

GRANT OF LICENSE AND AGREEMENT FOR CONCESSIONS

THIS GRANT OF LICENSE AND AGREEMENT FOR CONCESSIONS (“License”) is made between the **CITY OF COMMERCE CITY**, a municipal corporation of the State of Colorado (the “City” or “Licensor”) and **M & M TASMANIAN DEVIL, INC.**, a Colorado corporation whose address is 4801 South Wadsworth Blvd. 6-110, Denver, Colorado 80123 (the “Licensee” or “Concessionaire”), jointly (“the Parties”).

The Parties agree as follows:

1. COORDINATION AND LIAISON: The Licensee shall fully coordinate all services under the License with Mark Fitzgerald or delegatee (the “Department Liaison”).

2. CONCESSION PREMISES: City, for and in consideration of the rents, covenants and promises herein contained to be kept, performed and observed by Licensee, grants a license to operate a concessions stand at its Pioneer Park, 5902 Holly Street, Commerce City, Colorado (the “Premises”), as depicted in Exhibit A, attached hereto and incorporated herein by this reference.

3. TERM.

a. The License will commence on April 1, 2026 and will expire on March 31, 2029 (the “Term”). The term of this License may be extended by the City under the same terms and conditions by a written amendment to this License. Subject to the City’s prior written authorization, the Licensee shall complete any work in progress as of the expiration date and the Term of the License will extend until the work is completed or earlier terminated by the Department Liaison.

b. If Concessionaire holds over after expiration of the Term of the License, Concessionaire’s occupancy thereafter shall be deemed a periodic tenancy from month-to-month at a monthly rental equal to twice 1) the amount of Compensation provided in the Concession License which is in effect as of the final month of the Term; or 2) the highest amount of Compensation paid for any equivalent month during the last year of the Term, whichever is higher. Concessionaire shall be subject to all other terms and conditions of the License. Upon 10 days written notice by the City or Concessionaire, such holding over shall be immediately terminated.

c. Nothing herein shall be construed to give Concessionaire the right to hold over, and the City may exercise any remedy at law or in equity to recover possession of the Premises, as well as any damages incurred by City on account of such holding over.

4. RENT.

a. In consideration for the use and/or occupancy of the Premises, Licensee agrees to pay City during the Initial Term, and subsequent renewal periods, subject to the provisions and conditions contained in this License, a monthly sum of THREE HUNDRED FIFTY AND 00/100 DOLLARS (\$350.00) (“Rent”). Rent payments shall be paid each month, to the City, within ten (10) days of the beginning of the month (the “Due Date”). The Rent for the initial month will be due within ten (10) days of the commencement of the Term. The monthly rent amount will increase by seven percent (7%) at the beginning of each new calendar year.

b. As part of the Rent, City will furnish the electricity and restroom paper products for the Premises. Licensee may not install or connect any portable structure to the utilities without the written permission of the Department Liaison. If Licensee violates this clause, City may bill Licensee for any increase in the cost of utilities for the Premises.

c. Licensee shall be assessed a late payment fee of twenty-five dollars 00/100 (\$25.00) for any payment that remains unpaid after the Due Date.

d. No provision of this License shall constitute or be deemed a multiple fiscal-year debt or financial obligation of the City in any manner, for any reason whatsoever.

5. USE OF THE PREMISES:

a. **City’s Right.** This License does not limit City’s right of entry onto the Premises during the course of the License.

b. **Purpose.** Licensee shall have the non-exclusive right to use the Premises only for purposes of operating and maintaining a concession sales business for the sale of foodstuffs, nonalcoholic beverages, and small items of merchandise typically associated with recreational areas (the "Concession Stand"). Concessionaire shall use the Concession Stand only for those purposes specified in this License and for no other purposes, unless authorized by the Department Liaison in writing. Concessionaire may not sell or offer goods or provide or offer services on Department of Parks and Recreation property outside of the Premises, unless otherwise so permitted in the Concession License or authorized by the Department Liaison in writing. Concessionaire shall use the Premises in a careful, safe, and proper manner and shall not use or permit the Premises to be used for any purpose prohibited by the laws of the United States of America, the State of Colorado, the Charter or ordinances of the City and County of Denver, or the written policies and rules and regulations of the Denver Department of Parks and Recreation.

