

**FIRST AMENDMENT TO LEASE AGREEMENT**

**BETWEEN**

**LOUISVILLE ARENA AUTHORITY, INC.**

**AND**

**UNIVERSITY OF LOUISVILLE ATHLETIC**

**ASSOCIATION, INC.**

**Dated July 20, 2017**

This First Amendment to Lease Agreement dated as of July 20, 2017 (this "Amendment") is entered into between **LOUISVILLE ARENA AUTHORITY, INC.**, a Kentucky non-profit, non-stock corporation, (the "Landlord"), and **UNIVERSITY OF LOUISVILLE ATHLETIC ASSOCIATION, INC.**, a Kentucky non-profit, non-stock corporation (the "Tenant") (collectively, the "Parties" and individually, a "Party").

#### RECITALS:

WHEREAS, Landlord and Tenant have entered into that Lease Agreement dated as of July 3, 2008 with respect to the facility known as YUM! Arena in downtown Louisville, Kentucky, as modified by the undated Memorandum of Understanding between Landlord and Tenant (as modified, the "Lease Agreement"); and

WHEREAS, the Parties wish to make certain amendments to the Lease Agreement with respect to the Lease Term, the rental payments and other provisions;

NOW, THEREFORE in consideration of the mutual covenants and agreements contained in the Lease and in this Amendment and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Landlord and Tenant agree as follows:

**1. Amendments to Lease Agreement.** The Lease Agreement is hereby amended and modified as follows:

**A. Section 1. DEFINITIONS.** The following definitions are added to, or amended and restated in, the Lease Agreement:

"*Arena Management Agreement*" means the management agreement between Landlord and AEG Management Louisville, LLC, as amended, and any replacement management agreement with another Arena Manager.

"*Arena Manager*" means AEG Management Louisville, LLC, its successors and assigns, or such other entity as shall be appointed by Landlord to serve as manager of the Arena.

"*Bonds*" means bonds issued for the benefit of Landlord to refund the outstanding \$349,218,518.30 Kentucky Economic Development Finance Authority Louisville Arena Project Revenue Bonds, Series 2008 (Louisville Arena Authority, Inc.).

"*Priority Use Period*" means the period commencing on November 1 of each year and ending on the date in the following year on which the post-season men's and women's basketball tournament games sponsored by the NCAA are concluded.

**B. Section 3.1(a) Term.** Section 3.1(a) is hereby amended and restated in its entirety as follows:

"The term of this lease (the "*Term*") shall begin on the Commencement Date and shall terminate on the date (the "*Termination Date*") which is first to occur of (i) September

30 of the year in which the commitment of the Commonwealth of Kentucky to pay tax increments to Landlord under the Louisville Arena Authority Tax Increment Financing District as authorized under KRS 65.490, as amended by 2017 House Bill 330, has terminated, (ii) the date of final payment of the Bonds (or any bonds which refund the Bonds), or (iii) September 30, 2054. The Parties agree that at least two years prior to the anticipated Termination Date, they shall begin discussions as to whether the Parties wish to extend the Term of this Lease and if the Parties wish to extend the Term they shall negotiate in good faith as to the duration of the Term of this Lease and the provisions of the Lease during such extension.”

**C. Section 4.2(b)(1) Priority Use Periods.** Subparagraph (1) of Section 4.2 (b) is hereby amended and restated in its entirety as follows:

“(1)(i) Tenant will use Commercially Reasonable Efforts to submit the final approved conference schedules for the Basketball Teams to Landlord on or before September 15<sup>th</sup> of each year. Tenant will submit its non-conference schedules (including any exhibition games), home and away, for the Basketball Teams as soon as those schedules are finalized by Tenant. Upon the finalization of both the conference and non-conference schedules, Landlord may contract for the use of the Arena for other Arena events on days that are not Game Days.

(ii) Landlord may request Tenant’s permission to set dates for other Arena events prior to Tenant’s establishment of conference and non-conference schedules, as it is in the Arena’s interests that the Landlord be able to schedule major revenue-producing events in advance, where the opportunity for such events arise and where scheduling of such dates is not detrimental to the interests of Tenant. Tenant will use Commercially Reasonable Efforts in considering, and approving or disapproving, Landlord’s requests. In the event Tenant and Landlord have a Dispute regarding a Landlord request to schedule an Arena event, because time may be of the essence Landlord may request resolution of the Dispute by going directly to the Chairs of the Boards of Tenant and Landlord for a decision, without first going to the Oversight Committee pursuant to Section 33(a) hereof. The President of the University shall be notified of any such request for Dispute resolution from the Landlord and may elect to participate or not participate, in his/her discretion.

(iii) In all events, Landlord will not permit any other Arena event to preempt or materially interfere with Tenant’s use of the Arena for Basketball Games during a Priority Use Period and for scrimmage Basketball Games during the month of October. Tenant will have the exclusive right to use the Arena on Game Days, except that the donor areas (rooms) may be rented by Landlord to others during any time other than the period that begins three hours before and ends three hours after the game or other athletic event.

