Authority and the Commonwealth governing the application of state tax-increment

financing or other non-tax income revenues that will support a portion of the Project and payment of the Series 2008 Bonds and the Refunding Bonds;

(iii) the execution of the First Amendment to Lease Agreement by the Arena Authority and ULAA; and

(iv) the receipt of the items required to be submitted by the Arena Authority as set forth in Section 3 below.

B. Louisville Metro by entering into this Amended Memorandum covenants and agrees that it has a continuing annual obligation to make the Guaranteed Annual Payment each year, subject to the requirements and conditions specifically provided and detailed in Modified Exhibit B, attached hereto and incorporated herein.

C. Louisville Metro covenants and agrees that it shall cooperate fully with the Arena Authority and the Refunding Bonds Trustee in order to facilitate the obligations set out in this Amended Memorandum.

SECTION 3. OBLIGATIONS OF THE ARENA AUTHORITY

The Arena Authority covenants and agrees to undertake the following obligations:

A. The Arena Authority hereby covenants and agrees that House Bill 330 authorizes the commitment of additional incremental state revenues from the Louisville Arena TIF District to be applied to payment of Refunding Bonds through 2054, and agrees that the Arena Authority will comply with all terms and conditions imposed on the Arena Authority by House Bill 330 and the Sixth Amended and Restated Grant Agreement.

B. The Arena Authority hereby covenants and agrees that the Series 2008 Bonds and the Refunding Bonds, as well as any industrial revenue bonds that may be issued on a conduit basis by Louisville Metro, shall not constitute a debt, pledge of the full faith and credit, or a moral obligation of Louisville Metro beyond those amounts authorized by the Authorizing Ordinance and those amounts identified as Guaranteed Annual Payments in this Amended Memorandum.

C. The Arena Authority shall provide to Louisville Metro:

(i) a copy of its annual audited financial statements (which may be satisfied by making the audited financial statements available by posting to the Louisville Arena Authority website), and

(ii) any and all other documents, instruments, or assurances relating to the Project, the Series 2008 Bonds, the Refunding Bonds or the parties as may be reasonably requested by Louisville Metro.

D. The Arena Authority shall provide to Louisville Metro a copy of the Arena Authority resolution or copy of the minutes as certified by the authorized Board officer,

authorizing the execution of this Amended Memorandum.

E. The Arena Authority covenants and agrees that the signature of its counsel upon this Amended Memorandum evidences that this Amended Memorandum has been duly authorized, executed and delivered by the Arena Authority and is enforceable-against the Arena Authority in accordance with its terms.

F. The Arena Authority shall comply with all applicable federal and state statutes, local laws and ordinances, executive orders, regulatory requirements and policies.

G. The Arena Authority shall at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that, for the purposes of federal income taxation, interest paid on all tax-exempt bonds issued in support of the Project shall be excludable from gross income under any valid provision of law.

H. The Arena Authority shall not permit at any time or times any of the proceeds of any tax-exempt obligations issued to fund or refinance the Project to be used to acquire or to replace funds which were used directly or indirectly to acquire any securities or obligations which are "higher yielding investments" (as defined in the Code), the acquisition of which would cause a debt obligation to be an "arbitrage bond" as defined in Sections 103(b)(2) and 148 of the Code as then in effect, unless, under any valid provision of law hereafter enacted (i) such action would not cause arbitrage bond status to occur, or (ii) the interest paid by the Arena Authority on the debt obligation will be excludable from the gross income of a recipient thereof for federal income tax purposes without regard to compliance with the provisions of Section 103(a) of the Code.

I. The Arena Authority shall irrevocably assign its interest in, and rights and title to, the Guaranteed Annual Payments to the Refunding Bonds Trustee, for the benefit of the holders of the Refunding Bonds and the Bond Insurer. The Arena Authority shall not make any other additional assignment, sale or pledge of, or create or suffer any lien or encumbrance upon, the Guaranteed Annual Payments, except as provided in the Authorizing Ordinance and in this Amended Memorandum.

J. The Arena Authority shall fully cooperate with Louisville Metro, the Refunding Bonds Trustee and any and all other parties necessary to facilitate the agreements and obligations set out in this Amended Memorandum.