c. **Hours.** Licensee's staff access to the Premises as well as public access will only be available during normal park hours as they are stated on the City's website, subject to certain exceptions as approved by the Department Liaison in writing. The Licensee will provide for the operation of the Concession Stand at all dates and times more fully described in the Operation Schedule contained herein.

d. **No Assignment.** Licensee agrees not to assign the License, any part thereof, or any right or privilege connected therewith, or to allow any other person, except Licensee's agents, employees, affiliated entities, or business invitees to occupy the Premises, or any part thereof, without first obtaining the City's written consent. Licensee's interest in this License is not assignable by operation of law, nor is any assignment of its interest herein, without City's written consent. The Parties agree that any assignment shall be memorialized in an amendment to this License and will not become effective unless formally approved and executed by both Parties.

e. **City Property.** Licensee is NOT authorized to move any City owned items from other City property onto the Premises for Licensee's use.

f. **Standard.** Licensee will operate the Concession Stand in a professional manner. Licensee will furnish all labor, materials, tools, supplies, machinery, utilities, and other equipment that may be necessary for the satisfactory operation of the Concession Stand. Licensee will monitor, supervise, and otherwise control and be solely responsible for all persons or entities performing work on its behalf

6. OPERATION AND MAINTENANCE:

a. **Basic Service.** The Concessionaire shall have the right to engage in the sale of food and beverages, within the Premises as depicted in Exhibit A. The Concessionaire shall provide good quality, fresh foods and good customer service. Menu items and prices are subject to pre-approval by the City Liaison. At a minimum, food and beverage services shall be available during Concession Stand Hours as defined in Section 5(c).

b. **Repairs.** Licensee shall promptly furnish, at its sole cost and expense, such repairs as are necessary to keep the Premises in a safe, clean, neat, and attractive condition at all times. Licensee will be responsible for any bids or contracts for outside labor on the Premises and will be responsible for coordinating any materials used for the work.

c. **General Interior Cleaning.** Structures at the Premises, including common areas, shall be maintained in good condition. All floors and floor coverings shall be vacuumed,

swept, or mopped, and carpets cleaned, as appropriate, on a regular basis and when needed, and interior walls and interior wall coverings shall be cleaned on a regular basis and when needed. All floors and interior wall surfaces that are exposed to water or regular washing shall be sealed, and the seal maintained, so as to prevent any structural damage to the facilities. Furnishings and equipment shall be dusted or cleaned on a regular basis and when needed. All doors, windows, and window glass shall be cleaned on a regular basis and when needed. The Concessionaire shall arrange and pay for deep cleanings of the kitchen at least twice per year, these may be conducted in-house or by a third-party service and are subject to inspection and approval by the Department Liaison. Evidence of cleanings shall be provided to the Department Liaison within one (1) week of completion. If the Department Liaison deems that in-house services are not satisfactory, based upon mutually agreed up criteria, they can require that the Concessionaire hires a third-party service. Criteria will be developed by Concessionaire and Department Liaison and reviewed and updated as needed. All trash will be properly disposed of nightly and placed in the dumpster on site at the Premises. Deliveries must be received and stored immediately by the Licensee.

d. **Pest Control.** The City will contract for pest control at their sole expense. The Concessionaire agrees to allow access to City's employees or subcontractors tasked with any operations necessary for the control of pests. Concessionaire will notify City of any pests detected on the Premises.

e. **Health.** Licensee will operate and maintain the Concession Stand in a manner and condition that will meet the requirements of the Tri-County Health Department and authorities of any government agency having jurisdiction over the Concession Stand.

f. **Maintenance.** Licensee is responsible for operation and maintenance of all equipment necessary for operation, including equipment loaned to Licensee by City for the duration of the operation as set forth in Exhibit B, List of Equipment Owned by the City (the "City Equipment"). The City Equipment will be in good working order at the time this License commences. Any replacement or repair required of any equipment shall be at the sole cost and expense of Licensee. Procurement of any other equipment shall be Licensee's responsibility and at Licensee's sole cost and expense. All equipment, must be maintained and repaired as needed to ensure proper function and appearance including but not limited to, appliances, hardware, and plumbing fixtures. Electrical fixtures, light bulbs (including replacement of light bulbs), and other electrical appliances shall be maintained in an operating and safe condition. Concessionaire shall

arrange and pay for quarterly professional cleanings of the grease trap and twice per year cleanings of the Vent-A-Hood (spring and fall), and provide evidence of cleaning to the Department Liaison within one (1) week of completion. Adjustments can be made to this schedule based on seasonal operating hours with prior written approval by the Department Liaison. The City will perform fire extinguisher annual maintenance and inspections and Concessionaire is responsible for annual maintenance and inspection of the cookline suppression system (if applicable).

