

## **REVOCABLE LICENSE AGREEMENT**

THIS REVOCABLE LICENSE AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the CITY OF PALM BAY, a Florida municipal corporation, ("Grantor"), and \_\_\_\_\_, whose address is \_\_\_\_\_ ("Grantee")

### **WITNESSETH:**

WHEREAS, Grantor is the owner of certain real property referred to hereinafter as the "Licensed Premises," and Grantee is the owner of other real property referred to hereinafter as the "Grantee Property," said properties being legally described on Exhibit A and Exhibit B, respectively, attached hereto and incorporated herein by this reference;

WHEREAS, the Licensed Premises consists of a portion of the real property that is located within, and as a part of, a city owned right-of-way;

WHEREAS, Grantee wishes to preserve a right to have access to and use the Licensed Premises for the purpose of installing and maintaining a drainage pipe with clean-out tee. Upon cessation of the aforementioned use, this Agreement shall automatically terminate; and

WHEREAS, Grantor and Grantee desire to define, create, and establish the rights and obligations of the parties with respect to Grantee's use of the Licensed Premises.

NOW, THEREFORE, for and in consideration of the sum of Ten (\$10.00) Dollars and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, with the mutual covenants herein contained to be kept and performed, the parties agree as follows:

1. **Recitals.** The aforesaid recitals are true and accurate and are hereby incorporated by this reference.
2. **Grant of License.** Grantor hereby grants to Grantee for the benefit of Grantee and for the benefit of Grantee's Property, a License to use the Licensed Premises for the installation and maintenance of a drainage pipe with clean-out tee, subject to the provisions contained within this Agreement and the Code of Ordinances of the City of Palm Bay, Florida ("Code").
3. **Use of Licensed Premises.** Grantor hereby expressly grants to Grantee, and for the benefit of Grantee's Property, the following rights with respect to the Licensed Premises:
  - 3.1 The right to use the Licensed Premises for pedestrian ingress and egress in order to serve the Licensed Premises; and
  - 3.2 The right to install, construct, operate, repair, maintain, and replace certain improvements now or hereafter located on the Licensed Premises, if any, provided said activities do not unreasonably interfere with the rights otherwise granted by Grantor to others, and further provided that Grantee restores the property, and any improvements disturbed by such activities, to its former condition within thirty (30) days from the date the City Manager, or designee, provides written demand for such restoration.

Grantee shall be permitted to exercise its rights hereunder only to the extent specifically permitted by the Code and only to the extent described in the Right-of-Way Use Permit ("Permit"). Nothing in this Agreement shall be deemed to create a property right for Grantee, or its assigns or successors

in title, to the Licensed Premises or any other portion of Grantor owned property, nor to permit Grantee to extend the License any further than shown on Exhibit A attached hereto.

4. **Permitted Improvements and Removals.** Grantee shall only be permitted to construct, install, or create those improvements on the Licensed Premises as specifically described in the Permit. Grantee shall not be permitted to install, construct, or create improvements on the Licensed Premises that are not specifically described in the Permit. Grantee shall only be permitted to remove or replace certain items and obstructions from the Licensed Premises as specifically described in the Permit. Grantee shall not be permitted to remove or replace any items or obstructions from the Licensed Premises that are not specifically described in the Permit.

No improvements to, or removal or relocation of items from, the Licensed Premises shall be undertaken by Grantee prior to the Grantor having approved in writing, (i) the plans and specifications for said improvements, (ii) the plans and specifications for the removal or relocation of certain items; and (iii) the schedule for completing said improvements or removal or relocation. All construction and work performed in or on the Licensed Premises shall be performed (i) subject to and consistent with all relevant permits, approvals, agreements, laws, regulations, ordinances, and the Code; and (ii) with due care and in a workmanlike manner.

Grantee shall pay for all costs related to the construction and installation of any improvements on or to, and the removal or relocation of items from, the Licensed Premises. Grantee shall pay its own engineering, architectural, legal, consulting, and professional fees in connection with this Agreement and the improvements hereafter to be located on, or items to be relocated or removed from, the Licensed Premises.

