

This instrument prepared by:  
Cole J. Copertino  
Assistant City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301

### **REVOCABLE LICENSE**

THIS IS A REVOCABLE LICENSE granted this \_\_\_\_\_ day of \_\_\_\_\_, 2016  
by and between:

**CITY OF FORT LAUDERDALE**, a Florida municipal  
corporation, 100 North Andrews Ave, Fort Lauderdale, FL  
33301, hereinafter "CITY"

and

INCREDIBLE ICE, LLC., 3299 Sportsplex Dr., Coral Springs,  
FL 33065 ("LICENSEE")

WHEREAS, CITY is the Lessee of real property generally located at 300 South  
Andrews, Fort Lauderdale, Broward County, Florida more particularly described in  
**Exhibit "A"** attached hereto and made a part hereof (hereinafter "Property"); and

WHEREAS, the Property is the real property upon which the proposed  
Temporary Ice Rink, as defined herein, will be constructed and associated activities will  
take place; and

WHEREAS, the City Commission of the City of Fort Lauderdale, by Motion,  
adopted on November 15, 2016, has authorized execution of this Revocable License by  
the proper CITY officials;

NOW, THEREFORE, in consideration of the mutual covenants and conditions  
contained in this Revocable License, and other good and valuable considerations, the  
adequacy and receipt of which are hereby acknowledged, the parties agree as follows:

**1. Recitals.** The foregoing recitals are true and correct and are hereby  
ratified and incorporated herein.

**2. Defined Terms.** The following terms, as used and referred to herein, shall have the meanings set forth below, unless the context indicates otherwise.

*City Manager* means CITY's Chief Executive Officer, its City Manager, or his or her designee.

*Contract Administrator* means the Director of Parks and Recreation Department for the CITY, or his or her designee. In the administration of this agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator. For the purposes hereof, the Director's designee shall be the Deputy Director for the Parks and Recreation Department.

*Day(s)* means in computing any period of time expressed in day(s) in this Revocable License, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

*Temporary Ice Rink and Project Improvements* means the construction of a temporary structure to be located on the Licensed Area under a mutually-agreed upon tent provided and installed by the CITY.

*Effective Date* means the effective date of this Revocable License, which shall be the date upon which the Revocable License has been executed by LICENSEE and the proper CITY officials on behalf of the CITY.

*Florida Building Code* means The Florida Building Code adopted pursuant to Chapter 553, Florida Statutes and includes the Broward County Amendments thereto.

*License Area* means that area or portion thereof under a mutually-agreed upon tent provided and installed by the City as depicted on that Sketch and Description of such License Area being attached hereto as Exhibit "B" and any other areas mutually agreed upon during the time Licensee operates or otherwise engages in activities or events.

*LICENSEE* means Incredible Ice, LLC., its successors and assigns.

*Permit* means either a Building Permit issued by the Building Official pursuant to The Florida Building Code and Broward County Administrative Amendments thereto or an Engineering Permit issued by the Office of the City Engineer, or both, whichever the case may be.

*Person* means any individual, firm, partnership (general or limited), corporation, company, association, joint venture, joint stock association, estate, trust, business trust, cooperative, limited liability corporation, limited liability partnership, limited liability company or association, or body politic, including any heir, executor, administrator, trustee, receiver, successor or assignee or other person acting in a similar representative capacity for or on behalf of such Person.

*Plans and Specifications* means the plans, specifications, drawings, details, and survey for the Project Improvements to be installed, constructed, operated, maintained, repaired and removed within the License Area during the term of the Revocable License, which such plans, specifications, drawings, details, etc. are on file with the City.

*Property* means the real property leased by the CITY and as described in Exhibit "A" attached hereto.

*Staging of Materials or Equipment* means the placement of materials or equipment or parking of vehicles within the License Area in any manner other than (a) temporarily and (b) for the purpose of and while actually engaged in the act of loading or off-loading materials or equipment from a vehicle. Staging of Materials or Equipment shall include equipment or materials off-loaded from a vehicle and placed within the License Area when not being removed from the License Area to Licensee's Property as soon as practicable.

*Storage* is synonymous with *Staging of Materials or Equipment* during the assembling or construction of the Project Improvements and shall mean the placement of materials or equipment within the License Area or any public right of way within two blocks of the Property in such a manner as would constitute *Staging of Materials or Equipment* if the materials or equipment were within the License Area.

*ULDR* means the City of Fort Lauderdale's Unified Land Development Regulations.

**3. Revocable License.** From the Effective Date hereof, the CITY grants unto the LICENSEE a Revocable License for the use, construction, installation, occupancy of the Temporary Ice Rink within the License Area during the term of the License, subject to the terms and conditions contained in this Revocable License.