g. **Smallwares.** The Concessionaire shall supply, and shall be responsible for repairing and replacing when necessary, all smallwares including but not limited to, plates, glasses, silverware, serving dishes, pots, pans, knives, measuring cups, cooking sheets, blenders, microwaves, small toaster ovens, toasters and any other similar items necessary for the operation of a good quality food and beverage service at the Concessionaire's expense. Upon expiration or termination of this Concession License, all smallwares will remain the property of the Concessionaire.

h. **Prices.** Concessionaire agrees to provide for the public at the Concession Stand food, beverage, goods and other services equivalent in quality and price to that generally furnished to the public at similar places of comparable size and scope in the Denver metropolitan area. All menus and prices shall be subject to the reasonable approval of the Department Liaison unless the Department Liaison waives, in whole or part, this right of approval. Prices of all merchandise sold shall be posted in a conspicuous place at the Concession Stand, including making available menus.

i. **Vehicles.** Vehicles and trailers serving the Concession Stand shall be parked, other than during short-term delivery of goods and materials, in a lawful manner and so as not to impede access or use of the park by patrons. All storage of items shall be provided by the Concessionaire either within provided storage areas at the Premises or off-site in a lawful manner. Items not needed for the performance of the Concession Stand shall not be kept or stored on the Premises or on adjoining City-owned property.

j. **Destruction of Premises.** If the Premises should be totally destroyed by fire, tornado, or other casualty, or if it should be so damaged that rebuilding or repairs cannot reasonably be completed within ninety (90) days from the date of the occurrence of the damage, this License shall terminate and rent shall be abated for the unexpired portion of this License, effective as of the date of said occurrence. Licensee warrants and represents that it has the requisite

authority, capacity, experience and expertise to operate the Concession Stand in compliance with the provisions of this License and all applicable laws. Licensee acknowledges that the City is relying on Licensee's expertise, skill, and knowledge, and that the Licensee's obligations and liabilities will not be diminished by reason of any approval or review by the City.

k. **Employees.** Concessionaire shall be responsible for conducting background checks on all employees and other persons that Concessionaire assigns to, or allows to work at, a Concession Stand. Concessionaire shall not assign or allow any person to work at a Concession Stand if that person has been convicted or released from confinement following conviction within the preceding five years, anywhere in the United States, for one or more of the following:

1. Sexually-related crimes: prostitution, pandering, procuring, and pimping; sexual assault; incest; indecent exposure or public indecency; stalking; harassment; obscenity or the promotion, sale, distribution, or possession of obscene materials; any of the foregoing related to a child or children, including trafficking in child pornography, sexual exploitation of a child, or providing sexually explicit material to a child; and any criminal attempts, solicitations, or conspiracies, including racketeering, involving any of the foregoing.

2. Any criminal act or violation of local government ordinance or regulation, which criminal act or violation was punished, following conviction, by incarceration and was directly related to the operation, or committed upon the premises, of a concession licensed by the City or any similar business operated elsewhere in the United States.

3. If such a criminal or ordinance violation conviction or judgment exists and Concessionaire believes there are extenuating circumstances that should be considered, Concessionaire may request, in writing, that the Department Liaison waive the restrictions of this License.

7. **INSEPTION.** Just prior to or shortly after commencement of the Concession License, Concessionaire agrees to mutually inspect Concession Site with City to document the existing condition of said property. Concessionaire agrees to accept the condition of the property "as is," "where is" without any improvements or alterations, unless otherwise provided in the Concession License. Concessionaire agrees to make no demands upon the City for any improvements or alterations thereto other than those agreed to in writing.

