

## REVOCABLE LICENSE AGREEMENT FOR USE OF CITY PROPERTY

This License Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_ 2024, by and between the City of Key West, Florida, a municipal corporation, whose mailing address is P.O. Box 1409, Key West, Florida, 33041 (hereinafter "Licensor") and Jill Snodgrass, dba DAILY PLAN-IT, individually whose mailing address is 1200 4<sup>th</sup> Street #828, Key West, FL 33040 (hereinafter "Licensee").

WITNESSETH:

WHEREAS, Licensee desires to do business as the Truman Waterfront Farmers Market; and

WHEREAS, Licensor owns the property upon which the proposed Market is to be operated; and

WHEREAS, pursuant to section 2-939 of the Key West Code of Ordinances, Licensor may grant Licensee a revocable license to use Licensor's property.

WHEREAS, the City is in the process of developing policy for commercial or private use of public property this revocable license agreement may be subject to amendment to comply with policy enacted by the City Commission,

NOW, THEREFORE, the parties agree as follows:

1. For the period beginning on the First Day of August, 2024, and ending on the last day of July 2028, the Licensor hereby grants to the Licensee a revocable and non-assignable license to enter in, on, over, and across the land described on Exhibit A, which is attached hereto and incorporated by reference, for use by the Licensee, its representatives, agents, contractors and assigns for the purpose of operating the Truman Waterfront Farmers Market, once per week on Thursday's as depicted on Exhibit "A", which is attached hereto and incorporated by reference; subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the Licensor, its successors and assigns, all such right, title, interest and privilege as may be used and enjoyed without interfering with or abridging the rights and right-of-entry hereby acquired. Provided however, Licensee shall agree to the following:
  - Licensee shall use the area for the operation of an outdoor farmers market including produce, cheese, plants, meats, bakery items, food to go and some merchandise, beer and wine through a properly insured and licensed vendor and no other purpose.
  - Acoustic musicians without amplification, stage or seating may be allowed to perform and accept tips.
  - Vendors will set up tents at the front of their vehicles to facilitate loading in and out and operating from each space.
  - No drilling or staking in any park area.
  - The Licensee will meet all applicable fire and health codes for any on-site cooking or food preparation.
  - Licensee agrees that no single use polystyrene products of any kind will be allowed.
  - Licensee shall clean the area and remove the trash and re-cycling after each event.
  - Licensor has no obligation to provide power or water the Licensees use.
  - Licensee will have the option of operating between the hours of 9am and 3pm or from 3pm until 30 minutes after sunset or as approved by City Manager.
  - Operating hours shall be proposed and established at the outset of this agreement.
  - In the event a Farmers Market Thursday falls on Thanksgiving, Christmas or New Year's Eve, the Market can move operations to the day before or the day after, subject to City Manager Approval.

2. In consideration for the grant of license in paragraph 1 herein above, Licensee herein expressly agrees to be solely responsible for all costs of any nature whatsoever associated with the occupancy and operation of the Farmers Market as herein described.

3. If any action of the Licensee's employees or agents in the exercise of this License results in damage to the property, including but not limited to the turf, irrigation, utilities, or improvements the Licensee will immediately repair such damage in a manner acceptable to the Licensor. In no event shall such repair or settlement exceed the fair market value of the fee title to the real property at the time immediately preceding such damage.

4. This License is personal to Licensee and may not be assigned or transferred. The use of a single property insured and licensed vendor for the sale of beer and wine is not an assignment or transfer for these purposes. Licensor shall have the right to terminate this License with or without cause upon seven (7) days written notice to Licensee at the following address:

Jill Snodgrass dba Daily Plan-It  
1200 4<sup>th</sup> Street #828  
Key West, FL 33040

5. To the fullest extent permitted by law, Licensee expressly agrees to indemnify and hold harmless the City of Key West and their respective officers, directors, agents, and employees (herein called the "indemnitees") from any and all liability for damages, including, if allowed by law, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property caused in whole or in part by any act, omission, or default by Licensee or its subcontractors, vendors, material men, or agents of any tier or their employees, arising out of this Agreement or its performance, including any such damages caused in whole or in part by any act, omission, or default of any indemnitee, but specifically excluding any claims of, or damages against an indemnitee resulting from such indemnitee's gross negligence, or the willful, wanton or intentional misconduct of such indemnitee or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of Licensee or its subcontractors, vendors, material men, or agents of any tier or their respective employees. The provisions of this indemnification provision shall survive the expiration or earlier termination of this License Agreement. Nothing herein is intended to waive the immunity afforded to City pursuant to Florida Law, including section 768.28, Florida Statutes.

