

RESOLUTION NO. ____
August 15, 2023

**A RESOLUTION AUTHORIZING THE EXECUTION OF A LICENSE AGREEMENT WITH
BIG TOWEL SPA LLC**

WHEREAS, the City of Hudson seeks to support outdoor recreation and the use of city parks throughout the year; and

WHEREAS, the City of Hudson has received and reviewed a proposal from Big Towel Spa LLC for the temporary installation of mobile saunas and accessory materials at Oakdale Lake Park for a five-month period beginning September 2023 and ending January 2024; and

WHEREAS, the Common Council has determined the proposal to be a positive and creative addition to the recreational offerings in the City,

NOW, THEREFORE BE IT RESOLVED that the City of Hudson Common Council hereby authorizes the Mayor to execute a License Agreement, subject to final review and approval by counsel for the City of Hudson, with Big Towel Spa LLC to provide mobile sauna services at Oakdale Lake Park.

Introduced: _____

Seconded: _____

Approved: _____
Kamal Johnson, Mayor

Dated: _____

LICENSE AGREEMENT

THE CITY OF HUDSON, 520 Warren Street, Hudson, NY 12534 ("Licensor" or "City of Hudson") and BIG TOWEL SPA LLC 517 Clinton Street, Hudson (the "Licensee") hereby agree to a license, for a fee, the right to provide mobile sauna recreation opportunities for residents and visitors to the City of Hudson at Oakdale Lake and the Henry Hudson Riverfront Park, under the terms and conditions as further set forth herein.

Licensed Premises: **Oakdale Lake Beach**

License Term: **September 1st 2023 to January 31st, 2024**

- 1) **Fee:** \$250
The fee is \$50 per month, per location for 5 months.

- 2) **Use:** The Licensee shall have non-exclusive use of the Licensed Premises for the purpose of operating mobile saunas with accompanying merchandise sales at Oakdale Lake Beach. The Licensor is not required to grant permission to the Licensee to use the Licensed Premises for any purpose other than the purposes listed herein.
 - a) **Public Health Guidelines:** the Licensee shall follow all public health guidelines, including those pertaining to coronavirus including, but not limited to:
 - i) The Licensee shall follow all public health guidelines required by the State of New York pertaining to the COVID-19 Disaster Emergency declared by New York State Executive Order 11 and its extensions.
 - ii) The Licensee will follow recommended sanitation standards.
 - iii) The Licensee will create a safety plan, which will be available to local code inspection and public health officials.
 - b) **Parking:** the Licensee will use existing and available parking and does not need any special arrangements.
 - c) **Hours:** the Licensee will operate partially outside the parks' open hours. Hours will be:
 - i) Friday - Monday 8 am – 7 pm (September – November)
 - ii) Friday – Monday 8 am – 6 pm (December & January)

- 3) **Licensee Duty to Obey Laws and Regulations:** The Licensee must, at Licensee's expense, promptly comply with all City, County, State, and/or Federal laws, statutes, rules, regulations, and orders. In addition, the Licensee must occupy and conduct its operations in conformity with all applicable insurance requirements and shall not commit any act and/or omission that would violate any provision of the City of Hudson's policies of insurance. Notices received by Licensee from any authority shall be promptly delivered to City of Hudson.

- 4) **Assignment:** Licensee shall not assign this License Agreement without the express written consent of the City of Hudson. Any attempt by Licensee to assign this License Agreement shall be considered a default of this agreement and shall allow the City of Hudson to unilaterally cancel same and retain any and all paid license fees. The Licensee must get written permission from the City of Hudson each time Licensee wants to assign. Permission to assign is good only for that assignment. Licensee remains bound to the terms of this License Agreement after permitted assignment, even if City of Hudson accepts a fee from the assignee. The assignee does not become the Licensee of the City of Hudson. Licensee further may not change the use of the licensed premises from tour boats without the prior written consent of the City of Hudson.

- 5) **Entry by the City of Hudson:** The Licensee agrees to allow the City of Hudson to enter the licensed premises at any reasonable hour to repair, inspect, install or work upon any fixture or equipment in said licensed premises and to perform such other work that the City of Hudson may decide is necessary.

- 6) **Fire, Accident, Defects, and Damage:** Licensee must give the City of Hudson prompt notice of fire, accident, damage, or other dangerous or defective condition. If the fire or other casualty is caused by an act or neglect of Licensee or guest of Licensee, or at the time of the fire or casualty, Licensee is in default in any term of this License Agreement, then all repairs will be made at Licensee's expense and the Licensee must pay the full fee with no adjustment.

The cost of the repairs will be an added fee.

Even if the premises is not damaged, the City of Hudson may cancel this License Agreement within thirty (30) days after fire or casualty by giving Licensee notice of City of Hudson's to demolish or rebuild. The License Agreement will end thirty (30) days after the City of Hudson's cancellation notice to Licensee. Licensee must deliver the premises to City of Hudson on or before the cancellation date in the notice and pay all fees due to the date of the fire or casualty.

