**LICENSE AGREEMENT**

THIS LICENSE AGREEMENT (this “***Agreement***”), made as of the       day of , 20  , by and between **THE EPISCOPAL CHURCH IN HAWAI`I**, a Hawaii nonprofit corporation, (“***Licensor****”*), whose address is 229 Queen Emma Square, Honolulu, Hawaii 96813, and the Licensee identified in Section 1 below (“***Licensee****”*), and [legal name of the church], a Hawaii  (the “***Church***”), whose address is      .

Licensor and the Church, in consideration of the fees, covenants, and agreements hereinafter reserved and contained on the part of the Licensee to be observed and performed, hereby grants to Licensee a license to use the Licensed Premises (described below), upon the following terms and conditions:

1. **Basic License Provisions; References & Definitions**. The following Basic License Provisions are set forth in this Section 1 for the convenience of the parties but are an integral part of this Agreement, and may be referred to in other Sections of this Agreement:
   1. **Commencement Date**:
   2. **Licensee**: [name of licensee]

a [type of entity: corporation, LLC, etc]

**Address of Licensee**:

Primary Address: [address 1]

[address 2]

[city, state, zip]

Telephone No.: [phone number]

Facsimile No.: [fax number]

E-Mail: [E-mail address]

* 1. **Licensed Premises**: The Licensed Premises shall be [identify specific space and building], shown on the **Exhibit A** attached hereto, located at [the Church OR insert address if not at the Church]. Licensee’s right to use the Licensed Premises shall be exclusive during the term of this Agreement and the Permitted Hours.
  2. **Parking and Common Facilities**: Licensee shall have the [non-exclusive right to access and use the following parking areas and/or facilities in conjunction with its use of the Licensed Premises: \_\_\_\_\_\_\_.] OR [exclusive right to utilize the \_\_\_\_\_ (\_\_) parking stalls indicated on Exhibit A attached hereto during the Permitted Hours in conjunction with its use of the Licensed Premises. At all other times, Licensee’s right to use the parking area shown on Exhibit A shall be non-exclusive and on a first come, first served basis with other users of the Licensed Premises]
  3. **License Term**: The foregoing use rights shall be for the term beginning on the Commencement Date and ending at 5:00 p.m. on [month date], 20  .
  4. **Permitted Hours**: Licensee’s right to use the Licensed Premises shall be limited to the following days and hours:      .
  5. **Permitted Use**: Licensee shall be permitted to use the Licensed Premises solely for the following purposes:      .
  6. **License Fees, Charges & Deposits**:
     1. **License Fee**:       DOLLARS ($     ) per month due on or before the first (1st) day of each month thereafter.
     2. **Other Charges** (if any):       for      .

*[or attach Schedule of Charges as Exhibit B]*

* + 1. **General Excise Tax**: Add the State of Hawaii general excise tax of 4.712% (for Oahu) or 4.166% (for other counties) on all payments due.
    2. **Interest on Past Due Payments**: One percent (1%) per month
    3. **Security Deposit**:       DOLLARS ($     ).
  1. **Insurance Limits**: All policies shall name Licensor, Church, and Licensor and/or Church’s mortgagee(s) (if any) as additional insureds under such policies.
     1. Commercial General Liability: ONE MILLION DOLLARS ($1,000,000.00) per occurrence, TWO MILLION DOLLARS ($2,000,000.00) in aggregate.
     2. Workers’ Compensation and Employers’ Liability: Not less than the statutory limits for Workers’ Compensation coverage as required by Hawaii law.
     3. Automobile Liability: a combined single limited of $1,000,000 for bodily injury and
     4. Umbrella Liability Insurance: TWO MILLION DOLLARS ($2,000,000.00) per occurrence, TWO MILLION DOLLARS ($2,000,000.00) general aggregate.
  2. **Other Special Terms and Conditions**:      .