SECTION 4. CONFORMITY WITH AUTHORIZING ORDINANCE; AUTHORIZING ORDINANCE PREVAILS; GUARANTEED PAYMENTS ARE IRREVOCABLE

A. In amending and readopting this Amended Memorandum, it is the intent of the Legislative Council of Louisville Metro that the Authorizing Ordinance and this Amended Memorandum shall be consistent with one another, to the end that third parties involved in the Arena Project, including, but not limited to, the Commonwealth, which made a direct grant of \$75,000,000 to the Arena Project and created a state tax increment district in support thereof and the purchasers of Arena Bonds may rely upon the covenants of Louisville Metro in the Authorizing Ordinance to make the Guaranteed Annual Payments without interruption and that

the Authorizing Ordinance creates an enforceable long term debt instrument of Louisville Metro in accordance with its terms, and that the payments of the Guaranteed Annual Payments in future years from Pledged Receipts, as defined in the Authorizing Ordinance, shall constitute contractual duties and obligations of Louisville Metro. Accordingly, Louisville Metro covenants and agrees that its covenants and agreements to make the Guaranteed Annual Payments and the payments thereof are and shall be irrevocable. In the event of any conflict or inconsistency between the provisions of this Amended Memorandum and the Authorizing Ordinance, the provision of the Authorizing Ordinance shall prevail.

B. Except as may otherwise be provided herein, each party to this Amended Memorandum shall be solely responsible for any costs incurred in fulfilling its obligations under this Amended Memorandum, and no party shall have any claim against any other party for reimbursement of such costs.

C. Waiver by either party of performance by the other party of any of the provisions of this Amended Memorandum shall not be construed as a waiver of any further right to insist upon full performance of the terms of this Amended Memorandum.

D. To the extent that the Arena Authority gives written notice to Louisville Metro that, pursuant to Section 3 above, it has irrevocably assigned its interest in, and right and title to receive, the Guaranteed Annual Payments under the Amended Memorandum to the Refunding Bonds Trustee, for the benefit of the holders of the Refunding Bonds and the Bond Insurer, Louisville Metro is deemed to have consented to such irrevocable assignment and shall make the payment of the Guaranteed Annual Payments directly to the Refunding Bonds Trustee; provided that such assignment of the Guaranteed Annual Payments shall not relieve the Arena Authority of its duties under the Amended Memorandum.

SECTION 5. TERM OF AMENDED MEMORANDUM

This Amended Memorandum shall be effective as of the date first written above and shall terminate upon completion of the schedule of Guaranteed Annual Payments attached hereto and identified in Modified Exhibit B, unless otherwise extended by the parties. Notwithstanding the schedule of Guaranteed Annual Payments attached hereto as Modified Exhibit B, the obligation of Louisville Metro to make Guaranteed Annual Payments shall cease on the first to occur of (i) September 30 of the year in the which the commitment of the Commonwealth of Kentucky to pay tax increments to the Arena Authority under the TIF Program has ceased (such that Louisville Metro and the Commonwealth are making the same number of annual payments with respect to their respective obligations), (ii) the date of final payment of the Refunding Bonds (or any bond which refunds the Refunding Bonds) or (iii) September 30, 2054.

SECTION 6. MISCELLANEOUS PROVISIONS

A. This Amended Memorandum may be signed by each party upon a separate copy, and in such case one counterpart of this Amended Memorandum shall consist of a sufficient number of such copies to reflect the signature of each party hereto. This Amended Memorandum may be executed in two or more counterparts, each of which shall be deemed an original, and it

shall not be necessary in making proof of this Amended Memorandum or the terms and conditions hereof to produce or account for more than one of such counterparts.

B. The headings set forth in this Amended Memorandum are for convenience or reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction or meaning of the provisions of this Amended Memorandum.

C. The terms and conditions of this Amended Memorandum shall be binding upon and shall inure to the benefit of the successor and assigns, respectively, of the parties. This provision shall not be construed to permit assignment by any party of any of its rights and duties under this Amended Memorandum, which assignment shall be prohibited.

