

CITY OF OBERLIN, OHIO

ORDINANCE NO. 19-37 AC CMS

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A LICENSE AGREEMENT WITH UTILITY SERVICE PARTNERS PRIVATE LABEL, INC. d.b.a. SERVICE LINE WARRANTIES OF AMERICA TO PROVIDE THE NATIONAL LEAGUE OF CITIES SERVICE LINE WARRANTY PROGRAM TO RESIDENTIAL PROPERTY OWNERS IN THE CITY OF OBERLIN; TO PROVIDE FOR THE PROMOTION OF THE SERVICE LINE WARRANTY PROGRAM IN THE CITY OF OBERLIN USING THE CITY OF OBERLIN'S NAME AND LOGO; TO PROVIDE FOR THE DEPOSIT OF ALL LICENSE FEES GENERATED UNDER THE LICENSE AGREEMENT INTO THE CITY OF OBERLIN'S CARING FUND AND DECLARING AN EMERGENCY.

WHEREAS, sewer and water line laterals between the mainlines and the connection on residential private property are owned by individual residential property owners residing in the City of Oberlin; and,

WHEREAS, repairs to a broken, clogged or leaking water or sewer line can cost a homeowner \$1,300 to \$4,000 or more out-of-pocket which may not be affordable to a family's budget; and,

WHEREAS, the City of Oberlin desires to provide residential property owners the opportunity, but not the obligation, to purchase a service line warranty on water and/or sewer lines to protect themselves from an unexpected repair expenses; and,

WHEREAS, Utility Service Partners Private Label, Inc. is the administrator of the National League of Cities Service Line Warranty Program and has agreed to make water and sewer service line warranties available to residents in the City of Oberlin; and,

WHEREAS, entering into a license agreement with Utility Service Partners Private Label, Inc. will generate license fees for the City of Oberlin which will be directed into the City's Caring Fund to assist utility customers who qualify with utility bills; and,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the City Manager is hereby authorized and directed to enter into a license agreement with Utility Service Partners Private Label, Inc., d/b/a Service Line Warranties of America to provide the National League of Cities Service Line Warranty Program to residential property owners in the City of Oberlin and to provide for the promotion of said warranty program in accordance with the agreement attached hereto as Exhibit A.

SECTION 2. That all license fees generated under the license agreement will be deposited into the City of Oberlin's Caring Fund.

SECTION 3. That it is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio or

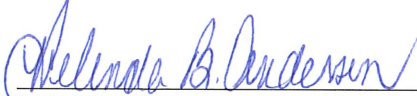
to provide for the usual daily operation of a municipal department, to wit: "to provide the opportunity for City of Oberlin residents to avail themselves of the National League of Cities Service Line Warranty Program and protect their water and sewer lines without delay," and shall take effect immediately upon passage.

PASSED: 1st Reading: June 17, 2019 (E)

2nd Reading: _____

3rd Reading: _____

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



BRYAN BURGESS
PRESIDENT OF COUNCIL

POSTED: 06/18/2019

EFFECTIVE DATE: 06/17/2019

JUL 22 2019 AM 9:24

LICENSING AGREEMENT

This LICENSING AGREEMENT ("Agreement") is entered into as of June 21, 2019 ("Effective Date"), by and between the City of Oberlin, Ohio ("City"), and Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America ("Company"), herein collectively referred to singularly as "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, sewer and water line laterals between the mainlines and the connection on residential private property are owned by individual residential property owners residing in the City ("Residential Property Owner"); and

WHEREAS, City desires to offer Residential Property Owners the opportunity, but not the obligation, to purchase a service line warranty and other similar products set forth in Exhibit A or as otherwise agreed in writing from time-to-time by the Parties (each, a "Product" and collectively, the "Products"); and

WHEREAS, Company, a subsidiary of HomeServe USA Corp., is the administrator of the National League of Cities Service Line Warranty Program and has agreed to make the Products available to Residential Property Owners subject to the terms and conditions contained herein; and

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby, the Parties agree as follows:

1. **Purpose.** City hereby grants to Company the right to offer and market the Products to Residential Property Owners subject to the terms and conditions herein.
2. **Grant of License.** City hereby grants to Company a non-exclusive license ("License") to use City's name and logo on letterhead, bills and marketing materials to be sent to Residential Property Owners from time to time, and to be used in advertising (including on the Company's website), all at Company's sole cost and expense and subject to City's prior review and approval, at City's sole discretion which will not be unreasonably delayed. City agrees that it will not extend a similar license to any competitor of Company during the Term and any Renewal Term of this Agreement.
3. **Term.** The term of this Agreement ("Term") shall be for three (3) years from the Effective Date unless sooner terminated. The Agreement will automatically renew for additional one (1) year terms ("Renewal Term") unless one of the Parties gives the other written notice at least ninety (90) days prior to end of the Term or of a Renewal Term that the Party does not intend to renew this Agreement. In the event that Company is in material breach of this Agreement,

the City may terminate this Agreement thirty (30) days after giving written notice to Company of such breach, if said breach is not cured during said thirty (30) day period. Beginning twelve (12) months after the Effective Date, City may also terminate this Agreement for any reason on thirty (30) days' written notice. Company will be permitted to complete any marketing initiative initiated and approved prior to termination of this Agreement after which time, neither Party will have any further obligations to the other and this Agreement will terminate.