1. **Term and Scope**. The term of this Agreement shall be for a period set forth in Section 1 above, unless terminated earlier in accordance with the provisions of this Agreement. Licensee shall use the Licensed Premises solely for the Permitted Use set forth in Section 1 above and for no other purpose, subject to the terms and conditions of this Agreement. Except with the prior written consent of Licensor, Licensee’s right to use the Licensed Premises and to have access to the Licensed Premises and the Common Areas and Facilities and shall be limited only to those days and times stated in the Permitted Hours as set forth above
2. **License Fees and Charges**.
   1. **License Fee**. For each and every calendar month during the License Term, commencing upon the Commencement Date and then on or before the first day of each month thereafter, Licensee shall pay to the Church, in advance and without further notice or offset, at the office of the Church, a License Fee in the amount set forth in Section 1 above. If the first and last months of the term hereof are less than a full month, the License Fee shall be prorated for the actual number of days in such “stub” months.
   2. **Other Charges**. If so designated in Section 1, Licensee shall pay to the Church those charges designated as Other Charges for the purposes indicated in Section 1.
   3. **General Excise Taxes**. Licensee shall also pay to the Church, together with each payment of the License Fee or any other payment required hereunder which is subject to the State of Hawaii general excise tax on gross income, as it may be amended, an amount which when added to such fee or other payments shall yield to the Church, after deduction of all gross income taxes payable by the Church with respect to all such payments, a net amount equal to that which the Church would have realized from such payments had no such tax been imposed or assessed (such amount being determined as of the Commencement Date at the rate of 4.712% (for Oahu) or 4.166% (for other counties) of such receipts).
   4. **Interest on Late Payments**. In the event at any time during the term hereof, any payment due hereunder shall not be received by the Church within five (5) days after the same shall become due, then in addition to the License Fee and all other charges of every description payable hereunder, the Licensee shall pay to the the Church interest on the amount of such late payment at the rate set forth in Section 1 above until full payment is made.
3. **Security Deposit**. Licensee shall deposit with Licensor a security deposit in the amount set forth in Section 1 above. The deposit shall be held by Licensor, without liability for interest, as security for the faithful performance by Licensee of all of the terms, covenants, and conditions of this Agreement by said Licensee to be kept and performed during the term hereof. Licensee agrees that the security deposit shall not be used as Licensee’s last month’s License Fee. If Licensor so uses or applies all or any portion of the security deposit, Licensee shall within ten (10) days after written demand therefor deposit cash with Licensor in an amount sufficient to restore the security deposit in full to the original amount and Licensee’s failure to do so shall be a default under this Agreement. Licensor may commingle the security deposit with its general accounts and any interest earned thereon shall accrue to the benefit of the Licensor. If Licensee performs all of Licensee’s obligations hereunder, the security deposit or so much thereof as has not theretofore been applied by Licensor shall be returned, without payment of interest or other increment for its use, to Licensee within forty-five (45) days after the expiration of the License Term, as extended, if applicable, or after Licensee has vacated the Licensed Premises, whichever is later.
4. **Maintenance and Repair**.
   1. **Licensor**. Licensor shall repair and maintain the Licensed Premises and keep it in such condition suitable for the Permitted Use under this Agreement at Licensor’s expense unless such repair and maintenance is the result of Licensee’s negligence or misconduct. Licensor has the sole and exclusive right to make any decoration, alteration, installation, repair, modification, or change to the Licensed Premises and to decorate and perform work of any kind or nature in and to the Licensed Premises. If any maintenance, repair, or improvement is desired by Licensee, Licensee shall notify Licensor in writing and Licensor shall evaluate the need and determine, in its sole discretion, the need for the same.
   2. **Licensee**. Licensee shall keep all areas of the Licensed Premises used by Licensee in an attractive, safe, clean and sanitary state, and in good order, condition, and state of repair, and shall be responsible for the cost of repairing any damage caused to the Premises by Licensee or Licensee’s employees, contractors, and business invitees. Licensee shall clean up and restore the Licensed Premises to its original condition following each day’s use.
