

## **PIPELINE EASEMENT AGREEMENT**

This Easement Agreement (the “Easement”) between the City of Port Lavaca, a Texas Home Rule City (hereinafter “CITY”) and Equalizer, Inc., a Texas corporation, whose address is P.O. Box 154579 Waco, Texas 76715 (hereinafter “GRANTEE”), is effective as of the 9th day of 2026.

**WHEREAS**, GRANTEE desires an Easement across a portion of land owned by CITY, such land being more fully described in Exhibit “A”, which is attached hereto and incorporated herein for any and all purposes; and

**WHEREAS**, CITY intends to grant a Pipeline Easement to GRANTEE over said land for the purpose of installation, construction, operation, maintenance, replacement, repair, upgrade, and removal of a pipeline and pipeline header in accordance with all applicable local, State and Federal laws and ordinances on the CITY’s property described in Exhibit “A”, for the purpose of transferring Liquid Fertilizer products to or from barges docked in the Harbor of Refuge; and

**WHEREAS**, the CITY has determined that the granting of an easement to GRANTEE is authorized by law and constitutes a valid public purpose; and

**WHEREAS**, the parties desire to set forth the terms and conditions under which the Easement can be acquired by GRANTEE from the CITY;

**NOW, THEREFORE**, the Parties hereto, in consideration of the premises and covenants herein set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, each intending to be legally bound, agree as follows:

### **ARTICLE I**

#### **Representations, Covenants and Warranties**

1. The CITY is a political subdivision of the State of Texas, governed by its Home Rule Charter and laws of the State of Texas.
2. The Mayor has been duly authorized to execute and deliver this Easement by valid formal action of the City Council of CITY.
3. GRANTEE is a Texas corporation in good standing under the laws of the State of Texas and has full and complete power to enter into this Easement, to enter into and carry out the transactions contemplated hereby and to carry out its obligations under this Easement; and has duly authorized the execution and delivery of this Easement.

4. GRANTEE shall at all times during the term hereof maintain and preserve full power and authority to perform, and shall perform its obligations hereunder in the manner and at the times set forth herein.

5. GRANTEE will not willfully or knowingly use or maintain the property subject to this Easement, or any part thereof, improperly, carelessly, in violation of any applicable federal, state or local law or in a manner contrary to that contemplated by this Easement.

6. GRANTEE will comply with all laws, regulations, rules and orders of any federal, state or local authority or agency concerning the maintenance of the property subject to this Easement and the pipeline within the Easement.

## ARTICLE II

### Easement

1. **Easement.**

(a) Subject to compliance by GRANTEE with the terms of this Easement, the CITY hereby grants to GRANTEE this Easement under the terms and conditions set forth in this Easement on the property more fully described in Exhibit "A".

(b) This Easement is necessary to accommodate a pipeline; said pipeline to be buried with a minimum of 3 foot of cover; similar permission may be given to others for installation, maintenance and use of a pipeline in close proximity to the one provided for herein. GRANTEE shall not have and there is not given an exclusive right of use and/or occupancy of any portion of CITY's property except that occupied by GRANTEE'S pipeline being located in this Easement.

2. **Purpose of Easement:** This Easement, with its rights and privileges shall be used solely for the purpose of installation, construction, operation, maintenance, replacement, repair, upgrade, and removal of a pipeline and pipeline header in accordance with all applicable locale, State and Federal laws and ordinances within the Easement area described in Exhibit "A".

3. **CITY's Disclaimers.** THE CITY MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION OR THE FITNESS FOR ANY PARTICULAR PURPOSE OF THE EASEMENT, INCLUDING THE EASEMENT'S SUITABILITY FOR GRANTEE'S PIPELINE. THE CITY SHALL NOT BE RESPONSIBLE FOR LATENT DEFECTS, GRADUAL

DETERIORATION OR LOSS OF SERVICE OR USE OF THE EASEMENT OR ANY PORTION THEREOF. THE CITY SHALL NOT BE LIABLE TO GRANTEE OR TO ANYONE ELSE FOR ANY LIABILITY, INJURY, CLAIM, LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED DIRECTLY OR INDIRECTLY BY THE INADEQUACY OF THE EASEMENT OR ANY PORTION THEREOF, ANY INTERRUPTION OF USE OR LOSS OF USE OF THE EASEMENT, GRANTEE'S PIPELINE OR ANY PORTION THEREOF OR ANY LOSS OF BUSINESS OR OTHER CONSEQUENCE OR DAMAGE, WHETHER OR NOT RESULTING DIRECTLY OR INDIRECTLY FROM ANY OF THE FOREGOING. CITY SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES WITH RESPECT TO THE EASEMENT.