If the License Agreement is canceled, the City of Hudson is not required to repair the premises or to enter into a new License Agreement with Licensee.

- 7) **Waivers.** Any failure by the City of Hudson to enforce any specific provision or term of this License Agreement shall not be deemed a waiver of any of the City's right to enforce the provision or term in the future. If any provision or terminate this License Agreement is determined to be illegal or without legal force and effect, it is hereby acknowledged by the parties that the remainder of the License Agreement shall remain in full force and effect and be binding upon the City of Hudson and the Licensee.

- 8) **Licensee's Default:**
 - a) The City of Hudson may give fifteen (15) days written notice to Licensee to correct any of the following defaults:
 - i) Failure to pay a fee or added fee on time.
 - ii) Improper assignment of the License Agreement.

- iii) Improper conduct by Licensee or other occupant of the premises.
 - iv) Failure to fully perform and provision of the License Agreement.
- b) If Licensee fails to correct any default set forth in Section A herein within fifteen (15) days of the date of the notice, the City of Hudson may cancel the License Agreement upon giving ten (10) days written notice to Licensee. Upon expiration of the ten (10) day notice, Licensee's rights in this License Agreement shall terminate and Licensee must leave the premises. Licensee shall remain responsible for any fees, expenses, damages, and losses connected with this License Agreement and/or its vacating the premises.
- c) If the License Agreement is canceled, or fees are not paid in a timely manner, or if Licensee vacates the premises, the City of Hudson may in addition to other remedies take any of the following steps:
- i) Enter the premises and remove Licensee and any person or property;
 - ii) Use dispossession, eviction, or other lawful method to take back the Premises.
- d) The Licensee hereby agrees to release, indemnify and hold the City of Hudson harmless from any and all claims of damages in any suit, action, proceeding and/or other legal proceeding seeking damages by Licensee and/or a third party as a result of the Licensee's operation, including operation of the paddleboards/kayaks/canoes. The Licensee hereby further agrees to release, indemnify and hold the City of Hudson harmless from any claim of damages in any suit, action, proceeding and/or other legal proceeding as a result of the City of Hudson re-taking the licensed premises.
- 9) **License Agreement, Parties Upon Whom Binding:** This License Agreement is binding upon the City of Hudson and Licensee and their respective heirs, distributees, executors, administrators, successors and/or lawful assigns.
- 10) **Space "As Is":** Licensee has inspected the premises. Licensee states that they are in good order and repair and takes the premises "as is".
- 11) **Insurance:** Licensee shall maintain a \$3,000,000/1,000,000 general commercial liability insurance policy, and any and all ancillary and additional policies that are customarily maintained by businesses in the Licensee's industry in the Hudson Valley, and name the Licensor as an additional insured on the policy. No such policy shall be amended or terminated on less than 30 days notice to the Licensor. All such policies shall be written by underwriters reasonably acceptable to the Licensor. Certificates from each carrier showing the foregoing shall be delivered to the Licensor by Licensee with this executed License. In the event Licensee fails to deliver such certificates, or any policy required hereunder is terminated and not replaced by Licensee within 1 business day of such termination, then, without notice to Licensee, the City may secure such insurance policies as it deems necessary to insure its interests pursuant to this License, to the licensed premises and the park, and the cost thereof shall be an additional fee payable by Licensee hereunder within 1 day of Licensee's receipt of the City's invoice therefore. Violation of any obligation in this section shall be a material breach. This section shall survive termination of the License.

12) **Termination and Quiet Enjoyment:** The City of Hudson may terminate this License Agreement either for cause or upon thirty (30) days written notice to Licensee. While this License Agreement is in full force and effect, Licensee may peaceably and quietly utilize the subject licensed premises during the term of this agreement provided it is current with rent and complies with all of the other terms and conditions of this License Agreement.

13) **Cost and Attorney's Fees:** Venue: Licensee shall be responsible and shall reimburse the City of Hudson any and all reasonable attorney's fees, court costs, and expenses incurred by the City of Hudson in seeking to enforce its rights under this License Agreement. In the event of any legal action concerning this License Agreement and/or the Licensee's use of the Licensed Premises, the parties hereby acknowledge and agree that the Columbia County Supreme Court located in Hudson, New York shall serve as the exclusive venue for any legal action and that the parties hereby agree to be subject to the sole jurisdiction of said court.

14) **Complete Agreement:** This License Agreement constitutes the entire agreement by and between the parties, and there are no other terms or conditions of the sale other than those set forth herein. This License Agreement may not be modified or otherwise changed except by a written agreement duly acknowledged and executed by the parties.

15) **Signatures- Effective Date:** Once fully executed by the parties, this License Agreement shall be deemed effective as of August 21, 2023.

THE CITY OF HUDSON

BIG TOWEL SPA LLC

By: Kamal Johnson, Mayor
Licensee

By: Kelly Crimmins
Licensor

Date

Date