5. **Upon Termination**. Any personal property left upon the Licensed Premises by Licensee after the expiration or termination shall be deemed abandoned by Licensee, and may be disposed of by Licensor at Licensee’s expense. Licensee will be solely liable for the cost of cleaning and repairs required to restore the Licensed Premises, and any furniture and equipment provided by Licensor for Licensee’s use, to the condition that they were in when originally provided to Licensee
6. **Fixtures and Alterations**. All furniture, fixtures, and improvements attached to or built into the Licensed Premises by the Licensor shall become or remain a part of the Premises and will be deemed Licensor’s property and may not be removed by Licensee. Licensee will not make or cause to be made any alterations or improvements or install or cause to be installed any trade fixtures, exterior signs, interior or exterior lighting, plumbing fixtures, shades or awnings, or make any other changes to the Licensed Premises, without the prior written consent of Licensor. Any permitted alterations or improvements undertaken in the Licensed Premises by Licensee shall be at Licensee’s expense, shall conform with Licensor’s written construction and design requirements and any conditions imposed by Licensor as a condition to providing its consent, and shall become or remain a part of the Licensed Premises and will be deemed Licensor’s property and may not be removed by Licensee upon termination of this Agreement.
7. **Liability Insurance**. Licensee shall, at its own expense, keep in full force and effect during the License Term a policy or policies of liability insurance from an insurance company authorized to do business in Hawaii covering the Licensed Premises and naming Licensor, the Church, and Licensor’s and/or Church’s mortgagee(s) (if any) as additional insureds, together with such endorsements and/or additional coverage, as a reasonable and prudent operator operating the same business as Licensee would carry, with limits and coverages of not less than those set forth in Section 1. Licensee shall provide Licensor and the Church with current certificates of such insurance evidencing the coverage requirements of this Agreement; such policy of insurance shall provide that the same may not be cancelled (whether or not requested by Licensee) except by the insurer giving at least thirty (30) days’ prior written notice thereof to Licensor and the Church. All public liability, property damage and other casualty policies required hereunder shall be written as primary policies, not contributing with and not in excess of coverage which Licensor and the Church may carry.
8. **Use of Licensed Premises**. Licensee will use and allow the use of Licensed Premises only for the Permitted Use provided in Sections 1 and 2 above. Licensee will not at any time during said term use the Licensed Premises for any other purpose without the prior written consent of Licensor. If the Licensed Premises cannot be used by Licensee for its said intended use because any improvement, repair or modification of the Licensed Premises or the Church building and grounds is required by any applicable law or regulation, either the Church or Licensor may immediately thereupon cancel this Agreement and have no further obligations hereunder, and Licensee shall have no further rights hereunder.
9. **Building Rules and Regulations**. Licensee shall, and Licensee shall cause Licensee’s employees, agents, guests, and invitees to observe faithfully and comply strictly with such reasonable rules and regulations as Licensor and/or the Church may from time to time adopt for the safety, care and cleanliness of the Licensed Premises and/or the adjacent land and buildings and for the preservation of good order thereof. By Licensee’s signature below, Licensee agrees to abide by all such rules and regulations. Notwithstanding anything in this section to the contrary, Licensor shall have the right to suspend any or all of such rules and regulations at any time. The most current rules and regulations for use of the Church’s facilities are attached hereto as Exhibit C.
10. **Observance of Laws; Waste and Unlawful Use**. Licensee will observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority for the time being applicable to the Licensed Premises, Licensee’s use thereof, or the conduct of Licensee’s business and activity. Licensee shall not permit, commit, or suffer (a) any strip or waste in or upon the Licensed Premises or the Church property; (b) any unlawful, improper or offensive use of the Licensed Premises or the Church property; (c) any public or private nuisance or do any other action which may interfere with or disturb the quiet enjoyment of Licensor, the Church or other permitted user of the Church property or which may be deemed by Licensor in its sole discretion to be disreputable or hazardous; (d) any act or neglect whereby the Licensed Premises or any improvement thereon or the estate of the Licensee therein shall at any time during said term become subject to any attachment, judgment, lien, charge or encumbrance whatsoever; (e) any Hazardous Material (as may be defined by any law, regulation, ordinance, or governmental rule) to be brought upon, kept or used in or about the Licensed Premises by Licensee, its agents, employees, contractors or invitees without the prior written consent of Licensor, which consent may be granted or withheld in Licensor’s sole discretion (provided, however, that Licensee may bring in ordinary office and cleaning supplies that may contain Hazardous Materials if used in compliance with all laws).