8. ADVERTISING

a. Advertising signs on Premises are prohibited; provided, however, that this prohibition shall not apply to advertising of products sold on Premises or to advertising by sponsors of an authorized event held on or in City-owned facilities. "Advertising" includes the display of commercial and noncommercial promotion of products for sale through any medium whatsoever.

b. All signage (other than directional or labeling signs that are small, discrete, and not lighted) which is visible to, and intended for viewing by, persons located off-site from the Premises shall be subject to prior approval by the Department Liaison. Such signage shall conform to any standards established by the Department Liaison and to all zoning and other code requirements for signs. Any sign promoting the Concession Stand shall recognize, in a manner acceptable to the Department Liaison.

9. CITY'S RIGHTS

a. **Right to enter.** City maintains the full right to enter into and upon the Premises, or any part thereof, at all reasonable hours, to examine the Premises or to make repairs, or to make such other alterations or additions, as it may deem necessary. Licensee shall not be entitled to any abatement or reduction of the rent by reason thereof, so long as Licensee is not dispossessed of the Premises and City's alterations or additions do not materially impact Licensee's use of the Premises.

b. **Improvements and Fixtures.** Concessionaire acknowledges and agrees the City shall have or shall be given unencumbered title to all improvements and fixtures, other than any items expressly excluded in this License. Upon written request by the City and for no additional consideration, Concessionaire shall execute and deliver any instruments necessary and appropriate to convey all title and interest, completely unencumbered, to any improvements or fixtures Concessionaire constructs or installs or has constructed or installed on or in the Premises. Concessionaire shall be entitled to use such improvements and fixtures upon completion of their construction or installation in accordance with the provisions of the Concession License.

c. **Emergency Access.** Concessionaire shall not do or permit to be done anything which might interfere with free access and passage in, to, or by the Concession Stand or public-accessible areas adjacent thereto, or hinder police, firefighting, or other emergency personnel, or the Department of Parks and Recreation staff, in the discharge of their duties.

d. **Lock.** Concessionaire shall not place any additional lock of any kind, whether standard lock, combination lock, or electronic lock, upon any window or interior or exterior door on or in the Premises, or make any change in any existing door or window lock or the mechanism thereof, unless a key, combination, or any codes, therefore are maintained on the Premises and copies of all keys, combinations, and codes are provided to the Department Liaison, nor refuse, upon the expiration, revocation, or termination of the License, to surrender to the City any and all keys, combinations, and codes to windows and doors in and on the Concession Site, whether said keys, combinations, and codes were furnished to or otherwise procured by Concessionaire. If any keys, combinations, or codes furnished to Concessionaire by the City are lost, Concessionaire shall pay the City, on demand, the cost of replacement thereof.

10. IMPROVEMENTS.

a. Licensee will not make any alterations, additions, or improvements to the Premises without the prior written consent of the Department Liaison, which consent shall not be unreasonably withheld by City for nonstructural changes. All alterations, additions, or improvements made by Licensee will become the property of the City at the termination of this License.

b. Licensee shall be responsible for the cost of any alterations, additions, or improvements. Should Licensee make any alterations, additions, or improvements without the prior written approval of the Department Liaison, Licensee will bear the cost of returning the Premises to the condition in which it existed prior to the alteration, addition, or improvement.

11. WASTE AND NUISANCE: Licensee shall, throughout the License term, keep the Premises free from waste and nuisance, and shall deliver up the Premises in good repair and sound condition at the termination of this License, ordinary wear and tear and damage by fire, tornado, or other casualty excepted. In the event Licensee should breach this covenant, City shall have the right, but not the obligation, to cause repairs or corrections to be made, and any reasonable costs attributable to the repairs or corrections will be payable by Licensee to City.

12. REPORTING: The Licensee will submit a year-end financial statement to the City with the final payment of the calendar year. All payments and statements required under this License shall be dropped off in-person or mailed to the City's Finance Department via a check or money order to: 7887 E. 60th Avenue, Commerce City, CO 80022. Any authorized agent of the

City, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of the Concessionaire.

