

COUNTY or CITY shall provide written notice thereof to LICENSEE and LICENSEE shall cure such violation within the time provided in such Notice, which such time for cure shall be reasonable in light of all the circumstances. LICENSEE shall be obligated to serve upon the CITY any notices of breach of default served upon LICENSEE by COUNTY.

17.1.1 In the event the Contract Administrator finds that the LICENSEE has failed to timely cure such violation, the Contract Administrator shall provide written Notice thereof to LICENSEE and impose or assess a fine equal to the damages suffered by the CITY.

17.1.2 LICENSEE shall provide written Notice to CITY when the violation has been cured. In the event the Contract Administrator finds the violation was not cured on the date alleged by LICENSEE, Contract Administrator shall provide LICENSEE with written Notice thereof. Contract Administrator shall provide written Notice to LICENSEE when Contract Administrator finds that the violation has been cured.

17.1.3 In the event LICENSEE disagrees with either the COUNTY's or the Contract Administrator's (a) finding that a violation exists or continues to exist, or (b) imposition or assessment of a per diem fine, or (c) determination of the date of compliance or noncompliance, LICENSEE shall file a written Notice of Appeal to the COUNTY or the CITY Manager within five (5) days of receiving notice of (a), (b) or (c) above.

17.1.4 Within ten (10) days of receiving a Notice of Appeal under Section 17.1.3, the CITY Manager shall hear presentations thereon and render a written Final Order thereon, serving a copy thereof upon LICENSEE. In deciding an Appeal filed under Section 17.1.3, the CITY Manager may affirm, reverse or modify, in whole or in part, the findings of the Contract Administrator. The CITY Manager may equitably adjust downward any fines in the interests of justice.

17.1.5 In the event LICENSEE contests the Final Order of the CITY Manager under Section 17.1.4 above, LICENSEE may file a Notice of Appeal with the CITY Clerk including all written arguments in support of contesting the Final Order. The CITY Commission shall review the Notice of Appeal and the written arguments in support of contesting the Final Order as soon as a hearing thereon may be reasonably scheduled. At the hearing on the Appeal, the CITY Commission shall hear presentations by the LICENSEE and CITY Manager and shall render an Order ("Order on Appeal") thereon affirming, reversing or modifying the Final Order in whole or in part.

17.1.6 Any fines resulting from the process set forth in Sections 17.1.1 through 17.1.5 shall be paid to CITY within sixty (60) days from the final adjudication resulting from that process.

17.1.7 [This section is intentionally deleted.]

**17.1.8** [This section is intentionally deleted.]

**17.1.9** [This section is intentionally deleted.]

**17.2** In the event LICENSEE fails to timely cure the violation within the time specified in Section 17.1, CITY, as an alternative to the procedures set forth in Sections 17.1.1 through 17.1.9, may

**17.2.1** take any equitable action to enforce the terms and conditions of the RLA or this Agreement, it being stipulated by the parties that since this RLA deals with the right to use public easements and rights-of-way of COUNTY or CITY owned or dedicated lands used for a governmental purpose, a violation or breach of any term or condition of the RLA constitutes an irreparable injury to the public and CITY for which there is no adequate remedy at law; or

**17.2.3** take such curative action that was required to be taken by LICENSEE under the RLA and the cost and expense incurred in CITY's curative actions shall be passed on to and owed by LICENSEE, in which case LICENSEE shall be liable for payment to CITY for all reasonable and necessary costs and expenses incurred by CITY in connection with the performance of the action or actions. LICENSEE shall reimburse CITY within sixty (60) days following written demand for payment thereof. Interest shall accrue on the unpaid amount at the rate of twelve percent (12%) per annum simple interest but in no event shall interest exceed the highest amount allowed by Florida law. The demand shall include reasonable documentation supporting the expenses incurred by CITY. If a dispute arises as to the need for, or amount due to CITY for repairs or maintenance undertaken by CITY in accordance with this License, and such dispute is not resolved within forty-five (45) days after the date that CITY makes the original written demand for payment, LICENSEE shall pay to CITY the undisputed amount and shall provide CITY with a bond or other security acceptable to CITY for the disputed amount pending a resolution of the dispute by negotiation or litigation.

