

**TAX INCREMENT REINVESTMENT ZONE NUMBER ONE,
CITY OF NEW BRAUNFELS, TEXAS,
AND
TOPGOLF USA NBR, LLC
INCENTIVE AGREEMENT**

This **INCENTIVE AGREEMENT** (hereinafter referred to as this “Agreement”) is made and entered into by and among the **TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF NEW BRAUNFELS, TEXAS**, (hereinafter referred to as the “TIRZ # 1”), a tax increment reinvestment zone created by the City of New Braunfels, Texas, pursuant to Chapter 311 of the Texas Tax Code, as amended, and **TOPGOLF USA NBR, LLC**, a Delaware limited liability company (hereinafter referred to as the “Company”), on _____, 2024 (the “Effective Date”).

WHEREAS, in accordance with the provisions of the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, as amended (hereinafter referred to as the “Act”), the City Council of the City of New Braunfels, Texas, a Texas home-rule municipality (hereinafter referred to as the “City”) adopted Ordinance No. 2007-45 on May 29, 2007, which Ordinance, among other things, (i) created, established, and designated an area within the corporate limits of the City as “Reinvestment Zone Number One, City of New Braunfels, Texas” (the “Reinvestment Zone”), (ii) created a Board of Directors for the Reinvestment Zone, and (iii) established a tax increment fund for the Reinvestment Zone; and

WHEREAS, Section 311.010(b) of the Act provides that the Board of Directors of TIRZ # 1 (hereinafter referred to as the “Board”) may enter into agreements as the Board considers necessary or convenient to implement the Project and Financing Plan (as defined below) and achieve its purposes; and

WHEREAS, Section 311.010(h) of the Act authorizes the Board subject to the approval of the City Council of the City, “to implement the project plan and reinvestment zone financing plan (the “Project and Financing Plan”) and achieve their purposes, may establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the zone, eliminating unemployment and underemployment in the zone, and developing or expanding transportation, business, and commercial activity in the zone, including programs to make grants and loans from the tax increment fund of the zone in an aggregate amount not to exceed the amount of the tax increment produced by the municipality and paid into the tax increment fund for the zone for activities that benefit the zone and stimulate business and commercial activity in the zone. For purposes of this subsection, on approval of the municipality or county, the board of directors of the zone has all the powers of a municipality under Chapter 380, Local Government Code. The approval required by this subsection may be granted in an ordinance, in the case of a zone designated by a municipality, or in an order, in the case of a zone designated by a county, approving a project plan or reinvestment zone financing plan or approving an amendment to a project plan or reinvestment zone financing plan”; and

WHEREAS, the Board has concluded and hereby finds that this Agreement clearly promotes economic development within the City of New Braunfels, Texas, and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution and Section 311.010(h) of the Act by assisting in the development and diversification of the economy of the State of Texas and the City, by eliminating unemployment or underemployment in the State of Texas, and the City, and by the development or expansion of commerce within the State of Texas, and the City; and

WHEREAS, the Board has determined that it is in the best interest of TIRZ # 1 to contract with Company, in order to provide for the efficient and effective implementation of certain aspects of the TIRZ # 1's Project and Financing Plan; and

WHEREAS, TIRZ # 1 desires to reimburse Company for certain costs in the amount not to exceed **One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00)** (hereinafter defined as the "Grant Amount") on a reimbursement basis consistent with this Agreement.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, TIRZ # 1 and the Company agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. TERM.

This Agreement shall be effective as of the Effective Date, and shall continue thereafter until the sooner of the following: (a) **December 31, 2040**; or (b) payment of the Grant Amount to Company, unless terminated sooner under the provisions hereof. This Agreement shall be continued in effect for the purposes of paying Company any monies from the TIRZ # 1 Tax Increment Fund due and payable by **December 31, 2040**.

SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

- (a) **Agreement.** The term "Agreement" means this Grant Agreement, together with all exhibits and schedules attached to this Agreement from time to time, if any, authorized pursuant to Section 311.010 of the Act.
- (b) **Act.** The word "Act" means the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, as amended.