#### **4. Term and Exclusivity.**

**4.1** Due to the need to keep the public safe and to make certain improvements within the License Area and allow public access, CITY grants to LICENSEE a temporary license to use the License Area for a period of 65 days:

**4.1.2** The License period shall commence on November 14, 2016 and terminate on January 18, 2017.

**4.1.3** Licensee has the exclusive right, but not the obligation, to arrange for a supplier to provide the City outdoor ice skating equipment, ice skating rink management and operational services ("Exclusive Services") for the period beginning the Effective Date and ending March 31, 2021 ("Exclusivity Period"). City shall not contract with any other a third party to provide the Exclusive Services on behalf of the City within the License area at any time during the Exclusivity Period without the prior written permission of Licensee. This section shall survive the termination of this Revocable License.

**4.2** In the event that the license granted herein or the actions of the LICENSEE or any of its agents, servants, employees, guests or invitees or the agents, servants, employees, guests or invitees of any of the LICENSEE's contractors, subcontractors or independent contractors shall (a) ever conflict with a superior municipal interest of the CITY or public, or (b) at any time the CITY requires the use of the above-mentioned License Area or publicly dedicated thoroughfare for a superior conflicting municipal purpose or (c) determines that continuation of the License granted herein is no longer in the best public interest, all as determined by the City Commission, then, in that event, the License granted herein shall be terminable at the will of the City Commission upon fifteen (15) days advance written notice to the LICENSEE. If the License is terminated pursuant to this section without cause, City shall pay Licensee \$500.00 times the number of days that the rink was originally scheduled to remain open.

**4.3** In the event LICENSEE is (a) in violation of any of the material terms or conditions of this Revocable License or (b) the license granted herein or the actions of LICENSEE or any of its agents, servants, employees, guests or invitees or the agents servants, employees, guests or invitees of any of LICENSEE's contractors, subcontractors or independent contractors conflict with a reasonable superior municipal interest of the CITY or the public, or (c) at any time the CITY requires the use of the above mentioned License Area or adjacent publicly dedicated thoroughfare(s) for a reasonable superior conflicting municipal purpose, or (d) continuation of the License granted herein is no longer in the best public interests determined on a reasonable basis, then, upon advance written notice to LICENSEE of not less than forty-eight (48) hours where LICENSEE is given an opportunity to be heard on the matters, the authority granted by this License may be temporarily revoked or suspended by the City Manager for a period not exceeding fifteen (15) days, at the end of which period the City Commission shall consider termination of the License granted herein. If the License is terminated pursuant to this section without cause, City shall

pay Licensee \$500.00 times the number of days that the rink was originally scheduled to remain open.

**4.4** In the event that emergent conditions arise within the License Area that present a reasonable imminent threat to the health, safety or welfare of Persons or property, the City Manager may temporarily suspend this Revocable License, in whole or in part, for a period not to exceed ten (10) days. In such a circumstance notice shall be provided to LICENSEE pursuant to the provisions of Section 13, Emergencies, of this Revocable License. In the event the condition persists for a period of seven (7) days, then this Revocable License may be temporarily suspended for a period in excess of ten (10) days by action of the City Commission.

**5. Conditions.** The Revocable License granted herein is subject to compliance with the following conditions:

**5.1** No construction of the Project Improvements shall be commenced prior to issuance of the required Permits. City shall be responsible for timely issuing all necessary permits prior to the beginning of the License period as set-forth in Section 4.1.2 above.

**5.2** To the extent required by law, no placement, installation or construction of the improvements within the License Area shall be commenced prior to issuance of a Building Permit, where applicable, by the Building Official or issuance of an Engineering Permit, where applicable, by the City Engineer or designee.

**5.3** With the exception of damage occurring to sod or irrigation systems, any damage to existing License Area caused by the LICENSEE by the installation, movement or removal of the Temporary Ice Rink shall be repaired to the satisfaction of the City and the cost of such repairs shall be borne by LICENSEE.

**5.4** CITY shall be responsible for making all utility notifications and obtaining all locations and clearances prior to performing any excavation work, including for the installation of signs and fence posts.

**5.5** Any damage caused by LICENSEE to existing pavement or to any publicly owned property or rights-of-way caused by the installation, movement or removal of Project Improvements shall be repaired to the satisfaction of the Office of City Engineer or designee and the cost of such repairs shall be borne by LICENSEE.

**5.6** If there are more than 500 persons on a sustained basis under the tent using the Temporary Ice Rink, LICENSEE shall utilize off-duty City of Fort Lauderdale police officers for traffic control as reasonably required by the City Manager, if circumstances warrant, as determined in the City Manager's discretion.

**5.7** LICENSEE shall provide CITY with twenty-four hour access to Property.

**6. INTENTIONALLY NOT USED.**

**7. ADA.** LICENSEE shall have the continuing obligation of compliance with the Americans With Disabilities Act, as same may be amended from time to time, with respect to the Temporary Ice Rink.

