

**LEASE AGREEMENT BETWEEN CITY OF PALM BAY AND
PALM BAY AREA CHAMBER OF COMMERCE, INC.**

This Lease Agreement (Agreement) is entered into as of this 3 day of March, 2020 (Commencement Date), between the **PALM BAY AREA CHAMBER OF COMMERCE, INC.**, a Florida not for profit corporation, whose address is 4100 Dixie Highway NE, Palm Bay, Brevard County, State of Florida (hereinafter "Tenant"), and the **CITY OF PALM BAY, FLORIDA**, a Florida municipal corporation, whose address is 120 Malabar Road SE, Palm Bay, FL 32907, (hereinafter "Landlord").

WITNESSETH:

Section 1. Premises. Subject to the terms hereof, and to zoning and restrictions of record, and in consideration of the mutual benefits and obligations set forth hereafter, Landlord leases to Tenant and Tenant leases from Landlord the Premises located in Brevard County, Florida, more particularly described as follows (hereinafter "Premises"):

Approximately 1,425 square feet building, and 0.64 acres located at 4100 Dixie Highway NE, Palm Bay, located in Brevard County, Florida, or legally described as:

**28 372425 N1 NE 4100 DIXIE HWY TILLMAN PLAY OF PALM BAY THAT
PT OF LOT N LYING E OF OLD US HWY 1 & W OF NEW US HWY 1**

Section 2. Term. This Agreement shall be for the initial term of five (5) years commencing upon the final execution by all parties (Commencement Date) and with an option(s) to renew for an additional one (1) year, not to exceed ten (10) years, or until terminated by notice of the Landlord or Tenant within the terms of this Agreement.

Section 3. Rent. Tenant shall pay to Landlord during the term of this Agreement, an annual rent amount of \$10.00 (ten dollars) in advance, without demand, reduction or set-off (the "Rent") and shall render services as described and agreed upon annually in exchange for membership dues to be paid by the City (Landlord) to the Chamber (Tenant).

Section 4. Use, Obligations and Maintenance.

(1) TENANT OBLIGATIONS:

Tenant shall use and occupy the Premises only for business operations and Chamber-related uses and activities normally related thereto. Tenant shall not use the Premises in a disreputable, ultra-hazardous or unlawful manner, or in any manner that would constitute a public or private nuisance. Tenant shall provide all of its own office and other equipment, furniture and furnishings and shall insure such other equipment, furniture and furnishings, as it deems desirable, but, in no event, shall make a claim against the Landlord for any losses. Tenant shall not perform any acts on the Premises that would generate noxious odors or annoying

noises. Further, Tenant agrees that it has an obligation to ensure all employees, contractors, subcontractors and assigns employed by Tenant or working under the direction of Tenant have no felony convictions, unless without the prior written consent of City is obtained. Tenant shall be responsible for all utility expenses at the location. Tenant shall be responsible for all landscaping maintenance, to include regular mowing and maintenance of all landscape improvements, provided that City is given advance notice and consents in writing to any significant changes of same.

Section 5. Hazardous Substances. Tenant shall not use, store, generate, dispose of, release or otherwise handle or possess any hazardous substance on or about the Premises. Should Tenant violate this provision, then Tenant shall indemnify, defend, and hold Landlord harmless from all claims, charges, penalties, fines, liabilities, costs (including clean-up costs), and all other obligations and expenses arising directly or indirectly from such violation.

Section 6. Quiet Enjoyment. Upon paying the Rent and performing all other covenants and obligations under this Agreement, Tenant shall hold the Premises free from disturbance.

Section 7. Redelivery. Tenant covenants that at the termination of this Agreement, whether by expiration, default or otherwise, Tenant shall promptly re-deliver the Premises to Landlord free from sub-tenancies and in the condition the Premises are presently in, reasonable use and wear excepted. Any personal property or trade fixtures remaining on the Premises three days after termination shall be deemed abandoned by Tenant and may be disposed of as Landlord deems fit at Tenant's expense. All personal property or fixtures located in the Premises on the Commencement Date shall be redelivered in good condition with the Premises.

