

## **PUMPING STATION: ONE**

### **MEMBER PERSONAL PROPERTY USAGE AGREEMENT**

This Personal Property Usage Agreement ("Agreement"),  
dated as of \_\_\_\_\_ ("Effective Date"),  
is by and between \_\_\_\_\_ ("Member"),  
of \_\_\_\_\_ ("Member Address"),  
and Pumping Station: One, an Illinois not for profit corporation, with offices located at 3519 N  
Elston, Chicago, IL, 60618 (the "Organization" and its "Location") (and together with Member,  
the "Parties," and each, a "Party").

WHEREAS, Member is a member of Organization in good standing; and

WHEREAS, Member desires to permit Organization to use without cost

\_\_\_\_\_ (the "Equipment")

as more specifically described in this Agreement in Schedule A attached hereto; and

WHEREAS, Organization desires to use the Equipment in furtherance of its exempt purposes;

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions set forth  
herein, and for other good and valuable consideration, the receipt and sufficiency of which are  
hereby acknowledged, the Parties agree as follows:

1. Usage Permit. Member agrees to permit the Organization to use, and Organization agrees to borrow from Member, the equipment described more fully in attached Schedule A (the "Equipment").
2. Operation. Organization shall not remove the Equipment from Organization's address specified on the first page above without prior written approval of Member. Organization shall allow Member to enter Organization's premises at all reasonable times to locate and inspect the state and condition of the Equipment. Organization shall use the Equipment only for its intended purpose and follow Member's reasonable instructions regarding the use and maintenance of the Equipment.
3. No Cost. In support of Organization's exempt purposes, Member shall grant Organization the right to possess and use the Equipment free of any charge, rent, or other remuneration during the Term.
4. Non-conforming Equipment. If on the Effective Date, the Equipment fails to operate in accordance with the manufacturer's specifications and operation instructions, Organization shall return such non-conforming Equipment at Member's expense and risk of loss to Member to the destination specified by Member.
5. Maintenance and Upkeep.

- 5.1. General. Organization, at its own expense, shall maintain, service, repair, and keep each Item of Equipment:
  - 5.1.1. in the same condition as when delivered to its Location, ordinary wear and tear excepted;
  - 5.1.2. in compliance with the Manufacturer's maintenance requirements; and
  - 5.1.3. in compliance with Law.
- 5.2. Replacement of Parts. If any Part comprising any Item of Equipment becomes lost, stolen, damaged beyond repair, or otherwise permanently rendered unfit for use, Organization, at its own expense, shall promptly replace or cause to be replaced the Part with one or more replacement Parts in as good operating condition as, and having a value and utility at least equal to, the Parts replaced.
- 5.3. Required Upgrades. Organization, at its own expense, shall install alterations, modifications, additions, and upgrades to any Item of Equipment that is:
  - 5.3.1. required or supplied by the Manufacturer; or
  - 5.3.2. necessary to comply with Law (collectively, "Required Upgrades").
- 5.4. Optional Upgrades. Organization, at its own expense, may, install Upgrades to any Item of Equipment that Organization deems desirable in the proper conduct of its Business ("Optional Upgrade"); provided, however, that Organization shall not make or cause to be made any Optional Upgrade that:
  - 5.4.1. impairs or damages the function, nature, purpose, or operation of the Equipment;
  - 5.4.2. subjects the Equipment to any Lien, other than a Permitted Lien;
  - 5.4.3. decreases the then-current value, estimated residual value, or remaining useful life or utility of the Equipment as measured immediately prior to such Optional Upgrade; or
  - 5.4.4. is owned or leased by Organization.
- 5.5. Title to Parts and Upgrades. If Organization incorporates or installs any Parts or Upgrades, then immediately on any Part or Upgrade becoming incorporated or installed in or attached to the Item of Equipment, without further act:
  - 5.5.1. such Part or Upgrade is deemed part of the Item of Equipment to the same extent as though originally incorporated or installed in or attached to the Item of Equipment;
  - 5.5.2. title to such Part or Upgrade vests in Member; and
  - 5.5.3. such Part or Upgrade becomes subject to this Agreement.
6. Title and Risk of Loss. Title to the Equipment remains with Member throughout the Term, and Organization shall acquire no right, title, or interest in the Equipment. Organization shall not pledge or encumber the Equipment in any way. Organization shall bear all risk of loss, damage, destruction, theft, and condemnation to or of the Equipment from any cause whatsoever ("Loss") until the Equipment has been returned to Member as provided in section 7.1 herein. Organization shall notify Member in writing within seven (7) days of any such Loss.
7. Return of Equipment.