4. **Covenant of Quiet Enjoyment.** CITY covenants that GRANTEE, on maintaining a valid Lease Agreement with CITY for Harbor of Refuge Tract No. 3 as required under this Easement, and on observing and performing all the other terms and conditions in this Easement to be performed or observed by GRANTEE, shall, during the term of this Easement, peaceably and quietly have, hold and enjoy the Easement, without disturbance from any person whatsoever, subject to the terms, covenants, conditions and provisions and agreements of and in this Easement.

5. **Rights of CITY.** Nothing herein contained shall prevent CITY from granting to other persons, firms or corporations licensees and/or easements to cross this Easement so long as such other licensees and/or easements do not interfere with the rights granted to GRANTEE or its usage thereof. CITY shall notify GRANTEE at least thirty (30) days in advance of construction of any non-interruptive license and/or easement granted by CITY along or crossing this Easement.

### ARTICLE III

#### Term of Easement

1. This Easement shall be and remain in effect for a period in which the GRANTEE maintains a valid Lease Agreement with CITY for the Harbor of Refuge Tract No. 3 and GRANTEE continues to use the pipeline for the purpose herein stated. (hereinafter, the "Term").

2. **Termination of Easement Term.** This Easement shall terminate upon the occurrence of the first of the following events:

- a. the end of the term;
- b. the occurrence and continuation of an event of default hereunder and the CITY's election to terminate this Easement pursuant to Article XI hereof;

- c. GRANTEE abandons the use of the pipeline for a continuous period of two (2) years, unless excused by Force Majeure;
- d. at the request of GRANTEE with 90 days written notice to CITY .

#### **ARTICLE IV**

### **Easement Payments and Other Required Payments**

#### **1. Rent.**

- a) Easement across Harbor of Refuge Tract 3: In consideration of the economic benefits to CITY with the collection of tariffs as the result of the use of this pipeline, this pipeline easement is granted with a \$0.00 rental rate. At which time, the GRANTEE no longer has a valid Lease of Harbor of Refuge Tract No. 3 with CITY, but GRANTEE wishes to continue operation of this pipeline, header and easement, CITY commits to negotiate with GRANTEE in good faith a new mutually agreed upon Easement Agreement, which will include a close review of the economic benefit to CITY of the pipeline and may or may not include a monetary rent rate.
- b) Easement across the Public Dock: The annual fee for the easement located within the Public Dock area, measuring 10' x 100', shall be \$600.00. This fee shall be paid in monthly installments of \$50.00, due concurrently with the monthly lease payment of Harbor of Refuge Tract No. 3.

#### **ARTICLE V**

### **Operation, Use and Maintenance of Improvements**

1. **Maintenance and Repair.** GRANTEE is solely obligated with respect to the costs of maintaining, operating and repairing the pipeline.

2. **Emergencies.** If any emergency occurs in the maintenance and use of the Easement or GRANTEE'S pipeline, GRANTEE shall immediately give reasonable notice, but no later than the notice required by paragraph VI.3(b) below, to the Harbor Master, any federal, state or local authorities and their regulatory agents, and comply with all directives from any relevant authorities to bring a safe and proper conclusion to the emergency.

3. **Compliance with Laws.** GRANTEE shall comply with all rules or orders which CITY deems necessary for the protection and conservation of its land and water. GRANTEE shall also use all reasonable care and all proper safeguards to comply with all applicable laws and regulations to prevent pollution. In the event of pollution, GRANTEE shall promptly comply with all applicable laws and regulations, whether federal, state or local, regarding the cleanup of such pollution or with applicable cleanup standards required to minimize any unreasonable risk to human health and the environment, whichever

cleanup standard is higher. Further, GRANTEE shall be responsible for all damages and costs to persons and to public and private property in which it causes. GRANTEE, in any of its operations of the Easement or pipeline, shall not violate the provisions of any environmental legislation or the environmental rules, regulations or standards of any such regulatory body, whether federal, state or local.

