

Filing # 214574245 E-Filed 01/14/2025 03:12:19 PM

IN THE CIRCUIT COURT OF THE EIGHTEENTH
JUDICIAL CIRCUIT IN AND FOR BREVARD
COUNTY, FLORIDA

DINU PATEL, and
BHAVANA PATEL,
Plaintiff,

CASE NO.: 05-2021-CA-036363-XXXX-XX

v.

INDIGO PROPERTIES, LLC, a Florida
limited liability company, and
S. HARBOR CITY, INC., a Florida
profit corporation,
Defendants.

NOTICE OF FILING

PLEASE TAKE NOTICE that the Plaintiffs, DINU PATEL and BHAVANA PATEL, by
and through its undersigned attorneys, gives notice of the filing of the following:

1. Non-Exclusive Ingress and Egress Easement Agreement dated May 30, 2024.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 16, 2025, a true and correct copy of the foregoing
has been electronically filed with the Clerk of Court by using the Florida Courts E-Portal and a
copy was simultaneously served on the parties.

GRAY ROBINSON PA
Attorneys for the Plaintiff

/s/ Nathan B. Eprem
Nathan B. Eprem, Esq.
Florida Bar No. 1040425
Christina Morelli
Florida Bar No. 1018920
1795 West Nasa Boulevard
Melbourne, Florida 32901
321.674-3062 cell; 321.984.4122 fax
Nathan.Eprem@gray-robinson.com
Christina.Morelli@gray-robinson.com
Christine.Feronti@gray-robinson.com

Prepared by:
 Nathan B. Eprem, Esq.
 GrayRobinson, P.A.
 1795 West NASA Blvd.
 Melbourne, FL 32901

NON-EXCLUSIVE INGRESS AND EGRESS EASEMENT AGREEMENT

THIS NON-EXCLUSIVE INGRESS AND EGRESS EASEMENT AGREEMENT (this "Agreement") is made as of May 30th, 2024 (the "Effective Date") by and between **S. HARBOR CITY, INC.**, a Florida corporation, having an address of 6278 N. Federal Highway, Suite 401, Fort Lauderdale, FL 33308 ("Grantor") and **DINU PATEL and BHAVANA PATEL**, husband and wife, having an address of 1300 S. Harbor City Blvd., Melbourne, FL 32901 ("Grantee"), as follows.

RECITALS:

- A. Grantor owns certain lands located in Brevard County, Florida and legally described on Exhibit "A" attached hereto (the "Grantor Property").
- B. Grantee owns certain lands located adjacent to the Grantor Property and legally described on Exhibit "B" attached hereto (the "Grantee Property").
- C. Grantee, for the benefit of the Grantee Property, desires to obtain, and Grantor desires to provide, certain rights, privileges, and easements to use and access a certain portion of the Grantor Property, herein defined and referred to as the "Ingress and Egress Parcel", for the benefit of the Grantee Property, and Grantor has agreed to grant such rights, privileges, and easements in accordance with the terms and conditions set forth in this Agreement.

AGREEMENT

In consideration of the mutual promises and covenants contained in the Recitals in this Agreement and the sum of \$10.00 and other good and valuable consideration paid by Grantee to Grantor, receipt of which is hereby acknowledged by Grantor, it is mutually covenanted and agreed by the parties hereto as follows:

1. **Recitals.** The parties acknowledge that the Recitals set forth above are true and correct and are hereby incorporated by reference into the body of this Agreement.
2. **The Ingress and Egress Parcel.** The Ingress and Egress Parcel is defined as only that portion of the Grantor Property which was once 'Syracuse Avenue' as depicted on the Plat of Morningside Addition to the City of Melbourne, as recorded in Plat Book 7, Page(s) 1, of the Public Records of Brevard County, Florida; said 'Syracuse Avenue' having been vacated by the City of Melbourne on or about July 11, 1978 under Ordinance No. 78-39, recorded July 14, 1978 in Official Records Book 1912, Page 60.
3. **Grant of Easements.** Grantor hereby grants to Grantee, its successors, assigns, employees, contractors, guests, or invitees, for the benefit of the Grantee Property, a perpetual and