(iv) In addition, Tenant reserves the right to use all or part of the Arena for any other University basketball-related event during a Priority Use Period in addition to scheduled Basketball Games, provided however that, if Tenant elects to schedule such days after

submission of the final conference and non-conference schedules as described above, Tenant may only reserve the Arena if, as of the date of the request, Landlord has not already contracted for the use of the Arena on such days. Except as otherwise provided in this Section 4.2, Landlord will have the exclusive right to use the Arena (including Lease Premises) on all dates that are not Game Days. The foregoing does not grant to Landlord any right (excepting access necessary and appropriate from an operations perspective) to use the locker rooms, training rooms or coaches' offices at any time. Landlord may use the practice court area for NCAA purposes or other purposes, if approved in advance in each case by Tenant in writing."

**D. Section 5.2(c) Use of Party Suites for other Events.** Section 5.2(c) is hereby amended and restated in its entirety as follows:

***(c) Use of Party Suites for Other Events.*** For each public event held in the Arena that is not a Basketball Game or NCAA Event (each, an "Other Event" and collectively, the "Other Events"), all four Party Suites shall be reserved for the exclusive use of Landlord, on such terms and conditions as Landlord may choose in its sole discretion; provided, however, that to the extent Tenant is able to license the use of the southeast and southwest Party Suites on an annual basis, Landlord will make available up to 48 lower-bowl concert tickets per Party Suite licensed (maximum of 96 tickets) for purchase and use by the licensees/ patrons of those Party Suites. For each NCAA Event, three of the Party Suites will be reserved for the exclusive use of Landlord, on such terms and conditions as Landlord may choose in its sole discretion, and one of the Party Suites (to be selected by Tenant) will be reserved for the exclusive use of Tenant, at no charge to Tenant. At Tenant's sole option, Tenant may either permit its patrons and guests for the NCAA Event to use such reserved Party Suite at no charge, or may charge a rental fee (in which case, Tenant will not be required to pay Landlord any portion of the rental fee)."

**E. Section 6.1(c) Other University Sponsored Events.** Section 6.1(c) is hereby amended and restated in its entirety as follows:

***(c) Other University-sponsored Events.*** For any other University-sponsored Event held in the Arena for which Tenant or the University charges admission to the event, Tenant will pay to Landlord the greater of (i) 5% of gross admissions receipts received by Tenant or the University from the sale of tickets to the event, after deducting any collected sales tax and any other tax or ticket surcharge imposed upon and collected from the customer, or (ii) the minimum Arena event rental of \$5,000 per event, and subject to the additional provisions in Section 6.1(d). For any other University-sponsored Event held in the Arena for which Tenant or the University does not charge admission to the event, Tenant will pay to Landlord the minimum Arena event rental of \$5,000 per event. Tenant will hold its Women's Volleyball games at a location other than the Arena. Notwithstanding this, to the extent requested by Tenant, Landlord will make the Arena available for future NCAA volleyball matches, to the extent Tenant agrees in writing that Landlord will receive revenues sufficient to cover its expenses in providing a venue for such competitions."

**F. Section 7.1(f) Ticket Surcharge.** Section 7.1(f) is hereby amended and restated in its entirety as follows:

*“(f) Ticket Surcharge.* Landlord will assess a \$2.00 surcharge (the “*Surcharge*”) per ticket sold on all men’s Basketball Games (but not any other University-sponsored Event, including but not limited to women’s Basketball Games and other varsity athletic events). The Surcharge is collected by Tenant. Landlord and Tenant agree that Tenant, in its discretion, may increase the ticket Surcharge to not more than \$8.00. The first \$2.00 of the Surcharge is part of the Tenant Payables; any portion of the Surcharge between \$2.01 and \$8.00 is not part of the Tenant Payables and shall be retained by Tenant. The Surcharge shall not be increased above \$8.00 except upon subsequent written agreement of Landlord and Tenant providing for same, and, to the extent the Surcharge is increased by agreement of Landlord and Tenant, the portion of the Surcharge collected by Tenant in excess of \$8.00 shall be part of the Tenant Payables. The Surcharge will not be assessed against the complimentary and discounted tickets described in Section 6.1(d). In the case of season tickets, the Surcharge will be assessed separately on each game during the season. With Tenant’s written consent, and if permitted by the NCAA, Landlord may assess a per-ticket surcharge on any NCAA Event. All amounts collected from any surcharge on tickets to an NCAA Event will be retained by Landlord. If any additional ticket surcharge or user fee is imposed by ordinance or other governmental agency, Tenant will collect such surcharge from the ticket purchaser and pay the entire amount of such surcharge to the assessing governmental agency, as required by applicable law, or, if applicable, to Landlord if Landlord is obligated to remit such amounts to the assessing governmental agency.”

