

DEVELOPMENT PARCEL SUBLEASE

between

CITY OF SAINT PAUL, as Sublessor

and

MUSC HOLDINGS, LLC, as Subtenant

Dated: _____, 2022

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DEVELOPMENT PARCEL SUBLEASE

THIS SUBLEASE (“**Sublease**”) is made and entered into effective as of the _____, 2022 (the “**Commencement Date**”) by and between the City of Saint Paul, a municipal corporation of the State of Minnesota (“**Sublessor**”), and MUSC Holdings, LLC, a Minnesota limited liability company (“**Subtenant**”). Sublessor and Subtenant each a “Party” and collectively the “Parties.”

W I T N E S S E T H:

WHEREAS, Sublessor is the tenant under that certain net ground lease dated the date hereof (the “**NGL**”) with the Metropolitan Council, a Minnesota public corporation and political subdivision, as landlord (“**Landlord**”) of the real property located at _____, City of Saint Paul, County of Ramsey, State of Minnesota, legally described on the attached **Exhibit A**, including any and all licenses, easements or other appurtenant rights and is subject to any and all easements, covenants, restrictions or other encumbrances of record, [and the air rights legally described on Exhibit B hereto (the “**Air Rights**”)] [*Only included in Sublease of Parcel 7a*] (collectively the “**Subleased Property**”):

WHEREAS, Subtenant desires to sublease the Subleased Property to facilitate the development and use of the Subleased Property; and

WHEREAS, Sublessor desires to facilitate the development and use of the Subleased Property is willing to sublease the Property and Air Rights to Subtenant pursuant to the terms and conditions of this Agreement and to permit the sublease of the Subleased Property by Subtenant to Subtenant’s affiliate, Minnesota United Soccer Club, LLC (the “**Club**”) for use in connection with Allianz Field until the Property is developed.

NOW, THEREFORE, in consideration of the Recitals, which are hereby made a part hereof, and the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. SUBLEASE OF THE PROPERTY AND AIR RIGHTS. Effective as of the Commencement Date, Sublessor hereby leases to Subtenant, and Subtenant hereby leases and takes from Sublessor Subleased Property on the terms and conditions contained in the Sublease.
2. TERM. The term of this Sublease shall commence on the Commencement Date and shall terminate at 11:59 p.m. Central Time on December 31, 2068 (the “**Initial Sublease Term**”), if not terminated sooner or extended as provided in this Sublease. The term of this Sublease shall be the Initial Sublease Term and, if extended as provided in Section 6 below, the Extended Sublease Term (as therein defined) is herein referred to as the “**Sublease Term**.”
3. BASE RENT. (a) Subtenant agrees to pay to Sublessor annual net base rent (“**Annual Rent**”) for the Subleased Property, without any offset, defense, claim, counterclaim, or deduction, in the amount of [_____] and No/100 Dollars (\$_____.00) per annum commencing on the Effective Date and during the Initial Term shall be payable on January 1st of each calendar year. If this Sublease is extended for the Extended Sublease Term as provided in Section 6, the Annual Rent during the Extended Sublease Term shall be the amount determined

in Section 6 and shall be payable on January 1st of each year during the Extended Sublease Term. If directed by Sublessor, Subtenant will pay the Annual Rent directly to the Metropolitan Council to be applied to the obligations of the Sublessor to pay rental under the NGL. The Sublessor acknowledges that it has already received \$556,620 in 2022 and that such amount includes the Annual Rent for the Development Parcel payable in 2022.

(b) Notwithstanding anything to the contrary contained herein, Annual Rent under this Sublease shall be in an amount equal to or greater than the Annual Rent as defined in the NGL and shall be paid by Subtenant to Sublessor for so long as the NGL is in force and the Annual Rent as defined in and pursuant to the NGL is payable by Sublessor to Landlord under the NGL.