5. **Operation, Maintenance, Repair, Replacement, and Removal.** Grantee hereby agrees to and shall be responsible for installing, operating, maintaining, repairing, replacing, and removing, at Grantee's sole cost and expense, any and all improvements now or hereafter constructed, installed or located in or on the Licensed Premises.
6. **Condition of Licensed Premises.** Grantee hereby agrees to and shall be responsible for ensuring that the Licensed Premises and the landscaping around and upon the Licensed Premises are kept in a clean and attractive condition and repair. Said duties shall include, but not be limited to, the removal of all garbage and rubbish on the Licensed Premises, as well as keeping the Licensed Premises in a clean and attractive condition at all times.
7. **Sale, Transfer or Assignment of Interest.** Grantor and Grantee acknowledge and agree that prior to transferring, assigning, or conveying to any person or entity any interest in the Grantee's Property, the person or entity receiving said interest must assume, in writing, all of the obligations of this Agreement with respect to the Licensed Premises, and the interest so transferred, assigned or conveyed, and the transfer, conveyance or assignment shall recite that it is subject and subordinate to the terms and provisions of this Agreement.
8. **Covenants Do Not Run With the Land.** None of the covenants, conditions, restrictions, rights, duties, obligations, and licenses contained in this Agreement are intended to be covenants running with the land pursuant to applicable law, and none of the conditions, restrictions, rights, duties, obligations and licenses contained in this Agreement shall run with the land.
9. **Revocation of License.** Grantor may revoke the License granted hereunder at any time, in Grantor's sole and absolute discretion, in the event (a) Grantor believes that Grantee is in default of its covenants, representations or obligations hereunder; (b) Grantor believes Grantee has failed,

or is failing, to abide by the applicable provisions of the Code; (c) Grantee has installed, constructed or created improvements not specifically described in the Permit or in a manner other than that described in the Permit; (d) Grantor desires or believes it needs to exert exclusive control of the Licensed Premises for any municipal purpose; (e) a transfer of ownership of the Grantee's Property occurs without a prior written assumption of the obligations of this Agreement by the transferee or assignee of Grantee's Property; or (f) encroachment by Grantee into or on the right of way owned by the Grantor and adjacent to the Licensed Premises.

If any of the events described hereinabove in this paragraph occur at any time, the Grantee shall immediately (a) remove all improvements previously installed, constructed, or created on the Licensed Premises; (b) return the Licensed Premises to the condition in which it existed prior to the commencement of this Agreement; and (c) peaceably surrender the Licensed Premises to the Grantor. If Grantee fails to perform (a), (b) and (c) hereof within ten (10) days of receipt of written notice to surrender the Licensed Premises to Grantor, then Grantor may pursue any one or more of the following remedies:

- 9.1 The right, but not the obligation, to cure any such default for the account of and at the expense of the Grantee; provided, however, that in the event of emergency conditions constituting default, Grantor, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary, without advance notice, so long as notice is given as soon as possible thereafter. To effectuate any such cure, the Grantor shall have the right to perform any necessary work or furnish any necessary materials or services to cure the default. Grantee shall be responsible hereunder for the default of its Permittees or other parties claiming any type of interest in its property by or through Grantee;
- 9.2 Any and all remedies available at law or in equity, including without limitation injunctive relief, specific performance, ejection, or the imposition upon Grantee's property for all costs and expenses set forth herein;
- 9.3 All costs and expenses reasonably incurred by Grantor to cure a default by Grantee hereunder, together with interest thereon at the maximum rate allowed by applicable usury law, and all costs and expenses of any proceedings at law or in equity, including without limitation reasonable attorneys' and expert witness fees, expended in preparation and during any trial, any appeals process, or any bankruptcy proceeding, all of which shall be assessed against and paid by Grantee; or
- 9.4 An action against the Grantee or the Grantee's Property pursuant to and in front of the City of Palm Bay Code Enforcement Special Magistrate.