- (c) **Additional Sales and Use Tax.** The words “Additional Sales and Use Tax” mean the City’s additional municipal sales and use tax, at the rate of one-eighths of one percent (0.125%), pursuant to section 321.103(b) of the Texas Tax Code, as amended.
- (d) **Board.** The word “Board” means the Board of Directors of TIRZ # 1 authorized by Section 311.009 of the Act. For the purposes of this Agreement, Board’s address is 550 Landa Street, New Braunfels, Texas 78130.
- (e) **City.** The word “City” means the City of New Braunfels, Comal County, Texas, a Texas home-rule municipality. For the purposes of this Agreement, City’s address is 550 Landa Street, New Braunfels, Texas 78130.
- (f) **Company.** The word “Company” means Topgolf USA NBR, LLC, a Delaware limited liability company, its successors and assigns, whose corporate address for the purposes of this Agreement is 8750 N. Central Expressway, Suite 1200, Dallas, Texas 75231.
- (g) **Intentionally omitted.**
- (h) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”
- (i) **Grant Amount.** The words “Grant Amount” mean the aggregate total not to exceed **One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00)**. In no event shall the aggregate payments paid to Company pursuant to this Agreement exceed **One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00)**.
- (j) **Project.** The word “Project” means the opening and operation of a Topgolf facility by Company at the Property.
- (k) **Property.** The word “Property” means the Topgolf branded entertainment facility generally to be located at 427 Creekside Way, New Braunfels, Texas 78130.
- (l) **Sales and Use Tax.** The words “Sales and Use Tax” or “Sales and Use Taxes” mean the sales and use tax, at the rate of one percent (1.0%), collected pursuant to section 321.103(a) of the Texas Tax Code, as amended.
- (m) **State Comptroller.** The words “State Comptroller” mean the Office of the Texas Comptroller of Public Accounts, or any successor agency.
- (n) **Taxable Sales.** The words “Taxable Sales” refer to revenue generated by the Project that is subject to Sales and Use Tax pursuant to section 321 of the Texas Tax Code.
- (o) **Term.** The word “Term” means the term of this Agreement as specified in Section 2 of this Agreement.

- (p) **TIRZ # 1.** The term “TIRZ # 1” means the tax increment financing reinvestment zone named Tax Increment Reinvestment Zone Number One, City of New Braunfels, Texas, created by City Ordinance No. 2007-45, approved by the City Council of the City on May 29, 2007, as amended, and as authorized by the Act.
- (q) **TIRZ # 1 Tax Increment Fund.** The term “TIRZ # 1 Tax Increment Fund” means the tax increment fund established pursuant to Section 311.014 of the Act, and Section 6 of Ordinance No. 2007-45, approved by the City Council of the City on May 29, 2007.
- (r) **Type B Sales and Use Tax Revenue.** The words “Type B Sales and Use Tax Revenue” mean the economic development sales and use tax revenue, at the rate of three-eighths of one percent (0.375%), generated for use by the New Braunfels Economic Development Corporation, a Type B economic development corporation.

SECTION 4. OBLIGATIONS OF COMPANY.

Company covenants and agrees while this Agreement is in effect Company shall comply with the following terms and conditions:

- (a) **Certificate of Occupancy.** Company covenants and agrees to obtain from the City a certificate of occupancy for the Project located on the Property by **December 31, 2025**.
- (b) **Reporting of Sales and Use Taxes.** Company will provide to the TIRZ # 1, on an annual basis, a copy of the financial report that is being submitted to the State Comptroller relating to the remission of all local sales and use taxes collected at the Property as a result of the operation of the Project located on the Property (“Sales Tax Report”). The sales and uses taxes to be included within said Sales Tax Report includes the Sales and Use Tax, the Additional Sales and Use Tax, and the Type B Sales and Use Tax Revenue collected at the Property at the current combined rate of one and one-half percent (1.50%), and remitted by the State Comptroller to the City. Additionally, Company will obtain any third party’s consent for the State Comptroller’s office to release the annual reported figures along with any State audit adjustments to the City. The City and TIRZ # 1 hereby agrees to keep this information “Confidential” consistent with the Section 321.3022(f) of the Texas Tax Code, and to the extent allowed by law. The first Sales Tax Report from Company shall be due within one (1) year of receipt of a certificate of occupancy by **December 31, 2026**, and annually thereafter.
- (c) **Project Performance.** Company will generate at least \$5 million in taxable sales from the Project annually during the Term of this Agreement.