D. This Amended Memorandum shall not be amended, modified, or supplemented except by a written agreement duly executed by both parties, and with the prior written consent of the Bond Insurer; provided, however, that any such amendment, modification or supplement shall be insubstantial in nature and that the irrevocable nature of the Guaranteed Annual Payments may not be amended or modified whatsoever.

E. This Amended Memorandum sets forth the entire understanding of the parties with respect to the subject matter hereof and supersedes all existing agreements among them concerning the subject matter hereof. This Amended Memorandum is delivered in complete amendment, restatement and replacement of the 2007 Memorandum of Agreement.

F. Time is of the essence in the performance of each of the terms and conditions of this Amended Memorandum.

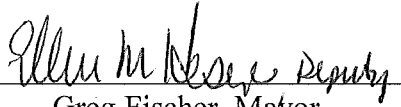
G. All notices, requests, demands, waivers, and other communications given as provided in this Amended Memorandum shall be in writing, and shall be addressed as follows:

If to Louisville Metro: Mayor
Metro Hall, 4th Floor
527 West Jefferson Street
Louisville, Kentucky 40202


If to the Arena Authority: Louisville Arena Authority, Inc.
One Arena Plaza
Louisville, Kentucky 40202
Attn: Chairman

In WITNESS WHEREOF, Louisville Metro and the Arena Authority have executed this Amended Memorandum effective as of the date first above written.

METRO LOUISVILLE

By 
Greg Fischer, Mayor

Approved as to Form and Legality:


Jefferson County Attorney

LOUISVILLE ARENA AUTHORITY, INC.

By 
Scott Cox, Chairman

Approved as to Form and Legality:


Counsel for Louisville Arena Authority, Inc.

MODIFIED EXHIBIT B
Schedule of Guaranteed Annual Payments

Payment Date*	Guaranteed Annual Payment
November 1, 2010	\$ 3,296,644**
November 1, 2011	\$ 9,800,000
November 1, 2012	\$ 9,800,000
November 1, 2013	\$ 9,800,000
November 1, 2014	\$ 9,800,000
November 1, 2015	\$ 9,800,000
November 1, 2016	\$ 9,800,000
November 1, 2017	\$ 9,800,000
November 1, 2018	\$10,800,000
November 1, 2019	\$10,800,000
November 1, 2020	\$10,800,000
November 1, 2021	\$10,800,000
November 1, 2022	\$10,800,000
November 1, 2023	\$10,800,000
November 1, 2024	\$10,800,000
November 1, 2025	\$10,800,000
November 1, 2026	\$10,800,000
November 1, 2027	\$10,800,000
November 1, 2028	\$10,800,000
November 1, 2029	\$10,800,000
November 1, 2030	\$10,800,000
November 1, 2031	\$10,800,000
November 1, 2032	\$10,800,000
November 1, 2033	\$10,800,000
November 1, 2034	\$10,800,000
November 1, 2035	\$10,800,000
November 1, 2036	\$10,800,000
November 1, 2037	\$10,800,000
November 1, 2038	\$10,800,000
November 1, 2039	\$10,800,000
November 1, 2040	\$10,800,000
November 1, 2041	\$10,800,000
November 1, 2042	\$10,800,000
November 1, 2043	\$10,800,000
November 1, 2044	\$10,800,000
November 1, 2045	\$10,800,000
November 1, 2046	\$10,800,000
November 1, 2047	\$10,800,000
November 1, 2048	\$10,800,000
November 1, 2049	\$10,800,000
November 1, 2050	\$10,800,000

November 1, 2051	\$10,800,000
November 1, 2052	\$10,800,000
November 1, 2053	\$10,800,000
September 30, 2054	\$10,800,000

*Notwithstanding the schedule of payment dates, the obligation of Louisville Metro to make Guaranteed Annual Payments shall cease on the first to occur of (i) September 30 of the year in the which the commitment of the Commonwealth of Kentucky to pay tax increments to the Arena Authority under the TIF Program has ceased (such that Louisville Metro and the Commonwealth are making the same number of annual payments with respect to their respective obligations), (ii) the date of final payment of the Refunding Bonds (or any bond which refund the Refunding Bonds) or (iii) September 30, 2054.

**The November 1, 2010 payment was net of a net cash refund to Louisville Metro of \$3,236,689.