

ATTACHMENT A

REVOCABLE LICENSE AGREEMENT BETWEEN THE CITY OF NEWPORT BEACH AND THE NEWPORT BEACH CHAMBER OF COMMERCE FOR USE OF PROMOTIONAL AND BRANDING MATERIALS

THIS REVOCABLE LICENSE AGREEMENT FOR USE OF PROMOTIONAL AND BRANDING MATERIALS ("License") is made and entered into as of this 19th day of November, 2024 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and NEWPORT BEACH CHAMBER OF COMMERCE, a California nonprofit corporation, whose address is 4343 Von Karman Ave., Suite 150-W, Newport Beach, California 92660, California ("Licensee"), and is made with reference to the following:

RECITALS

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. Upon the cessation of the Newport Beach Restaurant Association Business Improvement District ("District"), its intellectual property ("Assets"), as more specifically described herein, was transferred to City.
- C. Licensee desires to continue the former District's purpose of promoting, furthering, and supporting Newport Beach's dining industry. Accordingly, Licensee desires use of the Assets.
- D. In consideration of the mutual promises and obligations contained in this License, the receipt and sufficiency of which is hereby acknowledged, City desires to grant to Licensee the revocable right to use the Assets on the following terms and conditions.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. LICENSE

1.1 City hereby grants to Licensee a revocable, non-exclusive, non-transferable license to use the Assets, which are specifically described in Exhibit A, which is attached hereto and incorporated herein by reference, subject to the terms, covenants and conditions hereinafter set forth, and Licensee hereby covenants to keep and perform each term, covenant and condition of this License.

1.2 City shall retain all right, title, and interest in and to the Assets, subject to the interest conveyed to Licensee pursuant to this License.

2. PURPOSE OF THIS LICENSE

The purpose of this License is solely for Licensee to promote, market, support, and further Newport Beach's dining industry.

3. TERM

3.1 The term of this License ("Term") shall commence on the Effective Date and shall continue until the License is revoked or terminated as set forth herein.

3.2 City may revoke this License at any time, upon the giving of five (5) calendar days written notice to Licensee.

3.3 This License may be terminated in the following manner:

1) By Licensee: At any time, without cause;

2) By City: If Licensee fails to cure or correct a default within ten (10) calendar days of receipt of City's written notice of default of any of the terms or conditions of this License, City may immediately terminate the License.

3.4 Upon revocation or termination of this License, Licensee shall promptly, and in no case later than five (5) calendar days thereafter, return the Assets to the City.

4. ADMINISTRATION

This License will be administered by the City Manager's Office. The City Manager, or designee ("License Administrator"), shall have the authority to act for City under this License and shall represent City in all matters pertaining to this License.

5. INDEMNITY AND LIABILITY FOR DAMAGES

5.1 To the fullest extent permitted by law, Licensee shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers, and employees (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise from or in any manner relate (directly or indirectly) to this License, the Assets or the breach of any term of this License.

5.2 Notwithstanding the foregoing, nothing herein shall be construed to require Licensee to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to enforce the terms of this License. This indemnity shall apply to all claims and liability regardless

of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Licensee

5.3 The indemnification obligations under this Section 5 shall survive the revocation or termination of the License.

6. PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

This License shall not be assigned or transferred without the prior written approval of City which approval may be withheld in the City’s sole discretion.

7. NOTICE

7.1 All notices, demands, requests or approvals to be given under the terms of this License shall be given in writing, and conclusively shall be deemed served when delivered personally, or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided. All notices, demands, requests or approvals from Licensee to City shall be addressed to City at:

City Manager’s Office
City of Newport Beach
Attn: Assistant City Manager
100 Civic Center Drive
Newport Beach, CA 92660

7.2 All notices, demands, requests or approvals from City to Licensee shall be addressed to Licensee at:

Newport Beach Chamber of Commerce
4343 Von Karmen Ave. Suite 150-W
Newport Beach, CA 92660

8. STANDARD PROVISIONS

8.1 Recitals. City and Licensee acknowledge that the above Recitals are true and correct and are hereby incorporated by reference into this License.

8.2 Compliance with all Laws. Licensee shall at its own cost and expense comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted. In addition, all work prepared by Licensee shall conform to applicable City, county, state and federal laws, rules, regulations and permit requirements and be subject to approval of the Licensee Administrator.

8.3 Waiver. A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

8.4 Integrated License. This License represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

8.5 Interpretation. The terms of this License shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the License or any other rule of construction which might otherwise apply.

8.6 Amendments. This License may be modified or amended only by a written document executed by both Licensee and City and approved as to form by the City Attorney.

8.7 Severability. If any term or portion of this License is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this License shall continue in full force and effect.

8.8 Controlling Law and Venue. The laws of the State of California shall govern this License and all matters relating to it and any action brought relating to this License shall be adjudicated in a court of competent jurisdiction in the County of Orange.

8.9 Taxes. Licensee acknowledges that the License granted herein may be subject to possessory interest taxes. Licensee shall have the sole obligation to pay any taxes, fees and assessments, plus applicable penalties and interest, which may be imposed by law and arise out of Licensee's License hereunder. Licensee shall indemnify, defend and hold harmless City against any and all such taxes, fees, penalties or interest assessed, or imposed against City hereunder.

8.10 No Third Party Rights. The Parties do not intend to create rights in or grant remedies to, any third party as a beneficiary of this License, or of any duty, covenant, obligation or undertaking established herein.

8.11 No Attorneys' Fees. In the event of any dispute under the terms of this License, the prevailing party shall not be entitled to attorneys' fees.

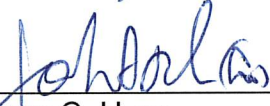
8.12 Counterparts. This License may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this License to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Date: 10/29/24

By: 
Aaron C. Harp
City Attorney

10.29.24
AS

CITY: CITY OF NEWPORT BEACH,
a California municipal corporation

Date: _____

By: _____
Will O'Neill
Mayor

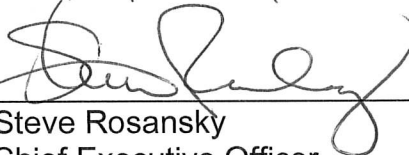
ATTEST:

Date: _____

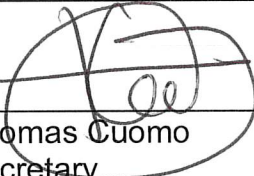
By: _____
Leilani I. Brown
City Clerk

LICENSEE: NEWPORT BEACH
CHAMBER OF COMMERCE, a California
nonprofit corporation

Date: 11/13/24

By: 
Steve Rosansky
Chief Executive Officer

Date: 11/13/24

By: 
Thomas Cuomo
Secretary

[END OF SIGNATURES]

Attachments: Exhibit A: Description of Assets

**EXHIBIT A
DESCRIPTION OF ASSETS**

The following data:

	Description
1.	District's and Dine Newport Beach's marketing and branding intellectual property, such as logos, trademarks, service marks, etc.
2.	Dine Newport Beach's online presence including the DineNB.com website and social media account(s) (Instagram, etc.)
3.	District's and Dine Newport Beach's marketing, advertising, promotional, and other public relations materials, including videos
4.	District's database of members

*The above data is contained in one (1) USB flashdrive.