**8. INTENTIONALLY NOT USED**

**9. Compliance with Regulations of Public Bodies.** LICENSEE shall, at its sole cost and expense, possess, use, construct, operate, maintain and repair the License Area and the Temporary Ice Rink and perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the License Area and the Project in order to comply with health and sanitary requirements, fire hazard requirements, zoning requirements, building code requirements, City of Fort Lauderdale Engineering Standards, Americans With Disabilities Act requirements, environmental requirements and other similar regulatory requirements.

**10. No Property or Contract Right.** LICENSEE expressly acknowledges that pursuant to the terms hereof, it gains no property or contract right through this Revocable License to the continued possession, use, operation and maintenance of the License Area.

**11. INTENTIONALLY NOT USED**

**12. Repairs and Maintenance.** LICENSEE shall not commit or suffer waste or injury to the License Area or the use, operation and maintenance of the Temporary Ice Rink or site Improvements maintained therein. LICENSEE shall, at its own cost and expense, at all times during the term of this License cause the License Area to be safely and securely maintained, kept in good condition, repair, clean, and free of rubbish and other hazards. The License Area shall be maintained in a neat and orderly appearance at all times (except during the period of construction and installation of any utility facilities within such License Area) and as is more fully described in Exhibit B.

**13. INTENTIONALLY NOT USED**

**14. Emergencies.** If an emergency situation arises with respect to the License Area or any condition thereof presents an imminent threat to the health or safety of Persons or property, the CITY shall make reasonable efforts to provide telephone notice to the LICENSEE's Contact Person. If, following that notice, LICENSEE fails to take timely action to correct the emergency situation, and allowing the emergency situation to continue would pose an imminent threat to health or safety to Persons or property, CITY may undertake such limited actions as are necessary to

eliminate the emergency. For the purposes of this Section, LICENSEE's Contact Persons shall be **Sean McCaffrey**, E-mail: [mccaffreys@floridapanthers.com](mailto:mccaffreys@floridapanthers.com) Cell: **(203) 253-9201**. In the event the LICENSEE's Contact Person or any other information pertaining to the LICENSEE's Contact Person shall change, such change shall be provided to the Director of the Parks and Recreation Department.

**15. Damage to Public Property.** In the event the use, operation, construction, demolition or reconstruction of the License Area cause(s) any damage whatsoever to any other public property and caused by LICENSEE, then LICENSEE shall be responsible for the cost of repair and shall, at CITY'S option, make said repairs or reimburse CITY for the cost of same.

**16. Liens Against the License Area.** LICENSEE shall have no power or authority to incur any indebtedness giving a right to a lien of any kind or character upon the right, title or interest of CITY in and to the License Area, and no Person shall ever be entitled to any lien, directly or indirectly derived through or under the LICENSEE, or its agents, servants, employees, contractors or officers or on account of any act or omission of said LICENSEE as to the License Area. All Persons contracting with the LICENSEE, or furnishing materials, labor or services to said LICENSEE, or to its agents or servants, as well as all Persons shall be bound by this provision of the Revocable License. Should any such lien be filed, LICENSEE shall discharge the same within thirty (30) days thereafter. LICENSEE shall not be deemed to be the agent of CITY, so as to confer upon a laborer bestowing labor upon or within the License Area, or upon material men who furnish material incorporated in the construction and improvements upon the foregoing, a construction lien pursuant to Chapter 713, Florida Statutes or an equitable lien upon the CITY's right, title or interest in and to the Property or License Area. These provisions shall be deemed a notice under Section 713.10(1), Florida Statutes (2016) as same may be amended from time to time as to the "non-liability" of the CITY.

**17. Removal.** Except as may otherwise be expressly provided herein, LICENSEE shall remove all the Temporary Ice Rink and any components thereof, exclusive of utilities facilities constructed and installed, upon revocation or termination of this License and upon demand of CITY for removal of such Project Improvements. Such removal shall be at LICENSEE's sole cost and expense. In the event LICENSEE fails to remove all or any part of the improvements placed by LICENSEE or their agents or sub-contractors within the License Area, exclusive of utilities facilities constructed and installed, contemplated herein within fifteen (15) days after written demand by the CITY to do so, the CITY is hereby authorized to remove such improvements and all reasonable costs associated with the removal thereof shall be reimbursed by LICENSEE. Notwithstanding the foregoing, LICENSEE shall have the obligation of immediately removing any of its equipment, materials, temporary fixtures or fencing within the License Area upon termination of this License. In the event LICENSEE fails to do so, CITY shall have the right to remove same, recouping the reasonable cost thereof from LICENSEE in the manner set forth herein.

## **18. INTENTIONALLY NOT USED**

**19. License, not Lease.** It is acknowledged and stipulated by and between the parties hereto that this Revocable License shall not be deemed a lease of the License Area by CITY but rather a License granted to LICENSEE by CITY for the nonexclusive possession, use, occupancy, operation, maintenance and repair of the License Area for the conduct of the Temporary Ice Rink under the terms and conditions stated herein, such terms and conditions including termination of the License in the manner set forth herein.