11. **Inspection**. Licensee shall permit Licensor, and its agents, including the Church, at all reasonable times during said License Term to enter the Licensed Premises and examine the state of repair and condition thereof. Licensee shall reimburse Licensor or the Church promptly on demand all expenses incurred by Licensor or the Church in repairing or replacing any uninsured loss or damage to the Licensed Premises or any furniture, furnishings and equipment thereof caused by Licensee or Licensee’s business invitees, occupants or any person under Licensee and shall give prompt notice to Licensor and the Church of any such loss or damage or other defect in the Licensed Premises when discovered. Licensor and its agents, including the Church, may enter the Licensed Premises at reasonable times and install or repair pipes, wires and other appliances deemed by Licensor essential to use and occupation of the Licensed Premises or other parts of the land and buildings adjacent thereto, and Licensee agrees that Licensee will not obstruct the use of stairways, areaways, passages or other areas provided for the common use of the occupants of the adjacent land and buildings.
12. **Indemnity**. Licensee shall defend, indemnify and hold Licensor and the Church harmless against all claims and demands for loss or damage, including property damage, personal injury and wrongful death, arising out of or in connection with the use or occupancy of the Licensed Premises by Licensee or any person claiming by, through or under Licensee, or any accident or fire in the Licensed Premises or any nuisance made or suffered thereon, or any other liability whatsoever on account of the Licensed Premises and will reimburse Licensor and the Church for their costs and expenses including reasonable attorney’s fees incurred in connection with the defense of any such claims. Licensee will hold all goods, materials, furniture, fixtures, equipment, machinery and other property whatsoever within the Licensed Premises at the sole risk of Licensee and hold Licensor and the Church harmless for any loss or damage thereto by any cause whatsoever.
13. **Default; Licensor’s Remedies**. If Licensee shall fail to make any payment due hereunder following five (5) days’ written demand for the same, or if Licensee shall be in default in the performance of any other covenant hereunder following five (5) days’ written notice to cure the same, then, Licensor shall have any remedy available to Licensor at law or in equity, including, without limitation the right (a) to terminate this Agreement by written notice to Licensee or by obtaining of a writ of possession against Licensee; (b) to recover all costs, expenses and other damages which may have been incurred by Licensor as a result of Licensee’s default; and (c) to immediately take possession of all property of Licensee which may be upon the Licensed Premises or any part or parts thereof and (i) store the same in a public warehouse or elsewhere at the sole risk and expense and for the account of Licensee, and/or (ii) sell or cause the same to be sold at public or private sale with or without notice to the highest bidder for cash and apply the proceeds of said sale toward the costs thereof and then toward any money which may be owing to Licensor on account of such default.
14. **Licensor’s Costs and Expenses**. Licensee will pay to Licensor and/or the Church on demand all costs and expenses including reasonable attorney’s fees incurred by Licensor and/or the Church in enforcing any of the covenants herein contained, in remedying any breach by Licensee of said covenants, in recovering possession of the Licensed Premises, or in connection with any litigation commenced by or against Licensee to which Licensor and/or the Church without any fault on its part shall be made a party.
15. **Right to Mortgage**. Licensor may encumber the Licensed Premises by mortgage or mortgages securing such sum or sums and upon such terms and conditions as Licensor and the Church may desire, and any mortgage so given shall be a prior lien on the land and Licensed Premises superior to the rights of Licensee therein, and this Agreement shall be automatically subordinated to such mortgage without the necessity of any further instrument or act on the part of Licensee to effectuate such subordination.
16. **Condemnation**. In case at any time or times during said term Licensed Premises or any part thereof shall be required, taken or condemned by any authority having the power of eminent domain, then and in every such case this Agreement shall at once cease and terminate, and Licensee shall not by reason thereof be entitled to any claim against Licensor or the Church or others for compensation or indemnity arising from such termination.