Section 8. Acceptance of Premises. Tenant acknowledges that Landlord has made no representation or warranty that the Premises are fit for Tenant's intended use. Tenant has inspected the Premises, and Tenant accepts the Premises "as is".

Section 9. Indemnification/Liability/Loss. The Tenant shall indemnify, defend and save and hold the Landlord harmless, from and against all claims, demands, obligations, liabilities, penalties, fines, charges, costs and expenses, including attorney's fees, costs and expenses for the defense thereof, arising from occurrences on or about the Premises or from the Tenant's or any of Tenant's invitees', agents' or assigns' negligent activities thereon.

The Tenant recognizes that the City of Palm Bay is protected by sovereign immunity to the extent and limits permitted by law including, but not limited to, Section 768.28, *Florida Statutes* and recognizes that nothing contained herein shall be construed as a waiver of same nor an admission of liability by Landlord.

Section 10. No Assignment without Consent. Tenant shall not assign this Agreement or any of Tenant's rights hereunder, nor sublet the Premises or any portion thereof, without first obtaining the written consent of Landlord.

Section 11. Default. Landlord, at its option, may terminate this Agreement on three days' notice to the Tenant: (a) if any Rent due hereunder is not paid when due; or (b) if the Premises are abandoned by Tenant or otherwise become and remain vacant or deserted for a period of 10 days or more; or (c) if the Premises are used for some purpose other than the use authorized herein; or (d) if Tenant shall have failed to cure a default in the performance of any other provision of this Agreement or any rule or regulation set forth herein within ten 10 days after written notice thereof to Tenant from Landlord, or if such default cannot be completely cured in such time, if Tenant shall not promptly proceed in good faith to cure such default within said ten 10 days, or shall not complete the curing of such default with due diligence. In the event that Landlord elects to terminate this Agreement, then, upon the expiration of the aforesaid three-day notice period, Tenant shall remain liable for damages to the maximum extent provided herein or permitted by law.

Section 12. Destruction of Premises. In the event that the Premises or a portion thereof is destroyed or damaged by fire or other casualty, then Landlord may or may not elect to repair or rebuild the Premises or to terminate this Agreement. If Landlord elects to repair or rebuild, this Agreement shall remain in force, and Landlord shall complete all repairs or rebuilding after such election. If Landlord elects to terminate this Agreement rather than to repair or rebuild, Tenant shall promptly surrender possession of the Premises to Landlord and neither Landlord nor Tenant shall have any remaining obligations hereunder, except any obligations owed by Tenant that accrued before the casualty, which obligations Tenant shall forthwith settle. Landlord shall not be liable for any damages, inconvenience, or annoyance to Tenant resulting from any damage to the Premises or from the repair or replacement thereof and shall not be liable for any delay in restoring the Premises unless arising from the Landlord's negligent or wrongful action. If Tenant's negligence or the negligence of Tenant's agents, employees or invitees results in damage or destruction to the Premises, then notwithstanding any other provision of this Agreement, Tenant shall be obligated to pay the cost or repair, replacement or restoration that exceeds any available insurance proceeds therefore, and Rent shall not abate during the period of repair or restoration.

Section 13. Liability for Loss of Personal Property. All personal property placed or moved in the Premises shall be at the risk of Tenant. Landlord shall not be liable for any damage to person or to property occurring on the Premises or related to Tenant's use thereof including, but not limited to, damages arising from the bursting or leaking of water pipes.