4. **Permits**. GRANTEE shall obtain and maintain in effect at all times during the Term all permits, licenses and consents required or necessary for the maintenance, use and operation of its pipeline.

## ARTICLE VI

### CITY's Right to Monitor

1. **Reporting Requirements**. Requirements of this paragraph apply to activities pertaining to this Easement only. GRANTEE shall promptly supply CITY with copies of all notices, reports, correspondence, and submissions made by GRANTEE, as they pertain to this Easement, pipeline, and pipeline header only, to the Environmental Protection Agency, the Texas Commission on Environmental Quality, the United States Occupational Safety and Health Administration, or any other local, state, or federal authority that requires submission of any information concerning environmental matters or hazardous wastes or substances pursuant to all applicable regulations. GRANTEE shall also supply CITY with written confirmation of any notices or reports regarding releases of hazardous wastes or substances that GRANTEE makes orally or by telephone to any such governmental agency. GRANTEE shall promptly notify CITY in advance of any scheduled meeting between GRANTEE and any of the agencies specified above.

2. **Environmental Liens**. GRANTEE shall promptly notify CITY as to any liens threatened or attached against the premises pursuant to any environmental law. In the event that an environmental lien is filed against the premises, GRANTEE shall, within 30 days from the date on which the lien is placed against the property, or before the date on which any governmental authority commences proceedings to sell the premises pursuant to a lien, either: (a) pay the claim and remove the lien from the premises; or (b) furnish either (i) a bond satisfactory to the CITY in the amount of the claim on which the lien is based or (ii) other security satisfactory to the CITY in an amount sufficient to discharge the claim on which the lien is based.

3. **Environmental Clause**.

a. **Environmental Restrictions**. GRANTEE shall not cause or permit any Hazardous Materials to be generated, treated, stored, manufactured, disposed or released on or about the Easement or transferred or transported to the Easement, in contravention

of any legal requirements. Any use of Hazardous Materials by any person on the Easement shall be in strict conformance with all legal requirements and shall not cause the Easement to be subject to remedial obligations to protect health or the environment. The terms “Hazardous Materials” shall mean any flammables, explosives, radioactive materials, hazardous waste, toxic substances or related materials, including substances defined as “hazardous substances,” “hazardous materials,” “toxic substances” or “solid wastes” in the comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C.A. Sec. 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. Sec. 1801, et seq.; the Resources Conservation and Recovery Act, 42 U.S.C.A. Sec. 6901, et seq.; the Toxic Substance Control Act, as amended, 15 U.S.C.A. Sec. 2601 et seq.; CITY’s Tariff CIRCULAR NO. 1A; the Texas Solid Waste Disposal Act, Tex.Rev.Civ.Stat.Ann.Art. 4477-7; or any other legal requirement.

b. **Notification of Potential Liability Triggering Event.** Within twenty-four (24) hours of receipt, or as soon thereafter as reasonably possible within normal business hours, GRANTEE shall notify and provide CITY with all copies of notices, demands, lawsuits, or other correspondence from any federal, state or local governmental agency or private party, pertaining to the Easement, including, but not limited to, the following:

- (1) The violation of any federal, state, or local statute or regulation;
- (2) The loss of any operating permit;
- (3) Any enforcement action undertaken by any federal, state or local governmental agency, or any private party;
- (4) The institution of any lawsuit by any governmental entity or any private party; or
- (5) The service of a potentially responsible party demand letter from any private or governmental party.

c. **Consequences of GRANTEE’S Violation of Environmental Legal Requirements.** In the event GRANTEE’S violation of environmental legal requirements expose CITY to fines or penalties as the owner of the Easement, GRANTEE shall provide the defense of the CITY with respect to such fines and penalties under the appropriate regulatory, administrative, or judicial procedures, and will pay any such fines or penalties timely and promptly after completion of any such defensive or mitigative proceedings, including appeals, if any. In the event of GRANTEE’S unreasonably repeated conviction of the same violation of environmental legal requirements within any twelve month period, CITY may re-open negotiations regarding the Term under this Easement.

