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BY: *AK*



### TEMPORARY USE AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the MARGATE COMMUNITY REDEVELOPMENT AGENCY, a body politic created pursuant to Florida Statute 163, Part III, hereinafter referred to as "CRA", and

Kiwanis Club of Margate-Coconut Creek, hereinafter referred to as the "Permittee". + HART-TREE FARMS

#### WITNESSETH:

WHEREAS, CRA is the owner and manager of certain real property in the City of Margate, Broward County, Florida, as said property (the "Property") is legally described in Exhibit "A" attached hereto and by reference made a part hereof; and

WHEREAS, Permittee has requested the use of the CRA's above-described property for 1491 N. State Road 7 + 5750 NW 15<sup>th</sup> Street; and

WHEREAS, CRA is willing to allow the Permittee to use said area for the purposes hereinafter defined.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, receipt and sufficiency of which is hereby acknowledged, CRA hereby grants to the Permittee and the Permittee hereby accepts the use of the premises hereinafter defined upon the following terms and conditions:

### **ARTICLE I BASIC PROVISIONS**

#### Section 1.01 Premises.

The premises subject to this Agreement consists of the area as depicted in Exhibit "A" attached hereto and by reference made a part hereof, (the "Premises").

Section 1.02 Length of Term and Commencement Date.

The Term of this Agreement shall be for a period as follows:

11/6/23 - 12/22/2023, between the hours of 9AM until 10PM.

The Commencement Date is the first date listed above.

Section 1.03 Rent.

The rent for the use of the Premises by the Permittee shall be:

\$ 0 Donations,

payable \_\_\_\_\_.

**ARTICLE II  
CONSTRUCTION OF PREMISES**

Section 2.01 Acceptance of Premises.

The Permittee certifies that it has inspected the Premises and accepts same "as is" in its existing condition as of the Commencement Date of this Agreement.

Section 2.02 Alterations.

The Permittee shall not make or permit any improvements, additions, modifications or alterations whatsoever to the Premises.

**ARTICLE III  
CONDUCT OF BUSINESS AND USE OF PREMISES BY PERMITTEE**

Section 3.01 Use of Premises.

The Permittee shall use the Premises solely and exclusively for Selling Trees and Related Items. CRA staff shall be allowed access to the property during regular working hours.

Section 3.02 Waste or Nuisance.

The Permittee shall not commit or suffer to be committed any waste upon the Premises or any nuisance or other act or thing which may result in damage or depreciation of value of the Premises or which may affect CRA's fee interest in the Premises.

### Section 3.03 Governmental Regulations.

The Permittee shall, at the Permittee's sole cost and expense, comply with all ordinances, laws, statutes and regulations promulgated thereunder of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to the Permittee or its use of the Premises. The Permittee shall indemnify, defend and save CRA harmless from any and all penalties, fines, costs, expenses, suits, claims or damages resulting from the Permittee's failure to perform its obligations in this Section.

### Section 3.04 Surrender of Premises.

Upon termination or expiration of this Agreement, the Permittee at its sole cost and expense, shall remove all of its personal property from the Premises and shall surrender the Premises to CRA in the same condition the Premises were in as of the Commencement Date of this Agreement, reasonable wear and tear excepted. If the Permittee fails to remove any of the personal property from the Premises, then upon expiration of the Term of this Agreement, CRA may remove said personal property from the Premises for which the cost the Permittee shall be responsible and shall pay promptly upon demand. Permittees may be charged additional rent on a pro rata basis for occupying the premises beyond the approved time frame in Section 1.02.

### Section 3.05 CRA Events Policy

Any use of the Premises for events approved pursuant to the CRA's adopted Event Policy, as amended from time to time, shall adhere to all requirements of the Event Policy.

## **ARTICLE IV REPAIRS AND MAINTENANCE OF PREMISES**

### Section 4.01 Responsibility of the Permittee.

All portions of the Premises shall be kept in good repair and condition by the Permittee. At the end of the Term of this Agreement, the Permittee shall deliver the Premises to CRA in good repair and condition as specified herein. Permittee hereby agrees to immediately remove all trash, rubbish, debris, and equipment from the premises upon the termination of the term of their use and to return the premises to the Margate Community Redevelopment Agency in the same manner as it was at the inception of this Agreement. Permittee shall be responsible for electrical service that may be required.

### Section 4.02

The Permittee shall provide such evidence of its corporate good standing in existence to the CRA prior to occupancy, as well as a Certificate of Incumbency as to its current Directors and Officers.