Section 14. Alterations. Tenant shall not make any alterations to the Premises without first obtaining the written consent of Landlord. Any alterations so approved by Landlord shall (a) be made in a good and workmanlike manner; (b) be paid for in full by Tenant; (c) be made with materials of comparable or better quality than are already in

place; and (d) not weaken the Premises or cause a reduction in fair market value of the Premises. Any work done on the premises must be done by a licensed and insured contractor with appropriate permits processed through appropriate governmental entities and receive final inspection of same. All additions, fixtures or improvements that may be made by the Tenant, except moveable office furniture, shall become the property of the Landlord and remain upon the Premises as a part thereof, and be surrendered with the Premises at the termination of this Agreement.

Section 15. Access to Premises. Landlord may enter the Premises at any time without notice for the protection or preservation of the Premises.

Section 16. Waiver of Jury Trial and Recovery of Fees. In the event of legal proceedings between the parties, the parties agree to waive any right to trial by jury. Further, each party agrees to bear its costs and attorneys' fees, including all costs and attorneys' fees up to and including appellate proceedings.

Section 17. Liens/Code Enforcement Violations. Tenant agrees to keep the Premises free and clear of any lien or encumbrance of any kind whatsoever created by Tenant's acts or omissions and Tenant shall indemnify and defend, to the extent and limits permitted by law, Landlord against any claim or action brought to enforce any lien imposed on the Premises because of Tenant's negligent act or omission. Except as specifically provided otherwise herein, Tenant shall have 10 days after receiving notice of any such lien or encumbrance to have such removed. If Tenant fails to have such removed within that time, Tenant shall be in default.

Tenant agrees to maintain the property in accordance with all laws and ordinances, including local City of Palm Bay ordinance and codes. Tenant agrees to maintain the property free of any code enforcement violations and to promptly remedy any upon notice. Further, Tenant warrants that there are currently no outstanding such violations on the location.

Section 18. Waiver. No act of a party shall be deemed a waiver of any of the party's rights hereunder, unless such waiver is specifically made in writing. A party's forbearance to enforce any rights hereunder or to exercise any available remedy, or to insist upon strict compliance herewith, shall not be deemed a waiver or forfeiture of such rights, remedies or strict compliance, nor shall such forbearance stop the party from exercising any available rights or remedies or from requiring strict compliance in the future. Landlord's acceptance of any late or inadequate performance including, but not limited to, late or insufficient payments of Rent, shall not constitute a waiver or forfeiture of Landlord's right to treat such performance as an event of default or to require timely and adequate performance in the future.

Section 19. Notices. All notices or other communication required or permitted to be given pursuant to this Agreement shall be in writing and shall be construed as properly given if mailed by registered or certified mail with return receipt requested. It is agreed that notice so mailed shall be reasonable and effective upon the expiration of three

business days after its deposit. Notice given in any other manner shall be effective only if and when received by the addressee. For purposes of notice, the addresses of the parties shall be the address as follows:

Nancy Peltonen, President/CEO
Palm Bay Area Chamber of Commerce, Inc.
4100 Dixie Hwy NE
Palm Bay, FL 32905

Lisa Morrell, City Manager
City of Palm Bay
120 Malabar Road
Palm Bay, FL 32907

Section 20. Construction. Whenever the context permits or requires the use of the singular in this Agreement shall include the plural and the plural shall include the singular. Any reference herein to one gender shall likewise apply to the other gender and to the neuter; and any reference herein to the neuter shall refer likewise to one or both genders. Any reference herein to a person shall include trusts, partnerships, corporations, and other entity, as appropriate.

Section 21. Captions. The captions to the provisions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement nor in any way effect the substance of this Agreement.

Section 22. Applicable Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue shall be in the Eighteenth Judicial Circuit Court in and for Brevard County, Florida

Section 23. Survivability. The parties agree that all of Tenant's indemnities, representations and warranties made herein, shall, to the extent and limits permitted by law, survive the termination or expiration of this Agreement and that the termination or expiration hereof shall not release Tenant from any accrued, unfulfilled or unsatisfied liabilities or obligations.

Section 24. Merger. No prior or present agreements or representations shall be binding upon the parties hereto unless incorporated in this Agreement. No modification or change in this Agreement shall be valid or binding upon the parties unless a writing is executed by the parties to be bound thereby.