13. RECYCLING. Licensee will use reasonable efforts to recycle materials such as plastic bottles and aluminum cans during its use of the Premises for the Concession Stand and agrees to comply with any recycling programs established by City and implemented during the term of this License

14. STATUS OF LICENSEE: Neither the Licensee nor any of its employees are employees or directors of the City.

15. TERMINATION:

a. The City has the right to terminate the License with cause upon written notice effective immediately, and without cause upon thirty (30) days prior written notice to the Licensee. However, nothing gives the Licensee the right to perform services under the License beyond the time when its services become unsatisfactory to the City.

b. The Concessionaire has the right to terminate the License without cause upon sixty (60) days written notice to the City.

c. Notwithstanding the preceding paragraph, the City may terminate the License if the Licensee or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Licensee's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

d. Upon termination of the License, with or without cause, the Licensee shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in the License.

e. If the License is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in the Licensee's possession, custody, or control by whatever method the City deems expedient.

16. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any

breach of covenant or default that may then exist on the part of the Licensee. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent expressed or implied, to any breach of any term of the License constitutes a waiver of any other breach.

17. INSURANCE

a. Required Policies. Licensee will procure and keep in force the following insurance subject to the conditions below, for the duration of this License:

1. Commercial General Liability Insurance. Comprehensive general liability insurance insuring against any liability for personal injury, bodily injury or death arising out of the performance of the Services with minimum combined single limits of One Million Dollars (**\$1,000,000.00**) for each occurrence and **Two Million Dollars (\$2,000,000.00)** general aggregate.

2. Comprehensive Automobile Liability Insurance. Automobile Liability coverage with minimum combined single limits for bodily injury and property damage of not less than **One Million Dollars (\$1,000,000.00)** for any one occurrence with respect to each of Licensee's owned, hired or non-owned vehicles assigned to or used in connection with performance of the Services. If Licensee's insurance does not cover non-owned or hired vehicles, the requirements of this paragraph shall be met with respect to each such vehicle used in connection with performance of the Service, and Licensee agrees to ensure compliance prior to allowing use of a vehicle not owned by Licensee for such purpose.

3. Professional Liability Insurance. If Licensee is an architect, engineer, surveyor, appraiser, physician, attorney, accountant or other licensed professional, or if it is customary in the trade or business in which Licensee is engaged, or if the City otherwise deems it necessary, errors and omissions professional liability insurance insuring Licensee against any professional liability with a limit of at least **One Million Dollars (\$1,000,000.00)** per claim and annual aggregate.

4. Other Insurance. Workers' compensation insurance (unless Licensee provides a completed Declaration of Independent Contractor Status Form) and other insurance required by applicable law.

5. Excess or Umbrella Requirements. For the coverages required in Section, Licensee shall provide umbrella or excess coverage written on a "follow-form" basis to the underlying

policy and in a coverage amount not less than **One Million Dollars (\$1,000,000.00)**. In so doing, the coverage shall provide complete protection to the City consistent with the liability limits that may be imposed upon the City pursuant to C.R.S. § 24-10-114, as may be amended. The limits of any insurance required by this License will not limit Licensee's liability.

b. Terms of Insurance.

1. Additional Insured. Except for the professional liability policy, if applicable, and workers' compensation policy, **all required insurance policies shall name the City as an additional insured** and will provide that the City, although named as an additional insured, will nevertheless be entitled to recovery under said policies for any loss occasioned to the City or its officers, employees or agents by reason of the negligence of Licensee or its officers, employees, agents, subcontractors or business invitees. The insurance policies will be for the mutual and joint benefit and protection of Licensee and the City. **Such policies will be written as primary policies not contributing to and not in excess of coverages the City may carry.**

2. Qualification; Deductible. Insurance required by this Section will be with companies qualified to do business in the State of Colorado and may provide deductible amounts as Licensee deems reasonable for the Services, but in no event greater than **Ten Thousand Dollars (\$10,000.00)**, and Licensee will be responsible for the payment of any such deductible.

3. Cancellation. No such policies will be cancelable or subject to reduction in coverage limits or other modification unless previously approved by the City in writing.

4. Coverage Type. Licensee will identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal Licensee changes to "occurrence," Licensee will carry a twelve (12) month tail. Licensee will not do or permit to be done anything that will invalidate the policies.