### **20. Indemnity.**

**20.1** LICENSEE shall protect, defend, indemnify and hold harmless the CITY, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses including attorneys' fees or liabilities of every kind, nature or degree arising out of LICENSEE'S negligence or intentional misconduct in connection with the rights, responsibilities and obligations of LICENSEE under this Revocable License (collectively "Claims"), conditions contained therein, the location, construction, removal, demolition, maintenance, use or occupancy of the License Area, or the breach or default by LICENSEE of any covenant or provision of this Revocable License except for any occurrence arising out of or resulting from the intentional torts or negligence of the CITY, its officers, agents and employees. Without limiting the foregoing, any and all such Claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction of the Temporary Ice Rink, operation, maintenance of the Temporary Ice Rink, alleged infringement of any patents, trademarks, copyrights or of any other tangible or intangible personal or real property right, or any actual violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity. LICENSEE further agrees to investigate, handle, respond to, provide defense for, and defend any such Claims and if called upon by the CITY, LICENSEE shall assume and defend not only itself but also the CITY in connection with any Claims, suits or causes of action, and any such defense shall be at no cost or expense whatsoever to CITY, provided that the CITY and LICENSEE mutually agree to engage Mitrani, Raynor, Adamsky and Toland, P.A. as counsel or another mutually agreeable firm as determined by the CITY and LICENSEE. The indemnification obligations set forth herein shall survive termination of this Revocable License for a period coincident with the statute of limitations period applicable to the offending act, omission or default.

**20.2** CITY shall require its contractors working on the Property during the Term of this License and the five days immediately preceding and subsequent to the Term of this License to provide an indemnity in writing to LICENSEE AND LICENSEE'S Contractors as follows: "[Name of Contractor] shall protect, defend, indemnify and hold harmless the LICENSEE, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and



other expenses including attorneys' fees or liabilities of every kind, nature or degree arising out of [Name of Contractor] negligence or intentional misconduct in connection with its operations on the Property. (collectively "City Contractor Claims"), conditions contained therein, the location, construction, removal, demolition, maintenance, use or occupancy of the Property except for any occurrence arising out of or resulting from the intentional torts or negligence of the LICENSEE, its officers, agents and employees. Without limiting the foregoing, any and all such City Contractor Claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction of property located on the Property, alleged infringement of any patents, trademarks, copyrights or of any other tangible or intangible personal or real property right, or any actual violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity. [Name of Contractor] further agrees to investigate, handle, respond to, provide defense for, and defend any such Claims and if called upon by the LICENSEE, [Name of Contractor] shall assume and defend not only itself but also the LICENSEE and/or LICENSEE'S Contractors in connection with any Claims, suits or causes of action, and any such defense shall be at no cost or expense whatsoever to LICENSEE. The indemnification obligations set forth herein shall survive termination of this Revocable License for a period coincident with the statute of limitations period applicable to the offending act, omission or default."

## **21. Insurance.**

**21.1.** During the term of this Agreement, LICENSEE at its sole expense, shall provide insurance of such a type and with such terms and limits as noted below. Providing and maintaining adequate insurance coverage is a material obligation of LICENSEE. LICENSEE shall provide the City a certificate of insurance evidencing such coverage. LICENSEE's insurance coverage shall be primary insurance as respects to the City for all applicable policies. The limits of coverage under each policy maintained by LICENSEE shall not be interpreted as limiting LICENSEE's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in Florida and possess an A.M. Best rating of A-, VII or better, subject to the approval of the City's Risk Manager.

The coverages, limits and/or endorsements required herein protect the primary interests of the City, and these coverages, limits and/or endorsements shall in no way be required to be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect the LICENSEE against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the LICENSEE under this Agreement.

The following insurance policies/coverages are required:

#### Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage and Personal and Advertising Injury
- \$1,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The City, a political subdivision of the State of Florida, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the LICENSEE. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, or volunteers.

#### Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 combined single limit each accident.

If the LICENSEE does not own vehicles, the LICENSEE shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

#### Workers' Compensation and Employer's Liability

Limits: Workers' Compensation – Per Chapter 440, Florida Statutes

Employers' Liability - \$500,000

Any firm performing work on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

LICENSEE must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act or Jones Act, if applicable.

#### Insurance Certificate Requirements

a. The LICENSEE shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.

b. The LICENSEE shall provide a Certificate of Insurance to the City with a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.

c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the LICENSEE to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.

d. In the event the Agreement term goes beyond the expiration date of the insurance policy, the LICENSEE shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.

e. The certificate shall indicate if coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the certificate will show a retroactive date, which should be the same date of the initial contract or prior.

f. The City shall be named as an Additional Insured with a Waiver of Subrogation.

g. The Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the certificate.