Section 25. Parties Bound. This Agreement shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors and assigns of the parties. In the event Landlord or any successor-owner of the Premises shall convey or otherwise dispose of the Premises, all liabilities and obligations of Landlord, or any successor-owner as Landlord, to Tenant under this Agreement shall terminate upon such conveyance or disposal and the giving of written notice thereof to Tenant.

Section 26. Severability. If any provision of this Agreement should be determined to conflict with any public policy, statute or rule of law, or is otherwise determined to be

invalid or unenforceable, then such provision shall be deemed null and void to the extent of such conflict, but without invalidating the remaining provisions.


Section 27. Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the Rent herein stipulated shall be deemed to be other than on account of the earlier Rent, nor shall any endorsement or statement on any check or any letter accompanying any check or Rent payment be deemed an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy provided in this Agreement.

Section 28. Time Periods. Time is of the essence in this Agreement. Any reference herein to time periods of less than six days shall exclude Saturdays, Sundays and legal holidays; and any time period provided for herein that ends on a Saturday, Sunday or legal holiday shall extend to 5:00 PM of the next full business day.

Section 29. Recording. This Agreement shall not be recorded in the Land Records of Brevard County.

Section 30. Insurance. Tenant agrees to maintain insurance in the following minimum amounts:

- A. **Commercial General Liability:** Minimum limits of \$1,000,000.00 each occurrence, \$2,000,000.00 annual aggregate combined single limit for bodily injury and property damage liability. This shall include premises/operations, independent contractors, products, completed operations, broad form property damage, personal and advertising injury, and contractual liability, specifically confirming and insuring the indemnification and hold harmless clause of the contract. This policy of insurance shall be considered primary to and not contributing with any insurance maintained by the City of Palm Bay and shall name the City of Palm Bay as an additional insured. The policy of insurance shall be written on an "occurrence" form.

 B. **Automobile:** Tenant shall provide minimum limits of liability of \$1,000,000.00 each accident, combined single limit for bodily injury and property damage. This shall include coverage for:

- Owned Automobiles
- Hired Automobiles
- Non-Owned Automobiles

N/A

- C. **Umbrella/ Excess Liability:** Tenant shall provide umbrella/excess coverage with limits of no less than \$1,000,000.00 excess of Commercial General Liability, Automobile Liability and Employers Liability. [OPTIONAL COVERAGE IF COMMERCIAL GENERAL LIABILITY IN AMOUNTS ABOVE PROVIDED.]

D. Workers' Compensation: Tenant shall provide and maintain workers' compensation insurance for all employees in the full amount required by statute and full compliance with the applicable laws of the State of Florida. Said policy must include Employers' Liability insurance with limits of no less than statutory limits:

Each Accident	\$ 100,000.00
Disease – Policy Limit	\$ 100,000.00
Disease – Each Employee	\$ 500,000.00

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals on the date stated.

TENANT
PALM BAY AREA CHAMBER OF
COMMERCE

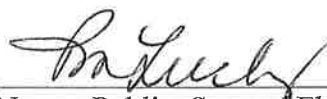

By: Nancy Peltonen, President/CEO

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledge before me, by means of ☒ physical presence or ☐ online notarization, this 3rd day of MARCH 2020 by Nancy Peltonen as President/CEO of Palm Bay Area Chamber of Commerce, Inc., and who did / did not take an oath and provided the following: _____ as identification OR ☒ is personally known to me.

NOTARY SEAL:




Notary Public, State of Florida
My commission expires on: 4/29/2023

LANDLORD
CITY OF PALM BAY, FLORIDA



Lisa Morrell, City Manager

City of Palm Bay, Florida

Date: 3/6/2020

ATTEST:



CITY CLERK

By: TERESE M. JONES

APPROVED AS TO FORM AND LEGALITY:



CITY ATTORNEY

By: Patricia D. Smith