4. Consideration.

A. As consideration for such license, Company will pay to City a License Fee as set forth in Exhibit A ("**License Fee**") during the term of this Agreement. The first payment shall be due by January 30th of the year following the conclusion of first year of the Term. Succeeding License Fee payments shall be made on an annual basis throughout the Term and any Renewal Term, due and payable on January 30th of the succeeding year. City agrees to provide a completed HomeServe New Partner Form and a Form W-9 to Company in order to facilitate proper payment of the License Fee. City will have the right, at its sole expense, to conduct an audit, upon reasonable notice and during normal business hours, of Company's books and records pertaining to any fees due under this Agreement while this Agreement is in effect and for one (1) year after any termination of this Agreement.

5. **Indemnification.** Company hereby agrees to protect, indemnify, defend and hold the City, its elected officials, officers, employees and agents (collectively or individually, "**Indemnitee**") harmless from and against any and all third party claims, damages, losses, expenses, suits, actions, decrees, judgments, awards, reasonable attorneys' fees and court costs (individually or collectively, "**Claim**"), which an Indemnitee may suffer or which may be sought against or are recovered or obtainable from an Indemnitee, as a result of or arising out of any breach of this Agreement by the Company, or any negligent or fraudulent act or omission of the Company or its officers, employees, contractors, subcontractors, or agents in the performance of services under the Products; provided that the applicable Indemnitee notifies Company of any such Claim within a time that does not prejudice the ability of Company to defend against such Claim. Any Indemnitee hereunder may participate in its, his, or her own defense, but will be responsible for all costs incurred, including reasonable attorneys' fees, in connection with such participation in such defense.

6. **Notice.** Any notice required to be given hereunder shall be deemed to have been given when notice is (i) received by the Party to whom it is directed by personal service, (ii) sent by electronic mail (provided confirmation of receipt is provided by the receiving Party), or (iii) deposited as registered or certified mail, return receipt requested, with the United States Postal Service, addressed as follows:

To: City:
ATTN: Rob Hilliard
City of Oberlin
85 S Main St
Oberlin, OH 44074-1626
Phone: (440) 775-7203

To: Company:
ATTN: Chief Sales Officer
Utility Service Partners Private Label, Inc.
4000 Town Center Boulevard, Suite 400
Canonsburg, PA 15317
Phone: (866) 974-4801

7. **Modifications or Amendments/Entire Agreement.** Any and all of the representations and obligations of the Parties are contained herein, and no modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a party unless in writing signed by that Party.

8. **Assignment.** Other than to an affiliate or an acquirer of all or substantially all of its assets, this Agreement and the License granted herein may not be assigned by Company without the prior written consent of the City, such consent not to be unreasonably withheld. Notice of such assignment shall be provided by Company no less than 30 days prior to the date of assignment.

9. **Counterparts/Electronic Delivery; No Third Party Beneficiary.** This Agreement may be executed in counterparts, all such counterparts will constitute the same contract and the signature of any Party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter. Nothing expressed or implied in this Agreement is intended, or should be construed, to confer upon or give any person or entity not a party to this agreement any third- party beneficiary rights, interests, or remedies under or by reason of any term, provision, condition, undertaking, warranty, representation, or agreement contained in this Agreement.

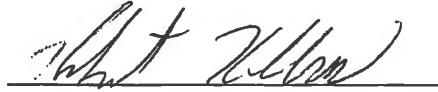
10. **Choice of Law/Attorney Fees.** The governing law shall be the laws of the State of Ohio. In the event that either Party institutes any action or proceeding against the other relating to the provisions of this Agreement or any default hereunder, such dispute shall be brought in a court of law having jurisdiction in Lorain County, Ohio..

11. **Incorporation of Recitals and Exhibits.** The above Recitals and Exhibit A attached hereto are incorporated by this reference and expressly made part of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.


CITY OF OBERLIN



Name: Robert Hillard

Title: City Manager

UTILITY SERVICE PARTNERS PRIVATE LABEL, INC.

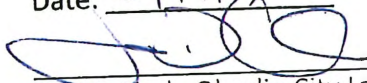
DocuSigned by:

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Name: Michael Backus

Title: Chief Sales Officer

APPROVED AS TO FORM

Date: 6/19/15



Jon D. Clark, Oberlin City Law Director

Exhibit A
NLC Service Line Warranty Program
City of Oberlin
Term Sheet
April 8, 2019

I. Initial Term. Three years

II. License Fee. \$0.50 per Product for each month that a Product is in force for a Residential Property Owner (and for which payment is received by Company), aggregated and paid annually, for:

- a. City logo on letter, advertising, billing, and marketing materials

III. Products.

- a. External water service line warranty (initially, \$5.75 per month)
- b. External sewer/septic line warranty (initially, \$7.75 per month)
- c. Interior plumbing and drainage warranty (initially, \$9.99 per month)

Company may adjust the foregoing Product fees; provided, that any such adjustment shall not exceed \$.50 per month in any 12-month period, unless otherwise agreed by the Parties in writing.

IV. Scope of Coverage.

- a. External water service line warranty:
 - Homeowner responsibility: From the meter and/or curb box to the external wall of the home.
 - Covers thawing of frozen external water lines.
 - Covers well service lines if applicable.
- b. External sewer/septic line warranty:
 - Homeowner responsibility: From the exit point of the home to the main.
 - Covers septic lines if applicable.
- c. Interior plumbing and drainage warranty:
 - Water supply pipes and drainage pipes within the interior of the home.

V. Marketing Campaigns. Company shall have the right to conduct up to three campaigns per year, comprised of up to six mailings and such other channels as may be mutually agreed. Initially, Company anticipates offering the Interior plumbing and drainage warranty Product via in-bound channels only.