Notwithstanding the foregoing, Grantor may exert exclusive control of the Licensed Premises upon providing Grantee with ten (10) days prior written notice of the revocation of the License. In the event of an emergency requiring immediate revocation, however, Grantor shall have the right to revoke the License hereunder upon such advance notice as is reasonably possible under the circumstances or, if necessary, without advance notice, so long as notice is given as soon as possible thereafter.

10. **No Waiver.** No waiver by Grantor of any default by Grantee under this Agreement shall be effective or binding on Grantor unless made in writing by Grantor and no such waiver shall be implied from any omission by Grantor to take action in respect to such default. No express written waiver by Grantor of any default committed by Grantee shall affect any other default by Grantee

or cover any other period other than the default and the period specified in such express waiver. All the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

11. **Liability / Indemnification.** Grantee shall be exclusively liable for any personal injury or property damage caused by the condition or location of any and all improvements now or hereafter constructed, installed, or located in or on the Licensed Premises, and shall agree, by acceptance and use of this License, to defend and hold the City harmless therefor. Grantee shall indemnify and hold Grantor harmless from and against all claims, losses, damages, liabilities, and expenses of any kind (including without limitation reasonable attorneys' and expert witness fees and costs) relating to any and all accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional, or willful acts or omissions of Grantee, its contractors, employees, agents, invitees, guests, Permittees or others acting on behalf of, through or under Grantee. Grantee shall further indemnify and hold Grantor harmless from and against all fines, levies, claims, losses, damages, liabilities, and expenses of any kind (including without limitation all attorneys', expert witness and consulting fees and costs) which Grantor may incur, suffer, become liable for, or which may be asserted or claimed against Grantor by any person or entity as a result of the use of the Licensed Premises by Grantee, its contractors, employees, agents, invitees, guests, Permittees or others.
12. **Governing Law and Venue.** This Agreement shall be construed and enforced in all respects in accordance with the laws of the State of Florida, and the parties agree that venue for any action brought hereunder shall lie exclusively in the state and federal courts in and for Brevard County, Florida.
13. **Litigation.** In the event of litigation to enforce any part of this Agreement by either party, including without limitation the collection of any sums owed to Grantor by Grantee, the prevailing party shall be entitled to recover from the other party or parties, among other things, a reasonable attorney's fee (both at the trial and appellate levels), expert witness fees, consultant's fees and costs.
14. **Severability.** Invalidation of any one of the covenants, conditions, restrictions, easements, or other provisions herein contained by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, easements, or provisions hereof, and the remaining provisions shall remain in full force and effect.
15. **Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall constitute an original, and all of which together shall constitute one and the same instrument.
16. **Time.** To the extent that performance is governed by time, time shall be deemed to be of the essence.
17. **Assignment.** This Agreement may not be assigned, transferred, or conveyed without the prior written consent of the other party.
18. **Advice of Counsel.** Grantor and Grantee hereby acknowledge that each, if it so desired, had the ability to seek and receive the advice of counsel in connection with the meaning and import of each provision of this Agreement and each hereby enters into this Agreement with full understanding hereof.

19. **Effective Date of Agreement.** This Agreement shall take effect when executed by the appropriate corporate representative of Grantee, as well as the Mayor, City Clerk, and City Attorney for the Grantor.
20. **Recording.** This Agreement shall NOT be recorded in the office of the Clerk of the Circuit Court of Brevard County, Florida or any other jurisdiction.

Attest:

**CITY OF PALM BAY, FLORIDA**, a Florida  
municipal corporation,

\_\_\_\_\_  
Terese Jones, City Clerk

\_\_\_\_\_  
Robert Medina, Mayor

Approved as to form only:

\_\_\_\_\_  
Patricia D. Smith, City Attorney

[GRANTEE]

Witnesses:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address, City, State, Zip Code

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address, City, State, Zip Code

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of ☐ physical presence OR ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, who is ☐ personally known to me OR ☐ who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public