d. GRANTEE is responsible for any environmental contamination resulting from location, maintenance, operation, repair or removal of the pipeline placed on the premises under this Easement, and will cure such environmental contamination that may occur in compliance with the then existing laws, rules and regulations. GRANTEE AGREES TO BE LIABLE FOR AND TO INDEMNIFY, DEFEND AND TO HOLD HARMLESS CITY FROM ANY ASSESSMENTS, LIABILITY, COST OR EXPENSE, INCLUDING COUNSEL, ENGINEERING, AND OTHER PROFESSIONAL OR EXPERT FEES THAT MAY ARISE FOR CLEAN-UP OR REMEDIATION OF ANY CONTAMINATION ON THE PREMISES OR ADJACENT AREAS UNDER THEN CURRENT LOCAL, STATE, OR FEDERAL LAWS, RULES, REGULATIONS OR ORDERS, INCLUDING, WITHOUT LIMITATION, STATE OR FEDERAL SUPERFUND LAWS, ARISING IN CONNECTION WITH LOCATION, MAINTENANCE, OPERATION, REPAIR OR REMOVAL OF GRANTEE'S PIPELINE. THE RIGHTS AND OBLIGATIONS SET FORTH UNDER THIS ARTICLE SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS EASEMENT.

## ARTICLE VII

### Insurance

1. **Insurance.** GRANTEE shall procure and maintain continuously in effect with respect to the Easement, insurance against liability for injuries to or death of any persons or damage to or loss of property arising out of or in any way relating to the maintenance, use or operation of the Easement, of its pipeline or any part thereof, providing coverage with a combined single limit of \$5,000,000 for injuries to or death of persons or damage to property per occurrence. All such policies of insurance shall designate the CITY as a named insured. GRANTEE shall furnish to CITY a copy of the policy of insurance and all renewals thereto designating the CITY as a named insured within thirty days of the date of execution hereof. Said designation must be in a form acceptable to the CITY. In the event GRANTEE changes policies, a copy of the new policy designating the CITY as a named insured shall be furnished to the CITY within ten (10) days.

## ARTICLE VIII

### INDEMNITY

1. **EXCEPT WHERE THE CITY IS NEGLIGENT FOR ANY CAUSES OF DAMAGE, GRANTEE HEREBY RELEASES AND DISCHARGES CITY, ITS SUCCESSORS AND ASSIGNS, AND ALL OF ITS RESPECTIVE OFFICERS, DIRECTORS, AND THEIR SUCCESSORS IN OFFICE, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES AND AGENTS,**

**HEREINAFTER COLLECTIVELY AND SEVERALLY REFERRED TO AS “INDEMNITEE” FROM AND AGAINST ALL LIABILITY FOR, AND ASSUMES THE RISK OF ALL LOSSES, EXPENSES, LIENS, CLAIMS, DEMANDS, DAMAGES AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER WHATSOEVER FOR DAMAGE TO THE PROPERTY OF INDEMNITEE AND OF GRANTEE, AND FOR THE PERSONAL INJURY TO OR DEATH OF ANY PERSONS (INCLUDING BUT NOT LIMITED TO CITY, ITS OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF CITY) AND/OR DAMAGE TO ANY PROPERTY (INCLUDING BUT NOT LIMITED TO PROPERTY BELONGING TO CITY, ITS OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) AND FOR ANY OTHER LIABILITY, DAMAGES, FINES OR PENALTIES (EXCEPT WHERE REIMBURSEMENT FOR FINES OR PENALTIES IS PROHIBITED BY APPLICABLE LAW), INCLUDING COSTS, EXPENSES, PENALTIES AND INTEREST, ATTORNEY FEES AND SETTLEMENTS HEREINAFTER REFERRED TO COLLECTIVELY AND SEVERALLY AS “CLAIMS”, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS EASEMENT OR THE PERFORMANCE OR FAILURE TO PERFORM THE COVENANTS OF THIS EASEMENT, SUBJECT TO THE NEGLIGENCE OR WILFUL MISCONDUCT OF THE INDEMNITIES. THIS INDEMNITY SHALL INCLUDE CLAIMS ARISING OUT OF, BROUGHT BY OR CAUSED, IN WHOLE OR IN PART BY CITY, ITS OFFICERS, DIRECTORS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF CITY AND GRANTEE EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD CITY, ITS OFFICERS, DIRECTORS, COMMISSIONERS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS, HARMLESS FROM ALL “CLAIMS” OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY INDEMNITEES, (INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT OR BREACH OF WARRANTY, EXPRESSED OR IMPLIED.**