4. INCORPORATION OF PROVISIONS FROM NGL. The NGL is attached hereto as **Exhibit B**. The Sublessor and Subtenant hereby acknowledge the terms and conditions of the NGL and all said terms and conditions are incorporated into this Sublease. During the Sublease Term, Sublessor agrees to keep the NGL in full force and effect and not to amend, modify or waive any provision of the NGL without prior consent of Subtenant and no such amendment, modification or waiver shall adversely affect the rights of Subtenant under this Agreement. Subtenant shall not cause the City to be in violation of the NGL. All terms, covenants and provisions of this Sublease and all rights, remedies and options under this Sublease are and shall at all times remain fully subject and subordinate in all respects to the NGL. The Sublessor shall procure a subordination, non-disturbance and attornment agreement from the Landlord in substantially the form previously provided by the Landlord that includes the Subleased Property (the “**SNDA**”) for the benefit of Subtenant and the SNDA shall be executed contemporaneous with the execution of this Sublease.

5. ASSUMPTION OF NGL RIGHTS AND OBLIGATIONS; INDEMNIFICATION. The sublease of the Sublease Property by Sublessor to Subtenant shall be on “pass through basis” whereby Subtenant assumes and agrees to perform all Sublessor’s obligations under the NGL and agrees to defend, indemnify, and hold the Sublessor and its elected officials, appointed officials, board or agency members, officers, employees, and agents harmless from any expense, liability, claim, or demand of any kind whatsoever arising from the actions or inactions of the Subtenant, and any individual or entity receiving assignment or sublease pursuant to Section 7 of this Lease, concerning the Subleased Property, the NGL, and/or this Sublease. Subtenant will have the rights of the Sublessor under the NGL. Subtenant will have the rights of the Sublessor under the NGL on a pass-through basis, including but not limited to the right of first refusal in Section 15 of the NGL. Any development of the Subleased Property shall be in accordance the terms of the NGL and shall comply with the applicable building code, zoning code, and any other applicable laws, ordinances, or regulations.

6. OPTION TO EXTEND SUBLEASE. Section 14 of the NGL provides Sublessor the option to extend the term of the NGL (the “**Extension Option**”). Sublessor agrees that Subtenant may direct Sublessor to exercise the Extension Option in accordance with Section 14 of the NGL by providing written direction to Sublessor and to take the actions to be taken by Sublessor under Section 14 of the NGL in connection with exercising the Extension Option, including directing Sublessor to provide the Extension Intent Notice (as defined in the NGL), the actions to be taken in connection with determining the annual rent payable under the NGL during the Extension Term (as defined in the NGL) and the giving of the Extension Notice or the Declination Notice (as those

terms are defined in the NGL). In the event Subtenant directs Sublessor to provide the Extension Notice to Landlord, the parties agree that this Sublease shall, upon Sublessor providing the Extension Notice to the Landlord, be extended to December 31, 2117 (the “**Extended Sublease Term**”) and the Annual Rent payable by Subtenant to Sublessor during the Extended Sublease Term shall be the amount determined in accordance with Section 14(b) of the NGL and shall be due and payable on each January 1st during the Extended Sublease Term. In addition, Sublessor agrees to consider Subtenant’s requests under Section 14(c) of the NGL and to request the meeting with Landlord under Section 14(d) of the Sublease and permit Subtenant to participate in such meeting.

7. ASSIGNMENT AND SUBLEASE. Subtenant may not transfer or assign this Sublease or sublease all or any portion of the Subleased Property without obtaining the prior written consent of Sublessor; provided that no assignment or sublease shall expand the Sublessor’s obligations under this Sublease. Subtenant's assignment of this Sublease or sublease of the Property shall not relieve Subtenant from any of Subtenant's obligations under this Sublease. The consent of Sublessor shall not be unreasonably withheld. After substantial completion of the improvements made to the Subleased Property by the Subtenant and if the improvements provide for multi-tenants in such improvements, then the Sublessor waives its rights to approve such tenant leases, subleases or assignments of leases or subleases, provided that the Subtenant will provide the Landlord and Sublessor the following: (i) copies of initial leases for the facility, (ii) upon Landlord or Sublessor request, copies of future leases, subleases, amendments and assignments, and (iii) annual reporting of rent roll listing tenants, square footages, use, term and extension options.