## **ARTICLE V INSURANCE AND INDEMNITY**

### **Section 5.01 Liability Insurance.**

The Permittee shall, during the entire Term hereof, keep in full force and effect General Liability Insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence combined single limit bodily injury and property damage liability. All insurance policies shall name the Margate Community Redevelopment Agency, its agents and employees and the City of Margate, Florida, its agents and employees as Additional Insured. Such insurance shall be in an insurance company licensed to do business in the State of Florida and subject to the approval of the CRA. A Certificate of Insurance evidencing such insurance coverage shall be provided to the CRA prior to the Commencement Date, such Certificate indicating at least thirty (30) days prior notice of cancellation or adverse material change in coverage. The General Liability Policy shall include coverage for Premises - Operations, Contractual Liability, and Broad Form Property Damage Liability coverage. In no event shall the limits of said insurance policies be considered as limiting the liability of the Permittee under this Agreement. In the event that the Permittee shall fail to obtain or maintain in full force and effect any insurance coverage required to be obtained by the Permittee under this Agreement, CRA may procure same from such insurance carriers as CRA may deem proper, and the Permittee shall pay as Rent, upon demand of the CRA any and all premiums, costs, charges and expenses incurred or expended by CRA in obtaining such insurance. Notwithstanding the foregoing sentence, the Permittee shall nevertheless hold CRA harmless from any loss or damage incurred or suffered by CRA from the Permittee's failure to maintain such insurance.

### **Section 5.02 Indemnification.**

The Permittee shall indemnify and hold harmless the CRA, its agents and employees, the City of Margate, Florida (City) its agents and employees, and the MCRA's authorized property manager, its officers and employees, from and against any and all claims, suits, actions, damages and/or causes of action arising during the Term of this Agreement for any personal injury, loss of life and/or damage to property sustained in or about the Premises by reason or as a result of the use and occupancy of the Premises by the Permittee, its agents, employees, licensees, invitees, and members of the public generally, and from and against any orders, judgments and/or decrees which may be entered thereon, and from and against all costs, attorney fees, expenses and liabilities incurred in and about the defense of any such claim. In the event CRA or City shall be made a party to any litigation commenced against the Permittee or by the Permittee against any third party, then the Permittee shall protect and hold CRA and City harmless and pay all costs and attorneys' fees incurred in connection with such litigation, and any appeals thereof. Nothing contained herein shall be construed as a waiver of sovereign immunity enjoyed by the CRA and City, as provided in Florida Statutes 768.28 as amended, or any other law providing limitations on claims.

## ARTICLE VI LEGAL EXPENSES

In the event that it shall become necessary for CRA to employ the services of any attorney to enforce any of its rights under this Agreement or to collect any sums due to it under this Agreement or to remedy the breach of any covenant of this Agreement on the part of the Permittee to be kept or performed, regardless of whether suit be brought, the Permittee shall pay to CRA such reasonable fee as shall be charged by CRA's attorney for such services. Should suit be brought for the recovery of possession of the Premises, or for any sum due CRA under this Agreement, or because of the default by the Permittee of any of the covenants of this Agreement, the Permittee shall pay to CRA all expenses of such suit and any appeal thereof, including a reasonable attorney's fee.

## ARTICLE VII MISCELLANEOUS

### Section 7.01 Entire Agreement.

This Agreement and any Exhibits attached hereto and forming a part thereof as fully set forth herein, constitute all agreements, conditions and understandings between CRA and the Permittee concerning the Premises. All representations, either oral or written, shall be deemed to be merged into this Agreement. Except as herein otherwise provided, no subsequent alteration, waiver, change or addition to this Agreement shall be binding upon CRA or the Permittee unless reduced to writing and signed by them.

### Section 7.02 Notices.

Any consents, approvals and permissions by CRA shall be effective and valid only if in writing. Any notice by either party to the other shall be in writing and shall be deemed to be duly given only if mailed prepaid by certified mail return receipt requested, addressed:

- (a) If to CRA:  
CRA Executive Director  
5790 Margate Blvd.  
Margate, FL 33063      with a copy to:

David Tolces, CRA Attorney  
Weiss Serota Helfman Cole & Bierman  
1200 N. Federal Highway, Suite 312  
Boca Raton, FL 33432

- (b) If to Permittee:

Kiwanis Club of Margate-Coco nut Creek  
2990 NW 2nd Ave  
Pompano Beach, FL 33064

**Section 7.03 Waiver of Jury Trial.**

**The parties hereto waive trial by jury in connection with proceedings or counterclaims brought by either of the parties hereto against the other, in connection with this Agreement.**

**Section 7.04 Governing Law.**

**This Agreement shall be governed by and interpreted according to the laws of the State of Florida and venue shall be in Broward County.**

**Section 7.05 Time of Essence.**

**Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.**

**Section 7.06 Severability.**

**If any term of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Agreement, shall be valid and enforceable to the fullest extent permitted by law.**

**IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.**

**WITNESSES:**

**MARGATE COMMUNITY  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Board Chair

**WITNESS:**

By: Ronald G. Huffman  
Permittee (print name)  
Ronald G. Huffman  
Permittee (signature)

**EXHIBIT "A"**

Map/Address of Property