**17.3** If LICENSEE does not make the payments required under this Section within the thirty (30) day period set forth herein, then CITY shall have a right to record a Claim of Lien against the Property, which Lien may be either (a) for the total amount of the fines resulting from the procedures set forth in Sections 17.1 and 17.2, including all subsections thereunder, or (b) for all reasonable and necessary costs and expenses of any cure undertaken by CITY in accordance with this Section, the cost of any interim insurance policy as provided herein, and reasonable attorneys' fees and costs associated therewith. The Lien shall be effective upon the recording of a the Claim of Lien in the Public Records of Broward County, Florida, which Claim of Lien shall state all amounts due and owing to CITY. The Lien may be foreclosed by CITY in the same manner as provided by law for foreclosure of mortgage liens. The Lien shall continue until payment to CITY of the amounts set forth in the Lien (at which time CITY shall record a

satisfaction of such lien). In addition to the Lien, CITY shall have all other rights and remedies granted to it at law or in equity for LICENSEE'S failure to pay the fines owed or reimburse CITY for curative actions taken by CITY. LICENSEE shall be entitled to pursue all legal and equitable remedies to contest the amount or existence of any such lien.

17.4 CITY shall have all other rights and remedies granted to it at law or in equity for LICENSEE's failure to pay the fines owed or reimburse CITY for curative actions taken by CITY. LICENSEE shall be entitled to pursue all legal and equitable remedies to contest the amount or existence of any such lien. The remedies found within this Section 17, including all subsections thereof, are cumulative. The exercise of one does not preclude the exercise of any other remedy.

**18. Requirement for Notice.** LICENSEE shall give CITY prompt written notice of any accidents on, in, over, within, under and above the License Area. LICENSEE shall also give CITY prompt written notice of any notices of violation received from the COUNTY.

**19. Notices.**

19.1. Except as provided in subparagraph (c) below, whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, or either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to any matter set forth in this Revocable License, each such notice, demand, request or other communication shall be in writing and any law or statute to the contrary notwithstanding shall not be effective for any purpose unless the same shall be given by hand delivery, or by a nationally recognized overnight courier, or by mailing the same by registered or certified mail, postage prepaid, return receipt requested, addressed to the party at the address set forth below, or at such other address or addresses and to such other person or firm as LICENSEE may from time to time designate by notice as herein provided.

19.2. All notices, demands, requests or other communications hereunder shall be deemed to have been given or served for all purposes hereunder upon receipt if by hand delivery, or upon one (1) business day after deposit with such overnight courier as required above, or upon two (2) business days after deposit with the United States mail, postage prepaid, in the manner aforesaid, provided, however, that for any distance in excess of five hundred (500) miles, air mail service or Federal Express or similar carrier shall be utilized, if available.

AS TO CITY: CITY Manager  
City Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301

With copy to: CITY Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301

AS TO LICENSEE: Steven J. Halmos  
Andrews Second Street, LLC  
17 West Las Olas Boulevard  
Fort Lauderdale, FL 33301

AS TO LICENSEE: Nectaria M. Chakas, Esq.  
Lochrie & Chakas, P.A.  
1401 East Broward Boulevard, Suite 303  
Fort Lauderdale, FL 33301

19.3. As to activities under Paragraph 11, Emergencies, notice need not be given in accordance with subparagraph (a) above, but notice shall be sufficient if given to the Contact Person pursuant to Paragraph 13, Emergencies.

**20. Assignment, Pledge, Security Interest.** LICENSEE shall not voluntarily, involuntarily or by operation of law, assign, sell, pledge, grant a security interest, or in any manner transfer the License or any interest therein or grant any right to the License Area to a party which is not the owner (or mortgagee of the owner of the Property) without the prior written consent of COUNTY and CITY, which such consent shall not unreasonably be withheld. The obligations under this Agreement are covenants running with the Property and upon transfer of the Property will be released of all liability hereunder arising after such transfer and then the owner of the Property will be responsible under this Agreement.

**21. Compliance with Laws and Regulations.** LICENSEE shall comply with all applicable statutes, laws, ordinances, rules, regulations and lawful orders of the United States of America, State of Florida, City of Fort Lauderdale, and of any other public authority that may be applicable to RLA or this Agreement and the possession, use, occupancy and maintenance of the License Area and the conduct of the Project permitted herein.

**22. Public Entity Crime Act.** [Intentionally omitted].

**23. Independent Contractor.** As between CITY and LICENSEE, LICENSEE is an independent contractor under this Agreement. Services provided by LICENSEE pursuant to this Agreement shall be subject to the supervision of LICENSEE. In providing such services, neither LICENSEE nor its agents shall act as officers, employees, or agents of CITY. No partnership, joint venture, or other joint relationship is created hereby. CITY does not extend to LICENSEE or LICENSEE'S agents any authority of any kind to bind CITY in any respect whatsoever.

**24. Joint Preparation.** Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement

has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

**25. Interpretation of Agreement; Severability.** This Agreement shall be construed in accordance with the laws of the State of Florida. If any provision hereof, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this Agreement or the application of the remainder of the provisions, shall not be affected. Rather, this Agreement is to be enforced to the extent permitted by law. The captions, headings and title of this Agreement are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Agreement is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this Agreement, unless otherwise expressly provided. All terms and words used in this Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and other gender, as the context requires.