**THE FOREGOING INDEMNIFICATION SHALL NOT BE APPLICABLE TOWARD OR ENFORCEABLE IN FAVOR OF ANY INDIVIDUAL INDEMNITEE FOR A PARTICULAR CLAIM, INsofar AS THAT**

**PARTICULAR CLAIM IS ADJUDICATED BY A COURT OF COMPETENT JURISDICTION, TO RESULT EXCLUSIVELY FROM THE GROSS NEGLIGENCE OR WILLFUL CONDUCT OF THAT INDEMNITEE SEEKING TO ENFORCE THE INDEMNIFICATION.**

**CITY AND GRANTEE ACKNOWLEDGE THAT THIS STATEMENT AND THE FOREGOING INDEMNIFICATION UNDER THIS ARTICLE VIII COMPLIES WITH THE EXPRESS NEGLIGENCE RULE AND IS CONSPICUOUS AND HAS BEEN REVIEWED AND APPROVED BY EACH PARTIES OWN RESPECTIVE INDEPENDENT LEGAL COUNSEL. THE INDEMNIFICATION ARISING HEREIN SHALL SURVIVE THE TERMINATION OF THIS LICENSE.**

## **ARTICLE IX**

### **Removal of GRANTEE'S Pipeline**

1. Upon the termination of this Easement, however the same may be brought about; GRANTEE shall cause the removal and the disposition of its pipeline. GRANTEE shall give written notice to CITY of its decision to permanently abandon its pipeline. GRANTEE shall be responsible to comply with all the laws, regulations, procedures, actions and physical requirements of any federal, state or local authority or agency and GRANTEE shall solely be responsible for all costs of such removal and disposition and to return the Easement to its original condition.

3. CITY reserves the right to have GRANTEE'S pipeline removed at GRANTEE'S cost in the event GRANTEE fails to remove the same within six (6) months after the termination of this Easement. GRANTEE shall indemnify and hold harmless the CITY from and against all costs of the removal of all improvements, including the pipeline.

4. To the extent permitted by law and notwithstanding any other terms hereof, the CITY and GRANTEE may agree in writing that the pipeline may be abandoned in place and not removed by GRANTEE after the termination of this Easement. It is understood and agreed by both parties to this contract that CITY is the approving authority as to the removal-nonremoval of property from the Easement, and the decision of the authority shall govern.

## **ARTICLE X**

### **Assignment, Sublease, Mortgage and Sale; Encumbrances**

1. **Title to Easement.** Legal title to the property subject to the Easement shall be in the CITY.

2. **Assignment by CITY.** The CITY shall not assign its obligations under this Easement, and no purported assignment thereof shall be effective.

3. **Assignment, Sublease, Mortgage or Sale by GRANTEE.**

a. Except as provided by Article X, Paragraph 3b hereof, this Easement may not be assigned, subleased, mortgaged or sold by GRANTEE without the prior written consent of the CITY.

b. GRANTEE may freely assign this Easement, or sublease the Easement, to: (i) any successor in interest to GRANTEE by statutory merger, (ii) any corporation, partnership, limited liability company or other legal entity, which is a direct or indirect subsidiary of, or which is otherwise ultimately controlled by GRANTEE; provided, however, any such assignment or sublease of this Easement shall not relieve GRANTEE from liability under this Easement. Furthermore, if such an assignment under this Section does occur, GRANTEE has the duty to notify CITY of the name and address of the successor in interest.