6. Licensee shall keep in full force and effect at all times during the effective period of this Agreement, and at their own cost and expense the following insurance in insurance companies authorized in the State of Florida, with an A.M. Best rating of A-:VI or higher and shall provide evidence of such insurance to the City. The policies or certificates must be endorsed to provide thirty (30) days prior to cancellation notices of same shall be given to the City by U.S. Mail for all of the required insurance policies stated below. The City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees are to be named as "additional insureds" under all policies herein on a primary and non-contributory basis as respects liability arising out of activities performed by or on behalf of Licensee operating under this License Agreement.

**Licensee shall maintain limits no less than those stated below:**

**Commercial General Liability** - with a minimum amount of One Million (\$1,000,000.00) Dollars per occurrence, Two Million (\$2,000,000.00) Dollars per Aggregate.

**Worker's Compensation** - Statutory, in compliance with the Compensation law of the State of Florida. The coverage must include Employer's Liability with a limit of One Million (\$1,000,000.00) Dollars each accident.

**Business Automobile Liability** Insurance with a minimum limit of liability per occurrence of One Million (\$1,000,000.00) Dollars Combined Single Limit. The City of Key West must be named as an Additional Insured. This insurance shall include for bodily injury and property damage the following coverage:

- Owned automobiles
- Hired automobiles
- Non-owned automobiles

**Excess/Umbrella Liability** shall have a minimum limit of One Million (\$1,000,000.00) per occurrence with an annual aggregate of One Million (\$1,000,000.00.) This coverage is to be following form and include the Commercial General Liability and Automobile Liability Policies.

#### **Scope of Insurance and Special Hazards**

The insurance required under Paragraphs 6 hereof is a minimum to provide adequate protection for Licensee, respectively, against damage claims which may arise from operations under this Agreement, whether such operation be by the insured or by anyone directly or indirectly employed by the insured and, also against any of the special hazards which may be encountered in the entities' operation under this Agreement. The insurance required herein and approval of Licensee's insurance by the Licensor shall not relieve or decrease the liability of Licensee hereunder.

#### **Waiver of Subrogation**

The insurance policies required under Paragraph 6 hereof shall contain "waivers of subrogation" endorsements whereas Licensee's insurer waives any claim against the City of Key West.

#### **Certificates of Insurance**

Certificates of Insurance shall be filed and maintained throughout the life of this Agreement with the City Clerk evidencing the minimum limits of insurance cited above. All policies shall be endorsed that they may not be terminated or modified without insurer providing the City of Key West at least thirty (30) days advance notice. Additionally, Licensee shall immediately notify the City of any cancellation of such insurance.

7. Licensor does not warrant or represent that the property is safe or suitable for the purpose for which Licensee is permitted to use it, and Licensee assumes all risks in its use.

8. Licensee shall pay Licensor \$311 per week, payable in advance on the first of every month hereafter. Should Licensee desires to add additional vendors, and if it is approved by the City, the fee will be increased by \$15.53 per week for each additional vendor over 20 which is the preapproved maximum. The maximum amount of vendors may be set at by the City Manager at City Manager's discretion and with written notice to the Licensee. The rates set forth in this paragraph shall be adjusted annually on the anniversary date of the license agreement by the annual increase in the CPI, as calculated in accordance with this provision. For the purposes herein, "CPI" means the CONSUMER PRICE INDEX for all Urban Consumers (CPI-U), (All Items, U.S. City Average 1982-84 equals 100), published by the Bureau of Labor Statistics, United States Department of Labor.

9. The Licensor shall have the right to institute blackout dates as may be required with a minimum of two weeks prior written notice to the Licensee and Licensee will receive a pro-rated abatement of the monthly fee for the blackout period.

10. During the term of this Agreement, Licensee shall be permitted to place signage recognizing the activities of Licensee as permitted herein. All aspects of the signage, including the number, size, placement, duration of placement and design shall be subject to the approval of Licensor, in its sole discretion and must be removed at the end of each event.

Signed, sealed and delivered in the presence of:

*IN WITNESS WHEREOF, the parties have executed this License Agreement on the date above written.*

ATTEST:

LICENSOR:  
CITY OF KEY WEST, FLORIDA

\_\_\_\_\_  
Keri O'Brien, City Clerk

By: \_\_\_\_\_  
Todd Stoughton, City Manager

LICENSEE:

WITNESS

By: \_\_\_\_\_

\_\_\_\_\_, Managing Member

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

EXHIBIT A  
KW FARMERS MARKET  
YELLOW HIGHLIGHT AREA