The Certificate Holder should read as follows:

City of Fort Lauderdale  
1350 W. Broward Blvd.  
Fort Lauderdale, FL 33312

The LICENSEE has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at the LICENSEE's expense.

If the LICENSEE's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the LICENSEE may provide an Umbrella/Excess insurance policy to comply with this requirement.

The LICENSEE's insurance coverage shall be primary insurance as respects to the City, a political subdivision of the State of Florida, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officials,

employees, or volunteers shall be excess of LICENSEE's insurance and shall be non-contributory.

Any exclusions or provisions in the insurance maintained by the LICENSEE that excludes coverage for work contemplated in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the City, and any lapse in coverage shall be considered breach of contract. In addition, LICENSEE must provide confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of LICENSEE's insurance policies.

All notices of any claim/accident (occurrences) associated with work being performed under this Agreement, shall be provided to the LICENSEE's insurance company and the City's Risk Management office as soon as practicable.

It is the LICENSEE 's responsibility to ensure that all sub-Applicants comply with these insurance requirements. All coverages for subcontractors shall be subject to all of the requirements stated herein. LICENSEE further confirms that LICENSEE's insurance will apply as excess over any other valid and collectible coverage of their vendors. Any and all deficiencies are the responsibility of the LICENSEE.

**21.2.** During the term of this Agreement, City shall require each of CITY's Contractors who provide services at the Property at their sole expense ("City Contractors"), to provide insurance of such a type and with such terms and limits as noted below. Providing and maintaining adequate insurance coverage is a material obligation of each of CITY's Contractors. Each of CITY's Contractors shall provide LICENSEE and LICENSEE's Contractor's a certificate of insurance evidencing such coverage. E each of CITY's Contractors insurance coverage shall be primary insurance as respects to the LICENSEE for all applicable policies. The limits of coverage under each policy maintained by each of CITY's Contractors shall not be interpreted as limiting each of CITY's Contractors liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in Florida and possess an A.M. Best rating of A-, VII or better.

The coverages, limits and/or endorsements required herein protect the primary interests of the LICENSEE and Licensee's Contractors, and these coverages, limits and/or endorsements shall in no way be required to be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect each of CITY's Contractors against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as each of CITY's Contractors review or acknowledgement, is not intended to and shall not in any manner

limit or qualify the liabilities and obligations assumed by each of CITY's Contractors under this Agreement.

The following insurance policies/coverages are required:

#### Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage and Personal and Advertising Injury
- \$1,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

LICENSEE and each of LICENSEE Contractors, their affiliates and their respective officers, members, partners, employees, and contractors are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of LICENSEE and each of LICENSEE Contractors, their affiliates and their respective officers, members, partners, employees, and contractors. The coverage shall contain no special limitation on the scope of protection afforded to the LI.

#### Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 combined single limit each accident.

#### Workers' Compensation and Employer's Liability

Limits: Workers' Compensation – Per Chapter 440, Florida Statutes

Employers' Liability - \$500,000

Workers' Compensation insurance in accordance with Florida Statute.

#### Insurance Certificate Requirements

a. Each of CITY'S contractors shall provide the LICENSEE with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.

b. Each of CITY's Contractors shall provide Certificates of Insurance to the LICENSEE with a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.

c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of each of CITY's Contractors to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.

d. In the event the Agreement term goes beyond the expiration date of the insurance policy, each of CITY's Contractors shall provide the LICENSEE with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The LICENSEE reserves the right to suspend the Agreement until this requirement is met.

e. The certificates shall indicate if coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the certificate will show a retroactive date, which should be the same date of the initial contract or prior.

f. The LICENSEE AND LICENSEE'S contractors shall be named as an Additional Insured with a Waiver of Subrogation.

g. The Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the certificate.

The Certificate Holder should read as follows:

Incredible Ice, LLC  
3299 Sportsplex Drive  
Coral Springs, FL 33065

Each of CITY's Contractors has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at the LICENSEE's expense.

Each of CITY's Contractors primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, each of CITY's Contractors may provide an Umbrella/Excess insurance policy to comply with this requirement.

Each of CITY's Contractors insurance coverage shall be primary insurance as respects to the LICENSEE and LICENSEE'S contractors their affiliates and their respective officers, members, partners, employees, and contractors Any insurance or self-insurance maintained by the LICENSEE and LICENSEE'S contractors their affiliates and their respective officers, members, partners, employees, and contractors shall be excess of each of CITY's Contractors insurance and shall be non-contributory.

Any exclusions or provisions in the insurance maintained by each of CITY's Contractors that excludes coverage for work contemplated in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the City, and any lapse in coverage shall be considered breach of contract. In addition, each of CITY's Contractors must provide confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The LICENSEE reserves the right to review, at any time, coverage forms and limits of each of CITY's Contractors insurance policies.

All notices of any claim/accident (occurrences) associated with work being performed under this Agreement, shall be provided to each of CITY's Contractors insurance company and the LICENSEE as soon as practicable.

It is the CITY's responsibility to ensure that all sub-Applicants comply with these insurance requirements. All coverages for subcontractors shall be subject to all of the requirements stated herein. CITY further confirms that each of CITY's Contractors insurance will apply as excess over any other valid and collectible coverage of their vendors.

**22. Special Exception.** It is agreed that this Revocable License is granted to LICENSEE for LICENSEE'S benefit, is a special exception to the City's general policy and it is stipulated between the parties that this Revocable License shall be construed most strictly in favor of the CITY and against LICENSEE

### **23. INTENTIONALLY NOT USED**

**24. Requirement for Notice.** LICENSEE shall give CITY prompt notice of any accidents arising out of Licensees' activities or use of License area on the in which damage to property or injury to a person occurs, upon having knowledge of such accident.

### **25. Notices.**

**25.1** Except as provided in subparagraph (25.3) 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 either mailing the same (i) by registered or certified mail, postage prepaid, return receipt requested, or (ii) an overnight air mail service such as

Federal Express or similar carrier 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 CITY may from time to time designate by notice as herein provided.

**25.2** All notices, demands, requests or other communications hereunder shall be deemed to have been given or served for all purposes hereunder forty-eight (48) hours after the time that the same shall be deposited with (i) the United States mail, postage prepaid, in the manner aforesaid, provided, or (ii) an overnight air mail service such as Federal Express or similar carrier.

**AS TO CITY:**

City Manager  
City of 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:**

General Manager  
Incredible Ice, LLC  
3299 Sportsplex Dr.  
Coral Springs, FL 33065

**With copy to:**

General Counsel  
Arena Operating Company, Ltd.  
One Panther Parkway  
Sunrise, FL 33323

**25.3** As to activities under Paragraph 14, 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 14, Emergencies.

**26. INTENTIONALLY NOT USED**

**27. 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 this Revocable License and the possession, use,



occupancy and maintenance of the License Area and the conduct of the activity permitted herein.

**28. Entire Revocable License.** This Revocable License, together with any other agreements entered into contemporaneously herewith, constitutes and represents the entire Revocable License and any other agreements between the parties hereto and supersedes any prior understandings or Revocable Licenses or agreements, written or verbal, between the parties hereto respecting the subject matter herein. This Revocable License may be amended, supplemented, modified or discharged only upon an amendment in writing executed by all of the parties hereto. This Revocable License shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns, subject, however, to the limitations contained herein.

**29. Interpretation of Revocable License; Severability.** This Revocable License 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 Revocable License, or the application of the remainder of the provisions, shall not be affected. Rather, this Revocable License is to be enforced to the extent permitted by law. The captions, headings and title of this Revocable License are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Revocable License 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 License, unless otherwise expressly provided. All terms and words used in this Revocable License, 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.

**30. Successors.** This Revocable License shall be binding on and inure to the benefit of the parties, their successors and assigns.

**31. No Waiver of Sovereign Immunity.** Nothing contained in this Revocable License is intended to serve as a waiver of CITY's sovereign immunity or by any agency to which sovereign immunity may be applicable.

**32. 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 Revocable License. CITY does not intend to directly or substantially benefit a third party by this Revocable License. The parties agree that there are no third party beneficiaries to this Revocable License and that no third party shall be entitled to assert a claim against any of the parties based on this Revocable License. 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.

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

**34. Termination.** In the event of emergency, either party may cancel this Revocable License during the term hereof upon twenty-four (24) hours written notice to the other party of its desire to terminate this Revocable License.

**35. Records.** Each party shall maintain its own respective records and documents associated with this Revocable License 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 Section 119.07, Florida Statutes, and any resultant award of attorney's fees of non-compliance with that law.

**36. 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 Revocable License 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.

**37. Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this License Agreement has been their joint effort.

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

**39. Governing Law.** This Revocable License 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 Revocable License and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida. To that end, LICENSEE expressly waives whatever other privilege to venue it may otherwise have.

**40. Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Revocable License 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.

[SIGNATURES ON FOLLOWING PAGES]

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

WITNESSES:

**CITY OF FORT LAUDERDALE**

\_\_\_\_\_

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

\_\_\_\_\_  
[Witness print or type name]

\_\_\_\_\_

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

\_\_\_\_\_  
[Witness print or type name]

ATTEST:

\_\_\_\_\_  
Jeff A. Modarelli, City Clerk

APPROVED AS TO FORM  
Cynthia R. Everett, City Attorney:

By \_\_\_\_\_  
Cole J. Copertino,  
Assistant City Attorney

**WITNESSES:**

[Witness Signature]

[Witness print/type name]

[Witness Signature]

[Witness print/type name]

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ on behalf of said \_\_\_\_\_. He is personally known to me or has produced \_\_\_\_\_ as identification or is known to me personally.

Notary Public

(Signature)

Typed, printed or stamped name of Notary Public

My Commission Expires:

EXHIBIT A

AMENDED PLAT UNNUMBERED BLK 31 FT LAUDERDALE 2-16 B W 60 OF E 140 OF LOTS  
7 THRU 10 & S1/2 OF PT OF VAC'D R/W ABUT'G SAID PROPERTY PER OR 8261/229 BLK  
31

## EXHIBIT B

EXHIBIT C  
SCOPE OF WORK

The SUPPLIER is to provide for the turnkey execution and operation of the outdoor, seasonal ice rink facility (the “Event”), in a designated location in HUIZENGA PARK (the “Event Site”); to be open to the general public for recreational ice skating.

**Part A. Supplier’s Equipment and Installation**

1. Professional Project Manager Assigned to the Event (advance coordination with CITY and LICENSEE, other primary vendors, timeline planning, coordination of installation, coordination of removal); Mr. Dave Pritchard, or other qualified manager as appointed by the SUPPLIER.
2. Pre-Event Design Services (including general overview layout of the Event Site, product specification information for each equipment item above, MSDS-specifications for all chemicals, other materials for Owner use for permits)
3. Pre-Event and On-Going Professional Support Services (including general guidance in the areas of liability-prevention, operational signing, programming, sponsorship benefits, day-to-day operating procedures, staffing, public safety)
4. Modular Rink Piping Grid System (sized 48’ x 120’)
5. 200-Ton Air-Cooled Refrigeration System/Pumps/Hoses/Expansion Tank
6. Glycol Coolant Charge; Storage Containers; Transfer Pump
7. Insulation and Vapor Barriers, As Required
8. Modular Railing System
9. Ice Rink Maintenance Equipment; Mechanical Resurfacing Machine
10. Rental Ice Skates (350-pr.), Sharpened, Ready-To-Skate
11. Rubber Floor Covering for Skate Change Area (1,104-square feet)
12. All Professional Supervision for Set-Up and Strike
13. All General Labor for Set-Up and Strike
14. Travel Expenses/Per Diem Expenses for Out-of-Town Professionals
15. Material Handling Equipment for Set-Up and Strike
16. All Tools, Equipment, and Supplies for Set-Up and Strike
17. White Ice Paint, Select Logos (logo graphic materials by others), and Installation Thereof
18. Wood-Frame Covering Over Rink Header
19. Kiosk or Service Counter for Ticket and Skate Rental Operation
20. Skate Change Deck Area (“L” on two sides of the rink, with other required pedestrian access walkways; 8-feet on long-side of rink)
21. Benches for Skate Change Area
22. Sound/P.A. System (for music entertainment and safety announcements)
23. Turf Carpet to Trim-Out/Finish Rink Perimeter/Edge
24. Refrigeration Technician On-Call 24-Hours During Entire Term
25. All Transportation and Freight from/to Factory/Storage
26. Liability-Limitation Package (including industry-standard text for liability waivers, yellow-jackets for skate monitors, text for various signing, text for P.A.).
27. Policy & Procedures/Training Manual for Rink Operation.



## **Part B. Turnkey Execution, Professional Management, and Day-to-Day Operation**

The SUPPLIER shall provide the total management and operation of the Event and facility, and shall deliver to the guests a superior level of customer service. Personnel shall be screened, trained, and monitored to fulfill this obligation; the facility shall be maintained on a daily basis to fulfill this obligation. Specific inclusions:

1. General project management, with full coordination of the SUPPLIER'S responsibilities under this section by Incredible Ice, LLC or other qualified management person as assigned by the Supplier.
2. Professional, experienced on-site manager/asst. manager on-duty during all operating hours. The manager shall have recreation or amusement industry experience in the area of liability prevention; management of the day-to-day functions of the rink operation.
3. Day-to-day operating personnel to affect a high degree of customer service; to include cashier functions, skate rental attendants, safety monitors, ice maintenance, and ice technician functions. Level of staffing shall be based upon attendance levels subject to industry standards, with staffing and operation function in place during all public operating hours.
4. Operating hours shall be defined to be: Monday - Thursday, 4:00-9:00pm, at minimum; Friday 4pm – 10pm at minimum; Saturdays, 10:00am-10:00pm, at minimum; Sundays, 12:00noon-9:00pm, at minimum; School Holidays, 10:00am-10:00pm, at minimum. The public operating hours each season shall be determined by mutual agreement between both Parties, not later than August 1 prior to each operating season. Any change to this schedule shall be discussed and approved in writing by all Parties. Group use activities may be scheduled by the SUPPLIER, upon receipt of written inquiry, with hours of special activities to be approved by the LICENSOR and LICENSEE.
5. All periodic maintenance of the ice surface using manual, hand-held resurfacing devices and the mechanical resurfacing machine, at proper times to maintain a functional public ice rink venue.
6. All ice maintenance in relation to weather events such as rain, during the term of each operating season, to cause the ice rink to be operational for the greatest number of regular operating hours possible.
7. All daily ice-making, ice-flooding, or other manicuring of the ice surface following or prior-to each day's operation.
8. The general monitoring of the refrigeration system and ice surface; the maintenance of a refrigeration and ice-condition logbook, recording the operating temperatures, operating pressures, expansion tank level, and other desired measures of the refrigeration equipment, the ambient weather conditions, and the overall condition of the ice surface.
9. Daily, periodic inspection of the entire ice rink facility in relation to liability-limitation, public safety, and to maintain the finish of the facility in continuously good condition.
10. The general monitoring of the ice surface by qualified personnel in relation to liability protection, public safety, and visual observation of public skaters.
11. The distribution of an admission wristband, with graphics thereon to include a consecutive-number and statement of acceptance of risk, to each and every participating skater entering the facility; general confirmation and observation that each participating skater has been issued an admission wristband affixed to their person.
12. The maintenance of Incident Reports regarding any public safety situation or public accident on or about the ice rink venue.
13. The proper stocking of the rental skates and proper operation of the rental skate area.
14. The retail sale of socks, mittens, and souvenir merchandise associated with the ice rink venue, and other retail/gift items associated with ice skating, if desired.

15. Confirmation of public announcements of safety information every 45-minutes during the public operating times; appropriate non-religious holiday and carefully-programmed music selections; music/announcement recording; professional announcements and general entertainment.
16. All human resource functions for ice rink-specific personnel, local staff recruitment, payroll and taxation functions; worker's compensation insurance.
17. Employee uniforms; all ice rink staff shall be fitted with rink or park-logo winter jackets.
18. POS/cash register equipment; credit card machines/supplies.
19. Mobile telephone service for the rink manager; email service for the rink manager.
20. Day-to-day operating supplies including towels, disinfectant for skates, etc.
21. Anti-bacterial stand, at the area of the skate rental operation.
22. First-aid supplies and complete kit maintained at all times.
23. General housekeeping of the ice rink venue/skate change area.
24. Written emergency response plan determined in advance of event, with coordination with local authorities.
25. E-mail-based group reservation system; daily monitoring and follow-up to book group reservations, as required to serve the public users.
26. Text for LICENSEE-provided signage for operating procedures and liability-issues.
27. General consultation and assistance to the LICENSEE in the areas of event marketing, P.R., graphics, signing, website design/maintenance; coordination and maintenance/posting for Facebook, Twitter, and other web/social websites.
28. Coordination of various special events to be staged within the ice rink venue, including special group activities, exhibitions, etc. as requested by the LICENSEE.
29. Liability-limitation package (including industry-standard text for liability waivers, yellow-jackets for skate monitors, text for various signing, text for P.A. safety announcements).
30. Any and all sales and use taxes, occupational taxes, and other license or fee levied upon the SUPPLIER in regard to the operation of the venue.

## **SCOPE OF WORK BY THE LICENSOR:**

### **Location, Facilities and Logistics**

1. Rink facility to be located on the identified area of Huizenga Park. 32 E Las Olas Blvd, Fort Lauderdale, FL 33301
2. Coordination of all permits and licenses required for installation and operation of the equipment and venue; all communication with local authorities.
3. 3-phase, 480-volt, 600-amp continuous power supply to the refrigeration; LICENSOR'S electrician to connect LICENSOR'S side of service, on a timely basis as per an established timeline to be issued prior to the installation phase.
4. A level site required for footprint of ice rink area; created by installation of temporary sandbox, to the specifications of the SUPPLIER.. This is to be completed by Incredible Ice, LLC
5. A clear-span tent cover, with close-able sides; size 50'x150' (or comparable in size) ; ambient lighting.
6. Continuous water supply available immediately adjacent to the rink area; hoses as necessary.
7. Use of an all-terrain forklift, with long-forks, during the installation and removal phases, if available; to be confirmed not later than November 15<sup>th</sup> prior to each operating season.
8. General security presence, 24-hours.

9. Trash receptacles, trash removal; trash disposal.
10. General groundskeeping of the Event Site.
11. Reserved curbside parking in close proximity to the rink installation site for SUPPLIER'S installation and removal phase, and for SUPPLIER'S and Customer's personnel; identified parking for the participating skaters.
12. Two (2) double hotel rooms in close proximity to the jobsite for SUPPLIER'S out-of-town professionals during the installation and removal phases beginning November 15 – 22<sup>nd</sup>.
13. Installation of sod within the tent footprint at conclusion of the event.
14. Secure all necessary permits related to the construction and operation of the rink in a timely manner.
15. Provide parking passes for up to twelve (12) ice rink staff from November 15 – January 10.