/63151/4160310505 v1

non-exclusive easement over, across, through, and under the Ingress and Egress Parcel solely for pedestrian and vehicular ingress and egress. In no event shall Grantee be entitled to park vehicles or store personal property on any portion of the Ingress and Egress Parcel. The scope of the non-exclusive ingress and egress easement shall be for pedestrian and vehicular ingress and egress only and shall not be expanded or interpreted to include any other purpose or use. In no event shall any party be entitled to park vehicles or store personal property or install or construct any improvements on any portion of the Ingress and Egress Area, except on their own property. Other than the Ingress and Egress Area, no party, nor their successors, assigns, employees, contractors, guests, nor invitees shall have any right of vehicular ingress or egress onto, across or through, any other portion of any other party's property. The parties expressly understand and agree that the parties do not ensure that the granting of the ingress and egress easement provided for herein shall be sufficient for any particular purpose and/or development permit purposes with the City of Melbourne, Florida or Brevard County, Florida. The parties have no obligation to provide ingress and egress over any other area of each other's property other than the Ingress and Egress Area even if the Ingress and Egress Area provided is insufficient to support any development permit applied for by any party with the City of Melbourne, Florida or Brevard County, Florida or any other governmental regulatory authority. As used in this Agreement, "invitees" shall include any and all employees, agents, contractors and/or franchisees or other person(s) working on behalf of or under the authority of the City of Melbourne or County of Brevard for purposes of carrying out any governmental or municipal function(s) such as, for example and not by limitation, police and/or fire-rescue services, water and sewer utility services, waste (garbage/trash) removal, building inspection, code enforcement, nuisance abatement, as well as any other public or private utility service provider, company, or agency, including but not limited to cable, internet, electrical service, or natural gas; provided further that nothing herein shall be interpreted to allow the installment of such services within the Ingress and Egress Area, the intent of this provision being only to clarify the inclusion of such person(s) to be invitees of each party; provided further that nothing herein shall be interpreted as enlarging the class of persons entitled to use the Ingress and Egress Area to include the general citizenry or public at large. Grantor disclaims any warranty or representation of any kind, nature, character, function or utility concerning the Ingress and Egress Parcel.

4. **Use by Grantor.** The easement granted to Grantee hereunder shall be non-exclusive, and Grantor retains the right to use the Ingress and Egress Parcel for any lawful purpose, including, without limitation, the ingress and egress of vehicles and pedestrians.

5. **No Common Ownership.** Notwithstanding anything set forth herein expressly or implied to the contrary, the parties hereto expressly negate any construction of this Agreement which implies the joint or common ownership of the Ingress and Egress Parcel or which implies the creation, establishment, or existence of any partnership, joint venture or other scheme of common ownership or common operation of the Ingress and Egress Parcel.

6. **Indemnification.** To the fullest extent permitted by applicable law, Grantee agrees to protect, indemnify, defend, protect, and save harmless Grantor or its successors, assigns, contractors, and any agents of Grantor (each a "Grantor Party") for any and all liability, loss, cost, damage, and expense (including, without limitation, court costs, and paralegal and attorney's fees at trial and appellate level) incurred by or otherwise asserted against Grantor or a Grantor Party and arising out of or resulting from the use of the Ingress and Egress Parcel by Grantee or its

successors, assigns, employees, contractors, guests, or invitees, except to the extent such liability, loss, cost, damage or expense was caused by the gross negligence or willful misconduct of Grantor or a Grantor Party.

7. **Estoppel Certificate.** Upon the written request of any party hereto, any other party hereto shall execute and deliver, within twenty (20) days after receipt of such request, a certificate for the benefit of the requesting party or its lenders, or both, certifying that there are no known defaults on the part of any party to this Agreement or, if there are such defaults, specifying the particulars of such default and certifying that there are no setoffs or defenses to the enforcement of the terms of this Agreement, or if there are, specifying the particulars of such setoffs or defenses.

8. **Covenants Running with Land.** All the terms, provisions, and conditions of this Agreement are covenants running with the land and for the benefit of the Grantee Property. At such time as ownership to the Ingress and Egress Parcel, the Grantor Property, or Grantee Property, as the case may be, is transferred, the transferor of such parcel shall be relieved of all liability and obligations arising from and after the date of such transfer, and the transferee, by accepting title to such parcel, shall be deemed to have expressly assumed all of the obligations and rights of the transferor under this Agreement with respect to such parcel.