**26. Successors.** This Agreement shall be binding on and inure to the benefit of the parties, their successors and assigns.

**27. No Waiver of Sovereign Immunity.** Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

**28. No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based on this Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

**29. Non-Discrimination.** LICENSEE shall not discriminate against any Person in the performance of duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

**30. Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Chapter 119, Florida Statutes, and any resultant award of attorney's fees of non-compliance with that law.

**31. Entire Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or

understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

**32. Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

**33. Governing Law.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be brought exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Revocable License shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **By entering into this Revocable License, CITY and LICENSEE hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Revocable License or any acts or omissions in relation thereto.**

**34. Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds alone on the part of LICENSEE be deemed Force Majeure.

**35. Recording.** This Agreement shall be recorded in the Public Records of Broward County, Florida. CITY shall record the Agreement, subject to LICENSEE reimbursing CITY for the cost thereof. A copy of the recorded Agreement shall be provided to LICENSEE and filed with the CITY Clerk's Office of the CITY of Fort Lauderdale.

**36. Estoppel.** Upon request, CITY, through its CITY Manager, will provide an estoppel certificate to LICENSEE confirming to the best of CITY's knowledge whether or not LICENSEE is current and in good standing under this Agreement and the amount owed, if any, to CITY hereunder.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

WITNESSES:

\_\_\_\_\_

[Witness type or print name]

\_\_\_\_\_

[Witness type or print name]

(CORPORATE SEAL)

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2015, by **John P. "Jack" Seiler**, Mayor of the CITY of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

AS TO CITY:

CITY OF FORT LAUDERDALE

By \_\_\_\_\_  
John P. "Jack" Seiler, Mayor

By \_\_\_\_\_  
Lee R. Feldman, City Manager

ATTEST:

\_\_\_\_\_  
Jonda K. Joseph, City Clerk

Approved as to form:

\_\_\_\_\_  
Lynn Solomon,  
Assistant City Attorney

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

\_\_\_\_\_  
Commission Number

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2015, by **Lee R. Feldman**, City Manager of the CITY of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary taking  
Acknowledgment)

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

\_\_\_\_\_  
Commission Number



AS TO LICENSEE:

ANDREWS SECOND STREET, LLC, a Florida  
limited liability company

WITNESSES:

[Signature]  
John BOCHAK  
[Witness type or print name]

By [Signature]  
Steven J. Halmos, Managing Member

[Signature]  
INGRID KOETTER  
[Witness type or print name]

ATTEST:  
[Signature]  
, Secretary

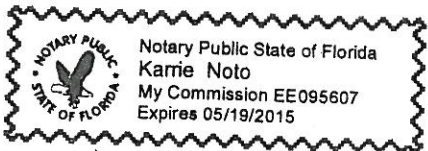
(CORPORATE SEAL)

STATE OF FLORIDA:  
COUNTY OF BROWARD:

I HEREBY CERTIFY that on March 11, 2015, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by **Steven J. Halmos**, as Managing Member of Andrews Second Street, LLC, a Florida limited liability company. He is personally known to me or has produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

Karrie Noto  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)



Karrie Noto  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:  
5/19/2015  
Commission Number

**CONSENT AND JOINDER**

The undersigned, TK1 South Florida, LLC, a Florida limited liability company ("Tenant"), is the tenant under an unrecorded lease dated November 25, 2013, between Licensee and Tenant, as amended, which encumbers the Property, and Tenant hereby consents to, joins in and agrees that Tenant and its successors and assigns shall be bound by this Agreement Ancillary to Revocable License Agreement by and between Andrews Second Street, LLC, a Florida limited liability company and City of Fort Lauderdale.

WITNESSES:

[Signature]  
 Print Name: Sandra Garcia  
[Signature]  
 Print Name: Cassandra Marino

TENANT:

TK1 South Florida, LLC,  
 a Florida limited liability company  
 By: TKSF Management LLC,  
 a Florida limited liability company,  
 its Manager  
 By: [Signature]  
 Jeffrey M. Ostrow, Manager

**ACKNOWLEDGMENT**

STATE OF FLORIDA            )  
   ) SS:  
 COUNTY OF BROWARD        )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of March, 2015 by Jeffrey M. Ostrow, as Manager of TKSF Management LLC, a Florida limited liability company, as Manager of TK1 South Florida, LLC, a limited liability company, on behalf of the limited liability company, and who  is personally known to me or  has produced a Florida driver's license as identification.

Notary Stamp/Seal:

Notary Signature: [Signature]  
 Notary Print: Annie Mercedes  
 Notary Public, State of Florida  
 Commission No.: \_\_\_\_\_  
 My Commission Expires: \_\_\_\_\_

