

FIRST AMENDMENT

THIS IS A FIRST AMENDMENT TO THE AGREEMENT dated the _____ day
of _____, 2019, between:

CITY OF POMPANO BEACH, a municipal corporation of the
State of Florida, whose address is 100 West Atlantic Boulevard,
Pompano Beach, Florida 33060, hereinafter referred to as "CITY,"

and

PAYLESS SWIM, LLC, a Florida limited liability company,
having its office and place of business at 12270 NW 2nd Street, Coral
Springs, FL 33071, hereinafter referred to as "LICENSEE."

WHEREAS, the parties entered into an agreement for a revocable license agreement on
September 19, 2016, ("Original Agreement"), and approved by City Resolution No. 2016-280; and

WHEREAS, the CONTRACTOR/LICENSEE have mutually agreed to extend the Original
Agreement for one (1) additional two (2) year period; amend certain terms and conditions, and to
include additional provisions to the Original Agreement;

WITNESSETH:

IN CONSIDERATION of the mutual terms, conditions, promises, covenants and
payments herein set forth CITY and LICENSEE agree as follows:

1. Each "WHEREAS" clause set forth above is true and correct and herein
incorporated by this reference.

2. The original Agreement effective September 19, 2016, a copy of which is attached hereto and made a part hereof as Exhibit "A," shall remain in full force and effect except as specifically amended herein below.

3. That Article 7 Accounting and Recordkeeping Procedures, of the Original Agreement, is hereby deleted in its entirety and replaced with the following language:

LICENSEE shall use such accounting methods and procedures as may be prescribed by CITY, in accordance with generally accepted accounting principles, which shall include but not be limited to, those methods and procedures set forth in this Article and in Exhibit D.

4. The Original Agreement is amended by adding additional language as follows:

Article 8 **PUBLIC RECORDS**

A. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law, as amended. Specifically, the Contractor shall:

1. Keep and maintain public records required by the City in order to perform the service.

2. Upon request from the City's custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

4. Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor

keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

B. Failure of the Contractor to provide the above described public records to the City within a reasonable time may subject Contractor to penalties under 119.10, Florida Statutes, as amended.

PUBLIC RECORDS CUSTODIAN

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

CITY CLERK

100 W. Atlantic Blvd., Suite 253

Pompano Beach, Florida 33060

(954) 786-4611

RecordsCustodian@copbfl.com

5. All articles of the Original Agreement below Article 8 are appropriately renumbered.

6. That Article 9 Licensee's Indemnification of City, of the Original Agreement is hereby deleted in its entirety and replaced with the following language:

ARTICLE 9 **LICENSEE'S INDEMNIFICATION OF CITY**

A. LICENSEE shall at all times indemnify, hold harmless and defend the CITY its officials, its authorized agents and employees hereunder from and against any and all claims, demands, suit, damages, attorneys' fees, fines, penalties, defense costs or liabilities arising directly, indirectly or in connection with this agreement and with LICENSEE's officers, staff or other agents' actions, negligence or misconduct under this Agreement whether same occurs or the cause arises on or away from the Property except that LICENSEE shall
First Amendment between the City of Pompano Beach and Payless Swim, LLC

not be liable under this Article for damages arising out of injury or damage to persons or Property arising from the negligence, gross negligence or willful misconduct of the CITY, any of its officers, agents or employees. LICENSEE agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and to bear all costs and expenses related thereto, even if the claim(s) is/are groundless, false or fraudulent. The foregoing indemnification shall not be operative as to any claims by LICENSEE for any causes of action LICENSEE has or may have for breaches or defaults by the CITY under this Agreement.

B. The parties agree that the value of services provided by CITY under this Agreement and the benefits received by LICENSEE under same shall constitute specific consideration by LICENSEE for the indemnification to be provided herein. LICENSEE acknowledges and agrees that neither party would enter into this Agreement without this indemnification of CITY by LICENSEE.

C. LICENSEE shall be solely responsible for insuring all stock, inventory, monies or other personal Property at the Property against damage or loss of any nature or kind. LICENSEE acknowledges and agrees that CITY assumes no responsibility whatsoever for any personal property placed at the Property and, with the exception of damages or loss suffered as a result of CITY's negligence, CITY is hereby expressly released and forever discharged from any and all liability for any loss, injury or damage to persons or property which may be sustained by reason of LICENSEE's presence and occupancy at the Property.

7. The parties hereto agree to extend the Original Agreement for one (1) additional two (2) year period, ending September 18, 2021.

8. This Agreement shall bind the parties and their respective executors, administrators, successors and assign and shall be fully effective as though the extension had been originally included in the Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

"CITY":

Witnesses:

CITY OF POMPAÑO BEACH

By: _____
REX HARDIN, MAYOR

By: _____
GREGORY P. HARRISON, CITY MANAGER

Attest:

ASCELETA HAMMOND, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

MARK E BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2019 by **REX HARDIN** as Mayor, **GREGORY P. HARRISON** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

First Amendment between the City of Pompano Beach and Payless Swim, LLC

"LICENSEE"

Witnesses:

PAYLESS SWIM, LLC

J. Walker

Shangwanette Walker

Print Name

K. Walker

K. Walker

Print Name

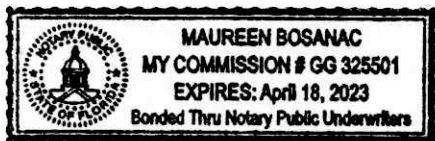
By:

MICHAEL P. MCGOUN, MANAGER

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 26 day of August, 2019 by **MICHAEL P. MCGOUN** as Manager of Payless Swim, LLC, a Florida limited liability company on behalf of the company. He is personally known to me or who has produced Passport USA 542923187 April 3, 2026 (type of identification) as identification.

NOTARY'S SEAL:



M. Bosanac
NOTARY PUBLIC, STATE OF FLORIDA

Maureen Bosanac
(Name of Acknowledger Typed, Printed or Stamped)

GG 325501
Commission Number

AP:MEB/TAL/jmz
8/22/19
l:agr/rec/2019-1120

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