9. **Notices.** Whenever any notice, demand, consent, delivery or request is required or permitted hereunder, it shall be in writing and shall be deemed to have been properly given or served (a) when delivered in fact to the other party, or (b) seven (7) business days after having been deposited in the United States mail, with adequate postage prepaid and sent by registered or certified mail with return receipt requested, or (c) when delivered to Federal Express or other comparable overnight courier which obtains a receipt to confirm delivery to the addresses set forth below or at such other addresses as are specified by written notice so given in accordance herewith. All notices and requests required or authorized hereunder shall be delivered as aforesaid to the respective parties hereto as follows (or in the event of a change of ownership of either the Ingress and Egress Parcel or Grantee Property, then to the owner of record of the Ingress and Egress Parcel or Grantee Property, if different from below at the relevant time, at the mailing address shown on the Brevard County Property Appraiser's records):

TO GRANTOR:

S. Harbor City, Inc.
Attn: Randy Herscovici, President
6278 N. Federal Highway, Suite 401
Fort Lauderdale, FL 33308

TO GRANTEE:

Dinu Patel and Bhavana Patel
1300 S. Harbor City Blvd.
Melbourne, FL 32901

10. **Captions and Headings.** Any captions and headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Agreement nor the intent of any provision hereof.

11. **No Waiver.** No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall

only be applicable to the specific instance to which it related and shall not be deemed to be a continuing or future waiver.

12. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement.

13. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

14. **Governing Law.** This Agreement shall be construed and interpreted according to the laws of the State of Florida.

15. **Interpretation.** Unless this Agreement expressly or necessarily requires otherwise, any time period measured in "days" means consecutive calendar days, except that the expiration of any time period measured in days that expires on a Saturday, Sunday or legal holiday automatically will be extended to the next day so that it is not a Saturday, Sunday or legal holiday.

16. **Entire Agreement.** This Agreement and the exhibits attached hereto contain the entire agreement between the parties. There are no promises, agreements, conditions, undertaking, warranties, or representations, oral or written, express or implied between the parties other than as herein set forth. No amendment or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto. No waiver of any of the provisions of this Agreement or any other agreement referred to herein shall be valid unless in writing and signed by the party against whom enforcement is sought.

17. **Venue.** Grantee and Grantor agree that the venue for any matters arising out of or in connection with this Agreement shall only be in the Circuit Court in and for the County of Brevard, State of Florida.

18. **Attorneys' Fees.** In connection with any litigation including appellate proceedings arising out of this Agreement, the prevailing party shall be entitled to recover from the losing party its Attorneys' Fees. As used in this Agreement, "Attorneys' Fees" shall mean all reasonable attorneys' and paralegal's fees, and costs incurred in enforcing its rights and remedies hereunder, including costs of collection prior to instigating litigation, costs at trial, on appeal or in any bankruptcy or administrative proceeding.

19. **Waiver of Jury Trial.** GRANTEE AND OWNER WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS AGREEMENT. THIS WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY EACH PARTY AND EACH PARTY EXPRESSLY ACKNOWLEDGES THAT NEITHER THE OTHER PARTY NOR ANY PERSON ACTING ON BEHALF OF THE OTHER PARTY HAS MADE ANY REPRESENTATIONS OF FACT TO INCLUDE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. EACH PARTY ACKNOWLEDGES TO THE OTHER THAT IT HAS READ AND UNDERSTANDS THE MEANING AND EFFECT OF THIS WAIVER PROVISION.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Grantee has executed this Agreement, as of the date set forth below.

Witnesses:

Kishan Bhai Dinubhai Patel

Print Name: K.P.

Anjani Patel

Print Name: Anjani Patel

GRANTEE:

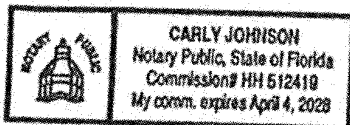
Dinu Patel

B. Patel
Bhavana Patel

STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 30 day of May, 2024, by Dinu Patel and Bhavana Patel, who are ☐ personally known to me, or ☒ produced Florida Driver's License as identification.

(NOTARY SEAL)



Carly Johnson
Notary Public Signature

Carly Johnson
(Name typed, printed or stamped)

Notary Public-State of Florida
Commission No.: HH 512419
My Commission Expires: April 4th, 2028

Exhibit "A"

Grantor Property

Lots 1, 2, 3, 5, 5, 6, 15, 16, 17, Block H, Together with the South 1/2 of vacated Syracuse Avenue lying North of Lot 6, Block H, Morningside Addition to the City of Melbourne, according to the plat thereof, as recorded in Plat Book 7, Page(s) 1, of the Public Records of Brevard County, Florida.

Parcel Identification No. 27-37-34-77-H-1

Exhibit "B"

Grantee Property

Lots 7 and 8, and the East 24.7 feet of the North 110.0 feet and the East 12.0 feet of the South 55.0 feet of Lot 9, Block H, and the South 30 feet of vacated Syracuse Avenue adjoining the above described property of Morningside Addition To The City of Melbourne, according to the plat thereof recorded in Plat Book 7, Page 1, of the Public Records of Brevard County, Florida.

Parcel Identification No. 27-37-34-77-H-7