**G. Section 7.1(j) Payment.** Section 7.1(j) is hereby amended and restated in its entirety as follows:

*“(j) Payment.*

*(1)* In lieu of Landlord and Tenant making multiple periodic payments of the amounts that are owed to each other under this Lease, all Landlord Payables and all Tenant Payables shall be paid solely through calculation and payment of the Annual Net Payment as provided in this Section 7.1(j). No portion of the Landlord Payables or Tenant Payables shall be due or payable except at the time and in the amount provided in this Section 7.1(j). An estimate of the Annual Net Payment shall be calculated mutually by Landlord and Tenant not later than April 20 of each year during the Term and shall be based on all available information regarding Landlord Payables and Tenant Payables accrued through the date of calculation. Within 10 days after the date on which Landlord and Tenant have mutually determined the Landlord Payables and the Tenant Payables, but not later than April 30, Landlord or Tenant, as the case may be, will pay to the other Party the amount of the estimated Annual Net Payment. Landlord and Tenant shall make a final calculation of the Annual Net Payment not later than June 30 of each year and, to the extent there is a difference between the estimated Annual Net Payment and the final calculation of the Annual Net Payment, the Party which owes an amount to the other Party shall pay such amount to the other Party on or before June 30, taking into account

the payment on or before the immediately preceding April 30 of the estimated Annual Net Payment.

(2) In addition to its obligation to pay the Annual Net Payment to Landlord under Section 7.1(j)(1), Tenant shall annually pay to Landlord the additional amount of \$2,420,000 (the "Additional Amount"), at the same time the estimated Annual Net Payment is due to be paid, beginning with the estimated Annual Net Payment due in April 2018, and in each year thereafter during the Term of this Lease.

(3) Notwithstanding the foregoing, if any provision in any of the Bond Documents requires that all or part of any Annual Net Payment or the Additional Amount that is due from Tenant to Landlord must be paid by Tenant to the Bond Trustee, Landlord will advise Tenant of the amount to be paid to the Bond Trustee and the payment instructions at the time that the Annual Net Payment is calculated.

**H. Section 8(b) Parking for University Men's Basketball Games.** Section 8(b) is hereby amended by adding the following two sentences at the end of such Section:

"Landlord will use best efforts to reach agreements with owners of lots near the Arena providing for locked-in rates for 3,000 parking spaces for men's Basketball Games for the second 10 years of the Term (the period beginning July 3, 2018 and ending July 3, 2028), at the best per-space rate for that period which LAA is able to negotiate, such that the new per space parking rate for Tenant for men's Basketball Games will be set for the period beginning July 3, 2018 and ending July 3, 2028. The parking rate for 3,000 spaces for men's Basketball Games will be renegotiated for the period which follows July 3, 2028."

**I. Section 14(a) Maintenance.** The following sentence is added to the end of Section 14(a):

"The bond documents for the Bonds will contain a covenant for an initial deposit of proceeds of the Bonds in an amount to be determined to an operation and maintenance account (or similarly named account), and annual deposits thereafter, to be used for payment of the costs of capital upgrades and extraordinary maintenance and repairs of the Arena."

**J. Section 21 Notices.** Section 21 is hereby amended and restated in its entirety as follows:

(a) If from Tenant to Landlord:

Louisville Arena Authority, Inc.  
Attn: Chairman  
c/o AEG Management Louisville, LLC  
YUM! Arena  
One Arena Plaza

Louisville, Kentucky 40202

With a copy to:  
C. Edward Glasscock, Esq.  
Frost Brown Todd LLC  
400 West Market Street, Suite 3200  
Louisville, Kentucky 40202

(b) If from Landlord to Tenant:

University of Louisville Athletic Association, Inc.  
Athletic Business Office  
Student Activities Center  
University of Louisville  
Louisville, Kentucky 40292  
Attn: Director of Athletics

And

University of Louisville  
Office of the President  
Louisville, Kentucky 40202

With copy to:  
University Counsel's Office  
University of Louisville  
206 Grawemeyer Hall  
Louisville, Kentucky 40292

**K. Section 32 Current Tenant Lease.** Section 32 is hereby deleted from the Lease Agreement.

**2. Ratification of Lease Agreement, as Amended.** Except as specifically amended by the provisions hereinabove, the Lease Agreement remains in full, force and effect. The Landlord and Tenant hereby reaffirm and ratify all of their respective obligations under the Lease Agreement, as amended and modified hereby.

IN WITNESS WHEREOF, witness the signatures of the parties hereto as of the day and year first above written, but actually on the dates set forth below.

**LOUISVILLE ARENA AUTHORITY, INC.**

By Scott Cox  
Scott Cox, Chairman

Date: 20 JULY 17

**UNIVERSITY OF LOUISVILLE ATHLETIC ASSOCIATION, INC.**

By Dr. Greg Postel  
Dr. Greg Postel, Chairman

Date: 7/20/17