17. **Casualty**. In case of damage by fire or the action of the elements to the Licensed Premises which renders the same untenantable, or in the event the Licensed Premises are rendered untenantable for any other reason whatsoever, either Licensor or Licensee shall have the option of cancelling or surrendering this Agreement within thirty (30) days thereafter, and being relieved of further performance hereunder. In no event shall Licensor or the Church be obligated to make any repairs or replacements to furniture, fixtures, appliances or any part of the Licensed Premises, regardless of the cause of the need for such repairs or replacement, if such replacement or repairs will not be completely covered by and paid for with insurance proceeds.
18. **Licensee’s Waiver of Warranty; Assumption of Risk**. Licensee agrees and declares that as part of the consideration for granting this Agreement, Licensee has and does hereby waive any and all claims Licensee might otherwise have against Licensor and the Church, including but not limited to, those on account of faulty or improper construction of improvements, latent defects, and code violations in building construction. Licensee agrees that it has examined Licensed Premises and knows the condition thereof and that Licensee accepts Licensed Premises in their present condition, and Licensee releases Licensor and the Church from all obligations to repair. Licensee will be responsible for, and Licensor shall have no duty to secure or protect or prevent the loss of, Licensee’s personal property while such property is at the Licensed Premises, including the property of all Licensee’s invitees, patients, and clients in the Premises. Licensee, as a material part of the consideration to Licensor for this Agreement, will and does hereby assume all risk of bodily injury, wrongful death and/or property damage, including, without limitation, damage to the Licensed Premise and property located thereon, occasioned by any occurrence, accident or nuisance made or suffered in or about the Premises, that is not the result of Licensor’s negligence or misconduct. Licensee hereby waives all claims in respect thereof against Licensor and its officers, directors, shareholders, employees, agents, licensees, contractors and invitees and acknowledges that this assumption of risk by Licensee has been bargained for in determining the license fees and other obligations of Licensee under this Agreement.
19. **Assignment and Transfer**. Licensee will not, without the prior written consent of Licensor and the Church, which consent may be withheld for any reason or no reason, assign, transfer, pledge or hypothecate this Agreement nor permit the use of the Licensed Premises or any part thereof to any other party, and any such attempted, assignment, transfer, pledge, hypothecation, or unpermitted use shall be null and void and without effect.
20. **Notices**. All notices to be given to the parties hereto may be given in writing by depositing the same in the United States mail, registered or certified and postage prepaid, and addressed to the parties at the addresses provided in Section 1 above or at such other address as may be provided by each party to the other in writing from time to time.
21. **Waiver of Jury Trial**. The parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Agreement, the relationship of the Church, Licensor and Licensee, Licensee’s use or occupancy of the Licensed Premises, and/or any claim of injury or damage.
22. **Dispute Resolution**.
    1. **Mediation/Arbitration of Disputes**. If a dispute arises out of or relating to this Agreement or a breach thereof and if the dispute cannot be settled through negotiation, the parties agree to first try in good faith to settle the dispute by mediation administered by the alternative dispute resolution organization (“***ADRO***”) designated below in accordance with the mediation rules, procedures and protocols of the ADRO then in effect, before resorting to arbitration, litigation, or another dispute resolution procedure. If any issues, claims or disputes remain unresolved after mediation concludes, Licensor and Licensee agree to submit them to binding arbitration before a single neutral arbitrator at the ADRO in accordance with the ADRO’s then current applicable arbitration rules. Licensor and Licensee further agree that the award of the arbitrator will be final and binding upon each of them subject to Chapter 658, Hawaii Revised Statutes.
    2. **ADRO**. The alternative dispute resolution organization shall be (i) The Mediation Center of the Pacific, Inc., a Hawaii nonprofit corporation, for any dispute involving a claim with a monetary value of Ten Thousand Dollars ($10,000.00) or less; and (ii) Dispute Prevention & Resolution, Inc., a Hawaii corporation, for any dispute involving a claim with a monetary value of more than Ten Thousand Dollars ($10,000.00). Licensor and Licensee shall share equally the cost of compensating the mediator and the arbitrator.