3. **GRANTEE TAKES "AS IS"**. GRANTEE HAS INSPECTED THE CONDITION OF THE SUBJECT PROPERTY AND ACCEPTS SAME "AS IS" AND IN ITS EXISTING CONDITION, GRANTEE IS NOT RELYING ON ANY REPRESENTATION OR WARRANTY OF CITY REGARDING ANY ASPECT OF THE PREMISES, BUT IS RELYING ON GRANTEE'S OWN INSPECTION OF THE PREMISES. CITY DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY, SUITABILITY, FITNESS FOR ANY PURPOSE, AND ANY OTHER WARRANTY WHATSOEVER NOT EXPRESSLY SET FORTH IN THIS EASEMENT. CITY AND GRANTEE HEREBY AGREE AND ACKNOWLEDGE THAT THE USE OF THE TERM "GRANT" IN NO WAY IMPLIES THAT THIS EASEMENT OR THE SUBJECT PROPERTY ARE FREE OF LIENS, ENCUMBRANCES AND/OR PRIOR RIGHTS. GRANTEE IS HEREBY PUT ON NOTICE THAT ANY PRIOR GRANT AND/OR ENCUMBRANCES MAY BE OF RECORD AND GRANTEE IS ADVISED TO EXAMINE ALL RECORDS OF CITY AND THE COUNTY IN WHICH THE SUBJECT PROPERTY IS LOCATED. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS EASEMENT.

4. **No Further Encumbrances.** GRANTEE shall not, directly or indirectly, create, incur, assume or cause to exist any lien, charge, encumbrance or claim on or with respect to the Easement. In the event an encumbrance occurs, GRANTEE shall promptly, at its own expense, take such action as may be necessary to discharge or remove any such lien, charge, encumbrance or claim if the same shall arise at any time. GRANTEE shall reimburse CITY for any expense incurred by it in order to discharge or remove any such lien, charge, encumbrance or claim. In the event a lien is filed and GRANTEE is contesting such lien, GRANTEE shall within thirty (30) days file a bond in accordance with the procedures set forth in the Texas Property Code. The allowance of a lien, charge, encumbrance or claim, unless properly bonded, on the Easement Property by GRANTEE shall be considered an act of default as defined herein.

## ARTICLE XI

### Events of Default; Remedies

1. **Events of Default.** An occurrence of any one or more of the following events shall constitute an event of default hereunder (an "Event of Default"):

- a. GRANTEE fails to observe or perform any covenant, condition or Easement on its part to be observed or performed hereunder (including the payment of the Easement Payments), for a period of thirty (30) days after receipt of written notice from CITY specifying such failure; provided, however, that if such observance or performance requires work to be done, actions to be taken or conditions to be remedied, which by their nature cannot reasonably be accomplished within such thirty (30) day period, if GRANTEE shall commence such observance or performance within such period and shall be proceeding diligently with respect thereto then the fact that the same shall not have been corrected during such period shall not constitute an Event of Default; or
- b. The discovery by CITY that any material statement, representation or warranty made by GRANTEE in this Easement is false, misleading or erroneous in any material respect.
- c. The failure of GRANTEE to perform, comply with or observe any other agreement, obligation or undertaking of GRANTEE, or any other term, condition or provision, in this Easement, and the continuance of such failure for a period of 10 days after written notice from CITY to GRANTEE specifying the failure.

d. The involuntary transfer of GRANTEE'S interest in this Easement by operation of law.

e. The institution by or against GRANTEE of any proceedings in bankruptcy or insolvency, or the reorganization of GRANTEE under any law, or the appointment of a receiver or trustee for all or substantially all of GRANTEE'S property or for GRANTEE'S interest in this Easement, or any assignment by GRANTEE for the benefit of creditors.

2. **Remedies on Default.** Upon the occurrence of an Event of Default and following written notice of such default to GRANTEE, CITY may, without further demand or notice, with or without terminating this Easement, reenter and take possession of the property subject to this Easement and exclude GRANTEE therefrom; provided, however, that if this Easement has not been terminated, the CITY shall return possession of the property subject to this Easement to GRANTEE when the Event of Default is cured.

3. **Return of Property Subject to This Easement.** In addition to the provisions of Article IX, upon the termination of this Easement pursuant to this Article XI, GRANTEE shall deliver possession of the property subject to this Easement to the CITY.

4. **Delay; Notice.** No delay or omission in exercising any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient, and any one exercise thereof shall not be deemed exclusive of such exercise. To entitle any party to exercise any remedy reserved to it in this Easement, it shall not be necessary to give any notice other than as may be specifically required in this Easement.

