

## LICENSE AGREEMENT

THIS AGREEMENT (the “Agreement”) is made this 1<sup>st</sup> day of May 2023 (the “Effective Date”), by and between FIFTH POCKET, a New Jersey corporation (hereinafter referred to as “Fifth Pocket”), and the TOWNSHIP OF PENNSAUKEN, a municipality in the State of New Jersey (hereinafter referred to as “Township”).

### WITNESSETH

WHEREAS, Township is the owner of the building located at Block 2209, Lot 1, commonly known as 2233 Clement Avenue (the “Building”); and

WHEREAS, the Building contains storage space (the “Premises”); and

WHEREAS, Township seeks to grant to Fifth Pocket a license to use the Premises to store various skateboarding equipment and skateboarding ramps on the Premises and permit Fifth Pocket to enter the Building to access the Premises; and

WHEREAS, Township desires to promote skateboarding within the Township and at its skateboarding park; and

WHEREAS, Township is willing to permit Fifth Pocket to use the Premises for the purpose of storage of skateboarding equipment and ramps under the terms and subject to the conditions as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties agree as follows:

**1. Right of Entry and Use:** Township hereby waives any and all rental fees that may be incurred by Fifth Pocket. Township does hereby grant unto Fifth Pocket a right of ingress and egress to the Premises and a license to use the Premises for the purpose of storage of skateboarding equipment and ramps, as such term is defined herein. Notwithstanding any provision in this Agreement to the contrary, Fifth Pocket’s right of entry to and use of the Premises shall be limited to the date of this agreement commencing at 9:00 a.m. EST and terminating at 4:00 p.m. EST.

**2. Return of the Premises:** At the conclusion of the Storage, Township may conduct an inspection of the Premises, to identify any conditions (e.g. damage to the Premises) created by Fifth Pocket employees that must be removed or remedied in a timely manner. Fifth Pocket agrees to be responsible for the condition of the Premises and shall be notified of any such conditions by Township within five (5) business days after said inspection, unless a longer period of time is agreed to in writing by Township. Fifth Pocket agrees that it shall remedy any such condition within a reasonable time after such notice from Township. Fifth Pocket also agrees that after the storage is concluded, it will return the Premises to Township in a condition substantially equal to the condition of the Premises as of the Effective Date of this Agreement. If Fifth Pocket fails to perform any necessary remedial actions in a timely manner, Township may

perform such actions on Fifth Pocket's behalf. In doing so, Township may make any payment of money or perform any other act on Fifth Pocket's behalf. All sums so paid by Township, and all incidental costs and expenses, shall be considered additional rent under this Agreement and shall be payable by Fifth Pocket to Township immediately upon demand.

**3. Operation of the Premises:** When Fifth Pocket uses the Premises for storage, Fifth Pocket will be responsible for operation of the Premises. In addition to the requirements set forth at Paragraph 5, Fifth Pocket will ensure that its employees and representatives may access the Premises in a safe and orderly manner. Fifth Pocket acknowledges that its use of the Premises is further subject to the limitations set forth in Paragraph 1. Fifth Pocket shall not permit unauthorized persons from access any other portion of the Building except as required to access the Premises.

**4. Liability:** Fifth Pocket assumes all risks and liability associated with the use and operation of the Premises. Township shall have no responsibility, obligation, or liability in this regard.

**5. Maintenance:** Fifth Pocket shall be solely responsible for maintaining the Premises in a neat and safe condition. Maintenance shall include, but not be limited to trash and litter removal. Township is responsible to pay the cost and expenses of any and all maintenance of the Premises. However, Fifth Pocket shall be solely responsible for all repairs required to be made to the Premises as a result of damage to the Premises caused directly or indirectly by Fifth Pocket, its employees or representatives utilizing the Premises.

**6. Legal Compliance:** Fifth Pocket agrees to comply with all applicable laws, regulations, ordinances, and secure all required permits associated with its use and operation of the Premises.