5. Evidence of Coverage. Before commencing work under this License, Licensee will provide certificates of insurance policies and all necessary endorsements evidencing insurance coverage required by this License. The City will not be obligated under this License until Licensee provides acceptable certificates of insurance and endorsements. If the Term extends beyond the period of coverage for any required insurance, Licensee will, at least ten (10) days before the expiration of any such insurance coverage, provide the City with new certificates of insurance and endorsements evidencing either new or continuing coverage.

c. Subcontracts. Licensee will include the insurance requirements of this License in all subcontracts. Licensee will be responsible if any subcontractor fails to procure and maintain insurance meeting the requirements of this License.

18. DEFENSE AND INDEMNIFICATION:

a. Licensee will be liable and responsible for any and all damages to persons or property caused by or arising out of the negligent or willful actions or omissions in the performance of the Services by Licensee, its employees, agents, or other persons acting under the Licensee's direction or control. Licensee will indemnify and hold harmless the City, as well as its elected and appointed officials current and former officers and employees, servants, volunteers, agents, attorneys, representatives, insurance carriers, and self-insurance pools ("Indemnified Parties"), from any and all liability claims, demands, actions, damages, losses judgments, costs or expenses, including, but not limited to, attorney fees, which may be made or brought or which may result against any of the Indemnified Parties as a result of or on account of the negligent, grossly negligent, willful and wanton, or intentional actions or omissions of or failure to observe any applicable standard of care by Licensee and/or its employees, agents, or representatives or other persons acting under Licensee's direction or control. Licensee will include the provisions of this Section in any such subcontracts engaged to perform any part of the Services. The provisions set forth in this Section will survive the completion of the Services and the satisfaction, expiration or termination of this License.

b. Insurance coverage requirements specified in this License shall in no way lessen or limit the liability of the Licensee under the terms of this indemnification obligation. The Licensee shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

19. TAXES, CHARGES AND PENALTIES: The Licensee shall promptly pay when due, all taxes, bills, debts and obligations it incurs operating the Concession Stand under the License and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

20. ASSIGNMENT; SUBCONTRACTING: The Licensee shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this License without obtaining the City's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void and will be cause for termination of this License

by the City. The City has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the License because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Licensee shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any sub-contractor, subcontractor or assign.

21. INUREMENT: The rights and obligations of the Parties to the License inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the License.

22. NO THIRD-PARTY BENEFICIARY: Enforcement of the terms of the License and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in the License gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Licensee receiving services or benefits pursuant to the License is an incidental beneficiary only.

23. NO AUTHORITY TO BIND CITY TO CONTRACTS: The Licensee lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Commerce City Revised Municipal Code.

24. SEVERABILITY: Except for the provisions of the License requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the License or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.

25. CONFLICT OF INTEREST:

a. No employee of the City shall have any personal or beneficial interest in the services or property described in the License. The Licensee shall not hire, or contract for services with, any employee or officer of the City that would be in violation of any City laws, rules or policies.

b. The Licensee shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the License. The Licensee represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Licensee

by placing the Licensee's own interests, or the interests of any party with whom the Licensee has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the License if it determines a conflict exists, after it has given the Licensee written notice describing the conflict.

26. NOTICES: All notices required by the terms of the License must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Licensee at the address first above written, and if to the City at:

Mark Fitzgerald
City of Commerce City
7887 East 60th Avenue
Commerce City, CO 80022

With a copy of any such notice to:

City Attorney
City of Commerce City
7887 East 60th Avenue
Commerce City, CO 80022

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

27. GOVERNING LAW; VENUE: The License will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances and regulations of the City of Commerce City, which are expressly incorporated into the License. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the License will be Adams County, Colorado.

28. COMPLIANCE WITH ALL LAWS: Licensee shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules and regulations of the City of Commerce City.

29. LEGAL AUTHORITY: Licensee represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into the License. Each person signing and executing the License on behalf of Licensee represents and warrants that they have been fully authorized by Licensee to execute the License on behalf of Licensee and to validly and legally bind Licensee to all the terms, performances and provisions of the License. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the License if there is a dispute as to the legal authority of either Licensee or the person signing the License to enter into the License.

30. NO CONSTRUCTION AGAINST DRAFTING PARTY: The Parties and their respective counsel have had the opportunity to review the License, and the License will not be construed against any party merely because any provisions of the License were prepared by a particular party.