- (d) **Other Performance.** Company agrees to perform and comply with all terms, conditions and provisions set forth in this Agreement, and any other agreements by and between the TIRZ # 1 and Company.

SECTION 5. OBLIGATIONS OF TIRZ # 1.

TIRZ # 1 covenants and agrees while this Agreement is in effect TIRZ # 1 shall comply with the following terms and conditions:

- (a) **Payment of Grant Amount.** In consideration of Company's obligations and expenditures for the Project, subject to the conditions contained in this Agreement, TIRZ # 1 covenants and agrees to pay to Company the Grant Amount from current funds in the TIRZ # 1 Tax Increment Fund, as such funds are on deposit in the TIRZ # 1 Tax Increment Fund; provided however, that notwithstanding any other provisions to the contrary, the obligation to make Grant Amount payments to Company as described below shall be limited to the Grant Amount. Payments made under this Agreement shall be made solely from the TIRZ # 1 Tax Increment Fund, conditioned upon the following:

Five Million and No/100 Dollars (\$5,000,000.00) in annual taxable sales from the Project for each applicable year during the Term of this Agreement.

In the event the condition of Section 5(a) is satisfied, TIRZ # 1 shall provide Company a payment of **Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00)** annually. In no event shall the aggregate payments made pursuant to this Agreement exceed the Grant Amount. Said payment by TIRZ # 1 to Company shall occur within sixty (60) days of TIRZ # 1's receipt of proof of Company's satisfaction of the condition of Section 5(a).

- (b) **Performance.** TIRZ # 1 agrees to perform and comply with all terms, conditions and provisions set forth in this Agreement, and any other agreements by and between TIRZ # 1 and Company.

SECTION 6. PAYMENT PROCEDURE.

- (a) **Payments Solely from TIRZ # 1 Tax Increment Fund.** Board and Company agree that the Grant Amount payments shall be only from the TIRZ # 1 Tax Increment Fund, subject to the conditions and limitations set out in this Agreement, and only to the extent such funds are on deposit or to be deposited in the TIRZ # 1 Tax Increment Fund after:
- (1) payment of any amounts pledged or required for the payment of any outstanding bonds secured by the TIRZ # 1 Tax Increment Fund, including bonds in the process of issuance and refunding bonds, if any; and
 - (2) payment of administrative costs for the administration of TIRZ # 1.

Company covenants and agrees to look solely to the TIRZ # 1 Tax Increment Fund, and not to City's general funds, or other City bond funds for payment of the Grant Amount. Nothing in this Agreement shall be construed to require City to approve payments from any source of City funds other than the TIRZ # 1 Tax Increment Fund or to require City to issue tax increment financing bonds, the issuance of such bonds being solely within the discretion of the City Council of the City. Upon the expiration of the Term of the TIRZ # 1 any portion of the Grant Amount that remains unpaid due to the lack or unavailability of TIRZ # 1 Tax Increment Funds or due to Company's failure to meet any precondition of payment under this Agreement, shall no longer be considered an obligation of the TIRZ # 1 Tax Increment Fund and any obligation of TIRZ # 1 to pay Company shall automatically expire on such date; this provision, however, shall not be construed to limit or modify the obligations or covenants contained in any outstanding tax increment financing bonds which the City in its discretion may issue for the purpose of paying or reimbursing project costs or making grants. Further, any increment which has accrued during the Term of TIRZ # 1, but is collected subsequent to the date on which the Term of TIRZ # 1 expires shall be applied toward the payment of any portion of the Grant Amount that remains unpaid immediately prior to the expiration of the Term.

- (b) **Permissible Expenditures.** City hereby declares that the payment procedure outlined above is necessary to implement the Project and Financing Plan, and that the payment of the Grant Amount complies with Section 311.010(h) of the Act.

SECTION 7. CESSATION OF ADVANCES.

If TIRZ # 1 has made any commitment to provide financial assistance to Company, whether under this Agreement or under any other agreement, TIRZ # 1 shall have no obligation to advance or disburse financial assistance if: (i) Company becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default is occurring beyond the applicable notice and cure period.

SECTION 8. EVENT OF DEFAULT.