8. NOTICES. All Rent and other payments, and any notices, requests, consents or other communications required under this Sublease shall be in writing and shall be deemed to have been properly given if served personally or if sent by United States registered or certified mail or overnight delivery service to the Sublessor or Subtenant as follows (or at such other address as a Party may from time to time designate by notice given pursuant to this Section):

To Subtenant:	c/o MUSC Holdings, LLC 4150 Olson Memorial Highway, Suite 300 Golden Valley, MN 55422 Attn: William W. McGuire, Managing Member
with a copy to:	Kaplan, Strangis and Kaplan, P.A. 730 Second Avenue, Suite 1450 Minneapolis, MN 55402 Attn: Bruce J. Parker
To the City:	City of Saint Paul City Hall Annex 25 West 4 th Street, Suite 1300 Saint Paul, MN 55102 Attn: Director of Planning and Economic Development

with a copy to:

Saint Paul City Attorney
400 City Hall and Courthouse
15 Kellogg Boulevard West
Saint Paul, MN 55102
Attn: City Attorney

and a copy to:

City of Saint Paul
700 City Hall and Courthouse
15 Kellogg Boulevard West
Saint Paul, MN 55102
Attn: Finance Director

9. NO WAIVER OF CITY IMMUNITY OR LIABILITY. Nothing contained in this Sublease shall in any way affect or impair the Sublessor's immunity or the immunity of the Sublessor's employees, consultants, or independent contractors, whether on account of official immunity, legislative immunity, statutory immunity, discretionary immunity, or otherwise. Nothing contained in this Sublease shall in any way affect or impair the limitations on the Sublessor's liability or the liability of the Sublessor's employees, consultants, or independent contractors set forth in Minnesota Statutes Chapter 466, as such statute may be amended, modified, or replaced from time to time. By entering into this Sublease, Sublessor does not waive any rights, protections, or limitations provided for the Sublessor or its employees, consultants, or independent contractors under the various rules of governmental immunity or under Minnesota Statutes Chapter 466, as such statute may be amended, modified, or replaced from time to time.

10. DATA PRACTICES ACT. Subtenant acknowledges that the Sublessor is subject to the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (the "MGDPA"), including but not limited to Minnesota Statutes Section 13.05, subdivisions 6 and 11. To the extent required by law, Subtenant shall abide by the provisions of the MGDPA. Subtenant agrees to promptly notify Sublessor if it becomes aware of any potential claims, or facts giving rise to potential claims, under the MGDPA. The terms of this provision will survive the cancellation or termination of this Sublease.

11. RELATIONSHIP OF PARTIES. Its is agreed that nothing contained in this Sublease will be deemed or construed as creating a agency, partnership, or joint venture among the Parties.

12. NONDISCRIMINATION. There will be discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, age, or familial status in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Development Parcels.

13. BINDING EFFECT. This Sublease is binding upon and inures to the benefit of the successors and assigns of the Sublessor, and the permitted successors and assigns of the Subtenant.

14. GOVERNING LAW. This Sublease shall be subject to and governed by the laws of the State of Minnesota.

15. HEADINGS. The headings of the Sections and subsections of this Sublease are for convenience of reference only.

[Signature page to follow.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Sublease effective as of the day and year first above written.

SUBLESSOR:

CITY OF SAINT PAUL

By: _____
Melvin Carter, Mayor

By: _____
Shari Moore, City Clerk

By: _____
Director of Financial Services

Approved as to form:

Assistant City Attorney

SUBTENANT:

MUSC HOLDINGS, LLC

By: _____
William W. McGuire, Managing Member

THIS INSTRUMENT WAS DRAFTED BY:

Kaplan, Strangis and Kaplan, P.A.
730 Second Avenue, Suite 1450
Minneapolis, MN 55402

EXHIBIT A

EXHIBIT B

[Only included in Sublease of Parcel 7a]