31. ORDER OF PRECEDENCE: In the event of any conflicts between the language of the License and the exhibits, the language of the License controls.

32. SURVIVAL OF CERTAIN PROVISIONS: The terms of the License and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the License survive the License and will continue to be enforceable. Without limiting the generality of this provision, the Licensee's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

33. ADVERTISING AND PUBLIC DISCLOSURE: The Licensee shall not include any reference to the License or to services performed pursuant to the License in any of the Licensee's advertising or public relations materials without first obtaining the written approval of the City. Any oral presentation or written materials related to services performed under the License will be limited to services that have been accepted by the City. The Licensee shall notify the City in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

34. CONFIDENTIAL INFORMATION: Licensee acknowledges and accepts that, in performance of all work under the terms of this License, Licensee may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that

the disclosure of such Proprietary Data or information may be damaging to the City or third parties. Licensee agrees that all Proprietary Data, confidential information or any other data or information provided or otherwise disclosed by the City to Licensee shall be held in confidence and used only in the performance of its obligations under this License. Licensee shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent person would to protect its own proprietary or confidential data. "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential", or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance and provided or made available to Licensee by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

35. CITY EXECUTION OF LICENSE: The License will not be effective or binding on the City until it has been fully executed by all required signatories of the City of Commerce City, and if required by Charter, approved by the City Council.

36. LICENSE AS COMPLETE INTEGRATION-AMENDMENTS: The License is the complete integration of all understandings between the Parties as to the subject matter of the License. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the License in writing. No oral representation by any officer or employee of the City at variance with the terms of the License or any written amendment to the License will have any force or effect or bind the City.

37. PROTECTIONS FOR DATA PRIVACY: Licensee shall implement and maintain reasonable security procedures and practices compliant with C.R.S. § 6-1-713.5(2)(a-b) and C.R.S. § 24-73-102(2)(a-b) with respect to any personal identifying information, as defined in C.R.S. § 6-1-713.5(2)(b) and C.R.S. § 24-73-101(4)(b), disclosed to Licensee in the course of performing the Services. Licensee will notify the City within twenty-four (24) hours of Licensee's determination that a security breach has occurred, as defined in C.R.S. § 6-1-716(1)(c) and C.R.S. § 24-73-103(1)(b), with regard to any personal information, as defined in in C.R.S. § 6-1-716(1)(g) and C.R.S. § 24-73-103(1)(g),disclosed to Licensee in the course of performing the Services, and will conduct such investigation and provide such notice as required by law in the event of such breach.

38. ACCESSIBILITY.

a. Licensee will comply with and the Services provided under this License will be in compliance with all applicable provisions of §§ 24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability (“Accessibility Standards”), as established by the State of Colorado Office of Information and Technology (“OIT”) pursuant to § 24-85-103(2.5) C.R.S. Licensee will also comply with all State of Colorado technology standards related to technology accessibility with Level AA of the most current version of the Web Content Accessibility Guidelines (“WCAG”), incorporated in the State of Colorado technology standards.

b. The City may require the Licensee’s compliance with the State of Colorado’s Accessibility Standards to be determined by a third-party selected by the City to attest to the Licensee’s Services complying with §§ 24-85-101, et seq., C.R.S., and the Accessibility Standards established by OIT.

c. The Licensee will indemnify and hold harmless the City, its elected officials, officers, employees, and agents (“Indemnified Parties”) against all costs, expenses, claims, damages, liabilities, court awards, and other amounts (including reasonable attorney’s fees and related costs) incurred by any of the Indemnified Parties in relation to the Licensee’s failure to comply with §§ 24-85-101, et seq. C.R.S. or the Accessibility Standards established by OIT.

39. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Licensee consents to the use of electronic signatures by the City. The License, and any other documents requiring a signature under the License, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the License solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the License in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

Exhibit List

Exhibit A Site Plan

Exhibit B List of Equipment Owned by City

Exhibit C Scope of Work

IN WITNESS WHEREOF, the parties have executed this License as of _____, 2026.

CITY OF COMMERCE CITY

Steve J. Douglas, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephen Ruger, City Clerk

Genevieve “Jean” Gill, Assistant City Attorney

M & M TASMANIAN DEVIL, INC.

Dennis DeShaney, Manager