Each of the following shall constitute an Event of Default under this Agreement:

- (a) **General Event of Default.** Failure of Company or TIRZ # 1 to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Company or TIRZ # 1 to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between Company and TIRZ # 1 is an Event of Default.
- (b) **False Statements.** Any warranty, representation, or statement made or furnished to TIRZ # 1 by or on behalf of Company under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.

- (c) **Insolvency.** Company's insolvency, appointment of receiver for any part of Company's property, any assignment for the benefit of creditors of Company, any type of creditor workout for Company, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Company is an Event of Default.
- (d) **Sales and Use Taxes.** Company's failure to timely and properly collect and remit sales and use taxes as required by law is an Event of Default.

SECTION 9. EFFECT OF AN EVENT OF DEFAULT.

In the event an Event of Default under Section 8 of this Agreement occurs, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have sixty (60) days to cure said default, provided, however, if such breach is not reasonably curable within such 60-day period, and the defaulting party has commenced and is pursuing such remedies as shall be reasonably necessary to cure such breach, then the defaulting party shall have an additional ninety (90) days to cure such breach. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement. In the event, Company defaults and is unable or unwilling to cure said default within the prescribed time period, the amounts, if any, previously paid by TIRZ # 1 to Company pursuant to Section 5 of this Agreement shall become immediately due and payable by Company to TIRZ # 1.

Notwithstanding the foregoing, in the event an Event of Default under Section 4(c) of this Agreement occurs, Company will receive no annual payment towards the Grant Amount in which Company failed to meet the requirement of Section 4(c), but will not be required to repay any grant paid for which Company was in compliance with the requirements of Section 4(c), and this Agreement shall continue in full force and effect.

SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Comal County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Comal County, Texas.
- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Company may assign this Agreement, without the prior

written consent of TIRZ # 1 to any affiliate of Company (currently existing or later formed), provided that such assignee assumes the obligations and liabilities of Company in writing in a form reasonably approved by TIRZ # 1.

- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. TIRZ # 1 warrants and represents that the individual executing this Agreement on behalf of TIRZ # 1 has full authority to execute this Agreement and bind TIRZ # 1 to the same. Company warrants and represents that the individual executing this Agreement on Company's behalf has full authority to execute this Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.
- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Indemnity.** Company agrees to indemnify the TIRZ # 1, the City, and its officials and officers (in their capacities as officials and officers), from and against any third party claims, losses, damages, causes of action, suits and liabilities arising out of any negligence of Company in its operation of the Project; provided that Company shall not be obligated to indemnify the TIRZ # 1 or the City for claims arising out of the willful misconduct or gross negligence of the TIRZ # 1 or the City or its agents.
- (h) **No Joint Venture; No Third-Party Beneficiaries.** It is acknowledged and agreed to by the parties to this Agreement that the terms hereof are not intended to, and shall not constitute a partnership or joint venture between the parties. Further, this Agreement does not establish rights in any third parties. The City, and its respective officials, officers and agents, do not assume any responsibility or liability to any third parties in connection with the development of the Project.
- (i) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to TIRZ # 1:

Tax Increment Reinvestment Zone Number One,
City of New Braunfels, Texas
550 Landa Street
New Braunfels, Texas 78130
Attn: City Manager

With copy to: City Attorney
550 Landa Street
New Braunfels, Texas 78130

if to Company: TOPGOLF USA NBR, LLC
8750 N. Central Expressway, Suite 1200
Dallas, Texas 75231
Attn: Legal Department