- 7.1. Obligation to Return Equipment. Member shall, at Member's risk and expense, no later than the expiration of the Term (a) deinstall, inspect, and properly pack the Equipment; and (b) remove the Equipment.
  - 7.2. Condition of Equipment Upon Return. Organization shall cause the Equipment returned for any reason under this Agreement to
    - 7.2.1. be in the same condition as when delivered to Organization, ordinary wear and tear excepted;
    - 7.2.2. have all Organization's insignia or markings removed or painted over and the areas where such markings were removed or painted over refurbished as necessary to blend with adjacent areas; and
    - 7.2.3. be in compliance with applicable law.
8. Compliance with Law. Organization shall
  - 8.1. comply with all applicable laws, regulations, and ordinances and
  - 8.2. maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement.
9. Indemnification.
  - 9.1. Organization shall indemnify, defend, and hold harmless Member against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or, expenses of whatever kind, including reasonable attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers, incurred by Member resulting from any claim of a third party arising out of or occurring in connection with the Equipment or Organization's negligence, willful misconduct, or breach of this Agreement.
  - 9.2. Member shall indemnify, defend, and hold harmless Organization and its officers, directors, employees, agents, affiliates, successors, and permitted assigns against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or, expenses of whatever kind, including reasonable attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers, incurred by Organization and its officers, directors, employees, agents, affiliates, successors, and permitted assigns resulting from any claim of a third party arising out of or occurring in connection with the Equipment or Member's gross negligence, willful misconduct, or breach of this Agreement.
10. Insurance. During the term of this Agreement, Organization shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability insurance with financially sound and reputable insurers.
  - 10.1. Upon Member's request, Organization shall provide Member with a certificate of insurance from Organization's insurer evidencing the insurance coverage specified in this Agreement.
  - 10.2. At the discretion of the board the Member may be listed as an "additional insured" party under Organization's commercial general liability insurance

policy.

11. Term and Termination. The term of this Agreement commences on the date of this Agreement and continues for a period of \_\_\_\_\_ [Day/Months/Years], unless and until earlier terminated as provided under this Agreement (the "Term").
12. Entire Agreement. This Agreement, including and together with any related exhibits, schedules, attachments, and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter.
13. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
14. Amendments. No amendment to or modification of this Agreement is effective unless it is in and signed by each Party.
15. Assignment. This Agreement is not assignable.
16. Choice of Law and Choice of Forum. This Agreement and all matters arising out of or relating to this Agreement are governed by, and construed in accordance with, the laws of the State of Illinois, without regard to the conflict of laws provisions of such State. Any legal suit, action, or proceeding arising out of or relating to this Agreement must be instituted in the federal courts of the United States of America or the courts of the State of Illinois, in each case located in the City of Chicago and County of Cook, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.
17. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.
18. Headings. Headings in this Agreement are for convenience of reference only, and are not to be used in any interpretation of the agreement between the parties.

[SIGNATURE PAGE FOLLOWS]

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**SIGNATURE PAGE**

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

Member Name

Pumping Station: One Board Member Name

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

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

Name:

Name:

Title:

## SCHEDULE A

### Description of Equipment for Usage (Free of Charge)