**7. Indemnification:** Fifth Pocket agrees to indemnify, defend, and hold Township, and Township employees (the "Indemnified Parties") harmless from and against all liabilities, losses, injuries, penalties, damages, claims, actions, suits, proceedings, complaints, costs, charges, and expenses (including reasonable attorney's fees) of any kind or nature ("Losses") arising out of (a) Fifth Pocket's entry upon and use of the Premises provided under the terms of this Agreement, (b) the performance of any maintenance that may be required pursuant to the terms of this Agreement, (c) any and all claims raised by invitees of Fifth Pocket, and any third party in connection with its use of the Premises as set forth herein; and (d) any and all claims raised by visitors, invitees of Fifth Pocket, and any third party, caused by any visitors, invitees of Fifth Pocket, and any third party, as a result of Fifth Pocket's use of the premises. In addition, Fifth Pocket shall require its respective contractors, consultants, agents, and representatives to defend, indemnify, and hold harmless the Indemnified Parties from and against any and all losses, costs of defense, judgments and damages (including reasonable attorney's fees) which arise from or are in any way connected with Fifth Pocket's use of the premises. Failure of Fifth Pocket to confirm, in writing, the indemnification and defense of Township within seven (7) days of being presented with a notice, notice of tort claim, request, summons, and complaint or other notification of Loss or other costs and charges will be deemed an Event of Default under this Agreement and may result in immediate Termination of this Agreement by Township.

**8. Insurance:** Fifth Pocket will be required to provide insurance of the prescribed types and minimum amounts set forth below. All insurance policies required shall be maintained in full force until all services under this Agreement are completed. Fifth Pocket agrees that no cancellation or material change in the policy shall be effective unless and until it has provided Township with thirty (30) days prior written notice of such cancellation or change (except that Fifth Pocket shall provide Township with ten (10) days prior written notice for nonpayment).

Within ten (10) days of the date of this License, Fifth Pocket shall furnish Township with insurance certificates evidencing that the required coverage is in force. Township shall not be liable for the payment of any premiums under the foregoing. The insurance companies indicated on the certificates shall be authorized to do business in the State of New Jersey and shall be reasonably acceptable to Township.

Neither approval by Township nor failure to disapprove insurance certificates furnished by Fifth Pocket shall release Fifth Pocket of full responsibility for all liability as set forth in the indemnification clause stated in Paragraph 7 of the insurance certificates, entitled "Indemnification".

The minimum requirements of insurance to be carried by Fifth Pocket shall be as follows:

**1. Commercial General Liability Insurance:**

Commercial General Liability Insurance shall be in an amount not less than Two Million Dollars (\$2,000,000) for Bodily and Personal Injury and Property Damage in any one occurrence/aggregate. Coverage shall include contractual liability for the liabilities assumed under Paragraph 7, entitled "Indemnification", above. Township shall be named as Additional Insured on all Commercial General Liability and Umbrella policies on a primary and non-contributory basis for both ongoing and completed operations.

**2. Workers' Compensation Insurance:**

- a. Statutory benefits as required by the Workers' Compensation Laws of the State of New Jersey. Each certificate of Insurance shall indicate that the insurance company is qualified to issue insurance pursuant to the laws of the State of New Jersey.
- b. Employer's Liability Insurance in the amount of Five Hundred Thousand Dollars (\$500,000) or as otherwise required by law.

**3. Subcontractors Insurance:**

If a subcontractor is to satisfy or otherwise perform any of Fifth Pocket's obligations under the Agreement, Fifth Pocket shall be responsible for said subcontractor maintaining insurance as specified in sub-sections 1 and 2. Fifth Pocket shall provide Township with the name and all relevant contact information of the subcontractor for Township's sole approval.

