**LICENSE AND MAINTENANCE AGREEMENT**

This License and Maintenance Agreement (“Agreement”) is entered into as of the \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2020, between the **CITY OF PORTLAND**, a Maine body corporate and politic, with a mailing address of City Hall, 389 Congress Street, Portland, Maine 04101 (the “City” or “Licensor”), and Maine Medical Center, a Maine nonprofit corporation with a place of business at 22 Bramhall Street, Portland, Maine 04102 and its successors and assigns (hereinafter the “Licensee”), who hereby agree as follows:

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, a revocable license is hereby granted to Licensee to install and maintain raised tree wells within the Congress Street sidewalk owned by the City of Portland and as shown on a plan entitled \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and attached hereto as Exhibit A (“Licensed Areas”), which property abuts the property of Licensee at 22 Bramhall Street, Portland, Maine (“Licensee’s Property”), together with the right from time to time to bring upon the Licensed Areas and areas adjacent thereto workers, materials and machinery necessary for the installation and maintenance of said tree wells. Occupancy of the Licensed Areas is subject to the following conditions:

1. All work performed upon and use of the Licensed Areas for the purposes set forth herein shall be at Licensee’s sole cost and expense (unless otherwise agreed in writing), the parties acknowledging that there may be temporary interruptions in enjoyment of the Licensed Area and the City’s property adjacent to the Licensed Are related to the conduct of any work related to this License. Licensee agrees at its sole expense to restore any portion of the Licensed Area and adjacent City property damaged by work conducted by Licensee and/or its contractors to substantially its condition prior to such work, or as shown on the Site Plan (as defined below) for the Project and Exhibit A, or as close to that condition as is reasonably practicable.

2. Licensee, by execution of this License Agreement, hereby agrees to assume responsibility for any and all claims and/or damage to persons or property arising out of or in any way related to Licensee’s entry upon City property located at or near the License Area or Licensee’s installation of curbing and landscaping over City property located at or near the License Area, and does hereby forever waive, release, relinquish, remise and discharge the City, its agents, employees, successors and assigns from any and all losses, costs or expenses (including reasonable attorney’s fees), damages, demands, liabilities, claims, actions, causes of action, suits, or judgments (collectively, “Claims”) whatsoever of every name and nature, in law and in equity, including without limitation those related in any manner to any accident or injury to, or death of, any person, or any damage to property occurring on, in or in the vicinity of the area covered by this License Agreement, arising out of the presence in and use by the Licensee of License Area.

3. Licensee shall procure and maintain liability insurance in an amount of not less than Four Hundred Thousand Dollars ($400,000) combined single limit (or the amount stated in the Maine Tort Claims Act as the same may be amended from time to time), covering claims for bodily injury, death and property damage and shall name the City as an additional insured with respect to such coverage. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the City under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. Prior to execution of this Agreement, the Licensee shall furnish the City and thereafter maintain certificates evidencing all such coverages, which certificates shall guarantee thirty (30) days’ notice to the City of termination of insurance from the insurance provider or agent. Licensee shall also provide a copy of any endorsement naming the City as additional insured. A certificate that merely has a box checked under “Addl Insr”; or the like, or that merely states “the City of Portland is named as an Additional Insured,” will not be acceptable. Upon City’s request, Licensee shall provide City with a complete copy of any of the above-referenced policies. Licensee shall be responsible for any and all deductibles and/or self-insured retentions. Licensee shall also require its contractors using the Licensed Area to provide the City with certificates evidencing the coverages set forth above. City’s acceptance or lack of acceptance of Licensee’s Certificate of Insurance or other evidence of insurance shall not be construed as a waiver of the Licensee’s obligation to obtain and maintain such insurance as required by this agreement.

4. This Agreement is assignable to any subsequent owners of the building located on the land described on the approved site and subdivision plan for Maine Medical Center, 22 Bramhall Street, Portland, Maine, recorded in the Cumberland County Registry of Deeds in Plan Book \_\_\_\_\_\_\_\_\_\_, Page \_\_\_\_\_\_\_\_\_\_ (the “Site Plan”).

5. This License may be revoked, with or without cause, upon one (1) month written notice from the City to the Licensee. This License shall automatically terminate in the event that the building shown on the site plan is destroyed, removed or otherwise ceases to exist on the site.

6. This instrument is a License and no provision hereof shall be construed as conveying an easement or other estate in land. This instrument shall be binding on LICENSOR’S successors and assigns. The parties agree that this Agreement may be recorded in the Cumberland County Registry of Deeds.

IN WITNESS WHEREOF, the City of Portland has caused this License and Maintenance Agreement to be executed by Jon P. Jennings, its City Manager thereunto duly authorized, as of the day and year first written above.

**CITY OF PORTLAND**

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

Jon P. Jennings

City Manager

STATE OF MAINE

CUMBERLAND, ss \_\_\_\_\_\_\_\_, 2020

Personally appeared the above-named Jon P. Jennings, City Manager for the City of Portland as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said City of Portland.

Before me,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public/Attorney at Law

Print name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My commission expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IN WITNESS WHEREOF, Maine Medical Center has caused this License and Maintenance Agreement to be executed by Lugene Inzana, its Chief Financial Officer thereunto duly authorized, as of the day and year first written above.

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

Name: Lugene Inzana

Title: Its Chief Financial Officer

STATE OF MAINE

CUMBERLAND, ss \_\_\_\_\_\_\_,\_, 2020

Personally appeared the above-named Lugene Inzana, Chief Financial Officer for Maine Medical Center as aforesaid, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said Lugene Inzana.

Before me,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public/Attorney at Law

Print name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My commission expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EXHIBIT A**