    3. **Exceptions to Mediation and Arbitration**. Notwithstanding the forgoing, Licensor shall be permitted to bring an action in any court of law to (a) enforce the decision of an arbitrator following the foregoing arbitration process, including any money judgment, and (b) assert a claim for trespass, summary possession, and/or ejectment in the event that Licensee occupies or remains on the Premises in violation of this Agreement, or otherwise unlawfully or without consent.
23. **Non-Waiver**. Acceptance of fees by Licensor, or its agents, including the Church, shall not be deemed to be a waiver by it of any breach by Licensee of any covenants herein contained or of Licensor’s right to re-enter for breach of condition. Waiver by Licensor of any breach by Licensee shall not operate to extinguish the term, covenant or condition the breach whereof has been waived nor be deemed a waiver of Licensor’s right to declare a forfeiture for any other breach thereof.
24. **Tax Exempt Status**. Licensor covenants with Licensee and the Church that if any law should be enacted by the federal, State or municipal government, which would deprive Licensor or the Church of its tax exemption as an eleemosynary institution because of Licensee being a party to this Agreement, Licensor shall have the option to immediately terminate this Agreement upon thirty (30) days’ written notice.
25. **Interpretation**. This Agreement is intended to be merely contractual in nature and grants to Licensee a non-exclusive revocable privilege to use the Licensed Premises for the purposes provided herein. This Agreement is specifically not intended to run with the land and is not, and shall not be construed as, an interest in real property. Licensee hereby agrees and acknowledges that Licensee’s status under this Agreement is that of a licensee and not that of an agent or employee of Licensor. Except as otherwise provided by the terms of this Agreement, Licensee shall have sole control over the method and manner by which Licensee uses the Licensed Premises and shall be solely responsible for the hire, discipline and supervision of Licensee’s employees, if any, and for providing all tools, texts, uniforms, equipment or supplies used by Licensee in its business. The term “Licensor” herein or any pronoun used in place thereof shall mean and include Licensor and its successors and assigns. The term “Licensee” herein, or any pronoun used in place thereof, shall mean and include the Licensee and its successors and permitted assigns, according to the context hereof. Paragraph headings herein are inserted only for reference and shall in no way limit or expand the scope, substance or detail of the contents hereof. Each party has been represented by an attorney in the review and negotiation of the terms this Agreement and neither party shall be deemed the drafter thereof. As appropriate and permitted by law, the representations and warranties of the parties in this Agreement shall survive the termination of this Agreement. The laws of the State of Hawaii shall govern the validity, performance and enforcement of this Agreement.
26. **Church’s Consent**. The Church, the present occupant of Licensed Premises, hereby consents to the foregoing license, and agrees that any interests it may have in the Licensed Premises are and shall be subject to said license.
27. **Counterparts; Electronic Signatures**. This Agreement may be executed in multiple counterparts, each of which shall constitute one agreement, even though all parties do not sign the same counterpart. The signature pages taken from separate individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts. This Agreement may also be executed via an electronic signature program such as, without limitation, DocuSign, in whole or in multiple counterparts. A telecopy, electronic delivery, or other transmission by any party of its signature on an original or any copy of this Agreement via fax machine or over the internet in electronic photostatic format (e.g., .pdf) or similar format or via an electronic signature program shall be deemed to be the delivery by such party of his, her or its original signature hereon.

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IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

|  |  |
| --- | --- |
| **THE EPISCOPAL CHURCH IN HAWAI`I**,  a Hawaii nonprofit corporation  By:  Name:  Its:  By:  Name:  Its:  “***Licensor***” | [name of licensee],  a [type of entity: corporation, LLC, etc]  By:  Name:  Its:  By:  Name:  Its:  “***Licensee***” |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  a Hawaii  By:  Name:  Its:  By:  Name:  Its:  “***Church***” |  |

**Exhibit A**

**Site Plan**

*[Attach Site Plan showing the Licensed Area and the Church campus.]*

**Exhibit B**

**Schedule of Charges**

*[Attach schedule of other charges licensee will be responsible for paying during the use and occupancy of the Licensed Premises, if any. E.g. electricity charges, air conditioning charges, janitorial and trash removal charges, copying charges, parking fees, as may be applicable, if at all. All payments are to be made to the Church, at the office of the Church.]*

**Exhibit C**

**Rules and Regulations**

*[Attach current rules and regulations for use of the Church campus and property, if any.]*