**9. Default:** If Fifth Pocket shall fail to comply with any of the monetary terms, covenants, conditions, or agreements to be performed by Fifth Pocket pursuant to the terms of this Agreement for a period of ten (10) days following written notice thereof or fails to comply with any other provisions (non-monetary) of this Agreement for a period of fifteen (15) days following written notice, and in any such event, an event of default ("Event of Default") by Fifth Pocket shall have occurred. Upon any Event of Default, Township will have the right to:

- (i) declare this Agreement ended; and
- (ii) lease all or any part of the Premises to any other entity.

**10. Termination:** It is understood and agreed that Township hereby reserves unto itself the right to terminate this Agreement at any time, for any reason whatsoever, upon giving not less than twenty (20) days written notice to Fifth Pocket. In the event of Township exercising such right of termination, Township shall be without further liability whatsoever to Fifth Pocket under this Agreement. Fifth Pocket agrees that it shall not be entitled to any damages of any nature whatsoever in the event of such termination.

**11. Assignment and Sublicensing:** Fifth Pocket shall not assign or sublicense this Agreement, nor any interest herein, in whole or in part, without prior written approval from Township, which shall not be unreasonably withheld. Township shall have the right to assign this Agreement in whole to a successor in interest to the Premises without the consent of Fifth Pocket and without any prior notice thereof. In the event Township assigns its rights under this Agreement, Fifth Pocket shall attorn to and look solely to such successor in interest for performance of all the terms and conditions hereunder from and after the date the successor assumes such obligations in writing.

**12. Application of Laws and Regulations:** This Agreement shall be interpreted under the laws of the State of New Jersey.

**13. Notices:** All notices required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when mailed by certified mail, return receipt requested, addressed to the intended recipient as follows:

**If to Fifth Pocket:**

Fifth Pocket  
NEED ADDRESS  
Attn:  
Email:

**And**

**If to Township:**

Township of Pennsauken  
5605 North Crest Blvd.  
Pennsauken, New Jersey 08110

Attn: Pamela Scott-Forman, Township Clerk  
Email: [pforman@pennsauken.gov](mailto:pforman@pennsauken.gov)

**With a copy to:**

Parker McCay P.A.  
9000 Midlantic Drive, Suite 300  
Mount Laurel, New Jersey 08054  
Attn: Linda A. Galella, Esq.  
Email: [lgalella@parkermccay.com](mailto:lgalella@parkermccay.com)

14. **Amendment:** This Agreement may not be amended except upon written consent of both parties hereto.
15. **Incident Reporting:** All accidents or injuries to persons, or any damages, occurring as a result of Fifth Pocket's use of the Premises shall be reported promptly to Township.
16. **Waiver:** A waiver by any party of a breach or default by the other party of any provision of this Agreement shall not be deemed a waiver of future compliance therewith, and such provisions shall remain in full force and effect.
17. **Captions:** All headings preceding the text of the several sections and paragraphs hereof are inserted solely for the convenience and reference of the parties and shall not constitute a part of this Agreement, nor shall they affect the meaning or interpretation thereof.
18. **Severability:** If any provision of this Agreement shall be invalid or unenforceable, in whole or in part, such provision and this Agreement shall be deemed and construed to be modified or restricted to the extent that and in the manner necessary to render the same valid and enforceable, or shall be deemed excised from this Agreement as the case may require.
19. **Entire Agreement:** This Agreement and its exhibits constitute the complete agreement of the parties with respect to the subject matter hereof.
20. **Third Party Beneficiaries:** Except as specifically set forth herein, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
21. **Counterparts:** This Agreement may be executed in any number of counterparts, each of which taken together shall constitute one agreement.

*SIGNATURES TO FOLLOW ON NEXT PAGE*

IN WITNESS WHEREOF, and intending to be bound hereby, the parties hereto have caused this Agreement to be duly executed, effective as of the day and year first above written.

TOWNSHIP OF PENNSAUKEN

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

Name:

Title:

FIFTH POCKET

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

Name:

Title:

4870-5337-6607, v. 1