- (j) **No waiver of immunity.** No provision of this Agreement shall affect or waive any sovereign or governmental immunity available to the TIRZ # 1 and City and/or its elected or appointed officials, officers, employees and agents under Federal or Texas law nor waive any defenses or remedies at law available to the TIRZ # 1 and City and/or its elected or appointed officials, officers, employees and agents under Federal or Texas law.
- (k) **Revenue Sharing Agreement.** The City and TIRZ # 1 designate this Agreement as a revenue sharing agreement, thereby entitling the City and TIRZ # 1 to request Sales and Use Tax information from the State Comptroller pursuant to Section 321.3022 of the Texas Tax Code, as amended.
- (l) **Severability.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of this Agreement shall be enforced as if the invalid provision had never been included.
- (m) **Time is of the Essence.** Time is of the essence in the performance of this Agreement. Notwithstanding the foregoing, any deadlines provided in this Agreement shall be subject to any event of Force Majeure. For purposes of this Agreement, “Force Majeure” shall mean any contingency or cause beyond the reasonable control of any company, including without limitation, acts of God or the public enemy, war, riot, terrorism, civil commotion, insurrection, governmental or de facto governmental action or inaction including, but not limited to, government actions pertaining to the determination of flood zones or FEMA actions, fire, earthquake, tornado, hurricane, explosions, floods, epidemics, strikes, slowdowns, work stoppages, unusually severe weather or global recessions; provided, however, that in no event shall any event of Force Majeure extend any deadline in this Agreement by more than twelve months. In addition, if Company notifies TIRZ # 1 that it is unable to satisfy any deadline provided in this Agreement due to adverse economic conditions, TIRZ # 1 agrees to meet with Company to better understand the impact of those adverse economic conditions on Company and consider making good faith adjustments to the terms of this Agreement to address the impacts of such adverse economic conditions upon Company.
- (n) **Undocumented Workers Provision.** Company certifies that the Company does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of

the Texas Government Code, as amended. If during the Term of this Agreement, Company is convicted of a violation under 8 U.S.C. § 1324a(f), Company shall repay the amount of the public subsidy, if any, paid to Company under this Agreement plus interest, at the rate of six percent (6%), not later than the 120th day after the date the TIRZ # 1 notifies Company of the violation.

- (o) **Form 1295 Certificate.** Company agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, Company agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the TIRZ # 1, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.
- (p) **Non-Boycott of Israel Provision.** In accordance with Chapter 2271 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2271 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) the contract has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless Company is not subject to Chapter 2271 of the Texas Government Code for the reasons stated herein, the signatory executing this Agreement on behalf of Company verifies that Company does not boycott Israel and will not boycott Israel during the Term of this Agreement.
- (q) **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Company is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.
- (r) **Report Agreement to Comptroller's Office.** TIRZ # 1 covenants and agrees to report this Agreement to the State Comptroller's office within fourteen (14) days of the Effective Date of this Agreement, in accordance with Section 380.004 of the Texas Government Code.
- (s) **Verification Against Discrimination of Firearm or Ammunition Industries.** Pursuant to Chapter 2274 of the Texas Government Code, unless otherwise exempt, if Company employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the TIRZ # 1, Company represents that: (1) Company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) Company will not discriminate during the Term of this Agreement against a firearm entity or firearm trade association.

- (t) **Verification Against Discrimination Company Does Not Boycott Energy Companies.** Pursuant to Chapter 2276 of the Texas Government Code, unless otherwise exempt, if Company employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the TIRZ # 1, Company represents that: (1) Company does not boycott energy companies; and (2) Company will not boycott energy companies during the Term of this Agreement.
- (s) **Business Day.** If any date or any period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the notice shall be extended to the first business day following such Saturday, Sunday, or legal holiday.
- (u) **Authority.**
 - a. TIRZ #1 hereby represents and warrants that TIRZ #1 has full constitutional and lawful right, power and authority, under currently applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of TIRZ #1, is enforceable in accordance with its terms and provisions and does not require the consent of any other governmental authority.
 - b. Company hereby represents and warrants that it has full lawful right, power, and authority to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing have been or will be duly and validly authorized and approved by all necessary actions.

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THE PARTIES ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND THE PARTIES AGREE TO ITS TERMS. THIS AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.

TIRZ # 1:

**TAX INCREMENT REINVESTMENT ZONE
NUMBER ONE, CITY OF NEW BRAUNFELS,
TEXAS,**

By: _____
Tobin Hoffmann, TIRZ 1 Chair
Date Signed: _____

COMPANY:

TOPGOLF USA NBR, LLC,
a Delaware limited liability company,

By: _____
Title: _____
Date Signed: _____

APPROVED BY:

CITY:

CITY OF NEW BRAUNFELS
A Texas home-rule municipality

By: _____
Neal Linnartz, Mayor
Date Signed: _____

ATTEST:

Gayle Wilkinson, City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney