

**INDEPENDENCE SQUARE ASSOCIATION
LICENSE AGREEMENT**

THIS LICENSE AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2021, by and between Independence Square Association located at 108 S. Liberty Street (hereinafter, "ISA", and City of Independence, Missouri (hereinafter "City").

WHEREAS, the City controls the public areas, that being the streets, sidewalks and public lots, on the Independence Square; and

WHEREAS, pursuant to Section 2.10.021 of the Independence City Code, the ISA desires to promote the interests of businesses in the Independence Square; and

WHEREAS, individual businesses on the Independence Square desire to use public areas, that being the streets, sidewalks and public lots, in accordance with the attached plan for outdoor dining and consumption of alcohol; and

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties agree as follows:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Chamber hereby agree as follows:

1. Grant of License. The City hereby grants to the ISA a license for the non-exclusive use of the public areas by the individual businesses (the "**Permitted Users**") for the outdoor eating and drinking in connection with the individual business, only during their operating hours; provided, however, the license shall not apply during any days on which the annual SantaCaliGon Days festival in Independence is taking place (the "**License**").

2. Term. The term of this Agreement (the "**Term**") shall commence on the Effective Date and terminate on November 1, 2022. Either party may terminate this Agreement by providing written notice to the other party at least thirty (30) days prior to expiration of the then current term.

3. Condition of the Public Areas. The City makes no warranty or representation whatsoever concerning the condition of the public areas or its suitability for use by the Permitted Users. Except as otherwise described herein, the Permitted Users shall not make any modification or any alterations to the public areas without the prior written consent of the City, which consent may be withheld for any reason or for no reason at all. The City shall have no obligation to provide any other service or maintenance with respect to the City's

License rights pursuant to this Agreement, except as expressly set forth herein.

4. Maintenance. So long as this Agreement remains in effect, the City shall keep and maintain the public areas in good condition and repair, ordinary wear and tear excepted.

5. Rules and Regulations. The ISA will comply and will cause all Permitted Users to comply with all local, state and federal laws and ordinances as well as any rules and regulations from time to time reasonably promulgated by the City with respect to the operation and use of the public areas.

6. Curbside Parking. The Permitted Users may reserve up to two (2) on-street parking spaces for fulfilling to go orders. The curbside to go parking are permitted to be identified with a sign directly in front of the parking space at a height of no less than 60 inches and no more than 72 inches above pavement level. The sign dimensions shall not exceed 12 inches by 18 inches. Sign permits are not required for the curbside to go parking. At the termination of this Agreement, the ISA and Permitted Users, at its sole cost and expense, will remove such signage upon request by the City.

7. Signage. The Permitted Users shall be allowed one (1) freestanding sign within the public area. The freestanding sign shall not exceed 9 square feet in area and 4 feet in height. Additionally, the sign shall not be illuminated and must be located out of the sight distance triangle. A sign permit is not required for the freestanding sign. At the termination of this Agreement, the ISA and Permitted Users, at its sole cost and expense, will remove such signage upon request by the City.

8. Indemnification Insurance. This Agreement is made on the express condition that the City is to be free from all liability and claims for damages or loss by reason of injury to any person or persons or their property, or otherwise utilizing the public areas from any cause or causes whatsoever in, upon or any way connected with or arising out of the use of the public areas, provided, however, that the City shall remain liable for its own intentional or willful misconduct connected with the public areas. The Permitted Users agree that it will, at all times during this Agreement, maintain and keep in force with an insurance company reasonably acceptable to the City and authorized to transact business in the state of Missouri, naming the City as an insured thereunder, general public liability and property damage insurance covering the Permitted Users' use of the public areas with minimum coverage limits of \$1,000,000.00. The ISA and Permitted Users agree to indemnify, defend, hold harmless and release the City, its officers, directors, shareholders, agents, representatives, and employees, from all claims for personal injury, property damage, or other damages alleged by the ISA, Permitted Users or its personnel, any Permitted User, or any patron of the public areas (including the expenses of the City, if any, in defending against any and all such claims [including all attorney's fees and expenses]), arising on account of the use of the public areas by the ISA, the Permitted Users or other patrons, except as provided above.

9. Notice. Any written notices required or permitted to be given under this Agreement shall be in writing and shall be (i) personally delivered; (ii) delivered by a

reputable overnight courier; or (iii) delivered by certified mail, return receipt requested and deposited in the U.S. Mail, postage prepaid:

To the City: Independence City Hall
Attn: City Manager
111 E Maple Ave
Independence, Missouri 64050

To the ISA: Independence Square Association
Attn: Executive Director
108 S. Liberty Street
Independence, Missouri 64050

10. Default. In the event of a failure by either party to perform any of its obligations under this Agreement and the failure of such party to cure the same within thirty (30) days after written notice thereof from the other party, the non-performing party shall be in default under this Agreement and the other party shall have such rights and remedies as provided by law and equity generally for the type of default in question.

11. Further Actions. Each party agrees to take such further actions and to execute such additional documents or instruments as may be reasonably requested by the other party to carry out the purpose and intent of this Agreement.

12. Miscellaneous. This Agreement represents the entire agreement of the parties hereto and no change may be made hereto unless the same is made in writing and signed by the parties hereto. Should any part, term or provision of this Agreement be declared illegal or in conflict with any law, rule, or regulation, the validity of the remaining portion, terms, or provisions shall not be affected thereby. The captions at the beginning of sections and subsections are used for convenience only and are not to be used in attempting to construe any part of this Agreement. In addition to those provisions expressly stated to surviving the termination of this Agreement, all terms which provide for or contemplate obligations or duties of a party which are to extend beyond such termination (and the corresponding right of the other party to enforce or receive the benefit of such obligations or duties), shall survive such termination. Each person executing this Agreement in a representative capacity warrants and represents that he or she has authority to do so and upon request proof of such authority in customary form will be furnished to the other party. This Agreement may be executed at different times and in two or more counterparts and all counterparts so executed shall for all purposes constitute one agreement, binding on the parties hereto, notwithstanding that all parties shall not have executed the same counterpart. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement is sought.

IN WITNESS WHEREOF, the parties hereto have set their hand on the date shown

CITY

CITY OF INDEPENDENCE, MISSOURI, a
municipal corporation

By: _____
Zachary C. Walker, City Manager

ISA

Independence Square Association, a Missouri
nonprofit corporation

By: _____
Jeff Rogers, Executive Director