## ARTICLE XII

### Miscellaneous

1. **Notices.** All notices, certificates and other documents hereunder to be given to or to be served upon any party entitled to notices hereunder shall be in writing and shall be delivered personally or by certified or registered mail, and if so mailed, shall be deemed to have been given and received within five (5) business days after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States Mail, and if given otherwise shall be deemed to have been given when delivered to the party to whom it is addressed. Such notice shall be given to the parties at their following respective addresses or at such other address as either party may hereafter designate in accordance with the provisions of this Article XII, Paragraph 1 to the other party in writing:

If to CITY:

City of Port Lavaca  
202 N. Virginia Stret  
Port Lavaca, Texas 77979  
Attention: City Manager

DRAFT

If to GRANTEE:

Equalizer, Inc.  
P.O. Box 154579  
Waco, Texas 76715  
Attn: Doug Stevens

2. **Severability**. In the event any provision of this Easement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the other provisions hereof.

3. **Amendments, Changes and Modifications**. This Easement may be amended from time to time by CITY and GRANTEE by written agreement between the parties.

4. **Public Disclosure**. CITY is a Texas Home Rule Municipality subject to the requirements of the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Texas Open Records Act, Chapter 552, Texas Government Code, as amended, and as such CITY is required to disclose to the public this Easement and certain other information and documents relating to the consummation of the transactions contemplated hereby upon written request. In this regard, GRANTEE agrees that the rightful filing or disclosure of this Easement or any other information or materials related to the consummation of the transactions contemplated hereby to the public by CITY to the extent required by law will not expose CITY (or any party acting by, through or under CITY) to any claim, liability or action by GRANTEE. CITY shall, to the extent legally possible, treat any trade secrets or confidential information disclosed by GRANTEE as confidential commercial information.

5. **Further Assurances and Corrective and Supplemental Instruments**. CITY and GRANTEE shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting or supplementing any inadequate or incorrect description of the Pipeline Easement hereby granted or intended to be or for carrying out the expressed intention of the Easement.

6. **Applicable Law and Venue**. This Easement shall be governed by, construed and shall be enforceable in accordance with the laws of the State of Texas without giving effect to the principles of conflict of laws. Venue for any action brought hereunder shall lie in the State Courts of Calhoun County, Texas.

7. **Heading.** The captions or headings in this Easement are for convenience of reference only and in no way define, limit or describe the scope or intent of any provisions or Articles hereof.

8. **Multiple Counterparts.** This Easement may be executed in multiple counterparts, each of which shall constitute an original instrument and all of which taken together shall constitute one and the same instrument.

9. **Entire Easement.** This Easement, together with the Exhibits attached hereto, contain the final and entire Easement regarding the subject matter hereof between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Easement shall be deemed to exist or to bind the parties hereto.

10. **No Personal Liability or Accountability.** No covenant, condition or agreement contained in this Easement shall be deemed to be the covenant, condition or agreement of any past, present or future officer, agent or employee of the CITY or GRANTEE, in his or her individual capacity, and neither the officers, agents or employees of CITY, GRANTEE, nor any official executing this Easement shall be liable personally on this Easement or be subject to any personal liability or accountability by reason of any transaction or activity relating to this Easement.

11. **No Remedy Exclusive.** No remedy herein conferred upon or reserved to CITY shall be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Easement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof or a course of dealing, but any such right or power may be exercised from time to time and as often as may be deemed appropriate by the party exercising it.

12. **No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Easement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder, and shall not be construed to be an implied term hereof or a course of dealing between the parties.

13. **Dispute Expenses and Attorneys' Fees.** If any controversy, claim, or dispute arises relating to this Easement or its breach, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys' fees, and costs.

**IN WITNESS WHEREOF**, CITY has caused this Easement to be executed by its duly authorized officers, and GRANTEE has caused this Easement to be executed in its corporate name by its duly authorized executive, as of the date written below.

Effective on February 9, 2026, but signed this \_\_\_\_\_ day of \_\_\_\_\_, 2026.

**CITY OF PORT LAVACA**

\_\_\_\_\_  
Jack Whitlow, Mayor

**ATTEST:**

\_\_\_\_\_  
Mandy Grant  
City Secretary

**EQUALIZER, LLC.**

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

Printed Name: Doug Stevens

Title:

**ATTEST:**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_