

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement") is made by and between the City of North Port, Florida, a municipal corporation, ("Landlord") and Kiwanis Club of North Port, Inc., a Florida not for profit corporation ("Tenant").

RECITALS

WHEREAS, Tenant desires to occupy part of the Al Goll Center; and

WHEREAS, Landlord owns the property located at 5925 Greenwood Avenue, North Port, Florida (the "Property"); and

WHEREAS, Tenant desires to lease a portion of the Property pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants specified herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1. Premises.

Landlord hereby leases and lets unto Tenant, and Tenant hereby agrees to lease from Landlord, the following portion of the building on the Property (the "Premises"):

- A. Approximately One Thousand Fifty (1,050) square feet of space located in the ancillary building on the Property at 5925 Greenwood Avenue, North Port, Florida 34287 (the "Premises").

2. Use of the Premises.

- A. Business Use. Tenant will only use the Premises for a storage area.
- B. Common Areas. Tenant and its employees, agents, licensees, and invitees will have use of the Premises as outlined herein and the right to use, in common with other tenants of the Property, the common areas, surface parking and to exercise all other rights and privileges appurtenant thereto, subject to rules and regulations for the use thereof as Landlord prescribes from time to time.
- C. Disturbance or Improper Use. Tenant acknowledges the mission of Landlord's Social Services Division is to provide continuous and uninterrupted services, including other services that may be like Tenant's services. Tenant will actively use, occupy, operate, and conduct its business on the Premises to further the mission of Landlord's Social Services Division. Tenant further agrees not to use the Premises or Property, or permit the Premises or Property to be used, for any unlawful business or practice or in a manner that disturbs other tenants.
- D. Policies and Procedures. Landlord may, from time to time, issue policies and/or procedures related to the Property. Tenant agrees to abide by all issued policies and/or procedures.

- E. Hazardous Materials Prohibited. To the best of Landlord's knowledge, as of the commencement date of this Agreement, no hazardous materials or conditions exist at the Premises. Except as otherwise provided herein, Tenant, its agents, licensees, and invitees will not use, handle, store, display or generate hazardous materials (materials that are ignitable, corrosive, toxic or reactive) in or on the Premises. "Hazardous materials" will mean those substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, *et seq.*; in the regulations adopted and promulgated pursuant thereto; and in the applicable laws, regulations and ordinances enacted by the State of Florida, Sarasota County, and/or the City of North Port.

3. Lease Term and Termination.

- A. Term. Commencing on the date of the last party to ratify and approve this agreement ("Effective Date"), the term of this Agreement will be one (1) year ("Initial Term"). After the Initial Term, unless otherwise terminated, this Agreement will automatically renew from year-to-year thereafter, provided that in no event will this lease renew for more than four (4) consecutive terms.
- B. Termination. Except as otherwise provided herein, either party may terminate this Agreement at any time without penalty or premium upon sixty (60) days written notice.

4. Payments Due to Landlord.

- A. Rental Amount. Tenant agrees to pay to Landlord rent in the amount of One Dollar and Zero Cents (\$1.00) per month.
- B. Prorated Rent. The rent due for any partial calendar month included in the lease term will be prorated on a daily basis.
- C. Due Date and Address for Rent Payment. The monthly rent will be due in advance on the first day of each calendar month, payable to Landlord at 6919 Outreach Way, North Port, Florida 34287, or other place Landlord designates in writing.
- D. Security Deposit. No security deposit is required in connection with this Agreement.
- E. Telecommunications. Tenant agrees to pay all monthly recurring internet connection charges for the Premises. Tenant also agrees to pay all monthly recurring telephone charges, pro-rated by the number of handsets Tenant utilizes as a part of the phone system, and all long distance and/or other toll telephone charges generated by extensions located in the Premises. Landlord will invoice Tenant quarterly for said charges and payment will be due within thirty (30) days of the date of the invoice.
- F. Late Fee. If Tenant fails to pay rent or utilities in full before the end of the fifth (5th) day after the due date, Landlord will charge, and Tenant agrees to pay, a fee of twenty-five dollars (\$25.00) to cover the extra expense and inconvenience involved in handling delinquent and/or late payments.

5. Signage.

- A. Landlord, at its expense, will erect signage identifying the Property in general and identifying Tenant. Landlord, in its sole discretion, will determine the size, location, and numbers of all signage.
- B. Tenant will not paint, display, inscribe, maintain, or affix any signs to the Property's or the Premises' interior or exterior and will not make changes to any sign, fixture, advertisement, notice, lettering, or direction on any part of the outside of the building or common areas without Landlord's written consent. Tenant will bear all expenses associated with the purchase, maintenance, installation, repair, and removal of this signage and advertising.

6. Maintenance and Repairs.

- A. Landlord Responsibility. Landlord agrees to provide for all building operating and maintenance costs and common area maintenance necessary to keep the Premises in good repair and order including the following amenities and services: (i) all maintenance and repairs required for structural portions of the building including the foundation, common areas, exterior and interior walls, glass windows, building grounds, maintenance and repair of exterior area; (ii) all maintenance and repairs required to mechanical and plumbing systems, air conditioning (HVAC) or utility lines, electrical lines, wires and equipment supplied by Landlord; (iii) all building operating, maintenance and repair expenses to Premises including, but not limited to, lease management overhead, fees, insurance and taxes, other than those payable by Tenant as provided herein, and capital costs, sidewalk, walkways, driveway and surface parking area, landscaping and lawn care, window cleaning, pest control, and HVAC service; (iv) exterior lighting; (v) repairs or damage to the Premises resulting from malfunctioning of building heating and air conditioning (HVAC) equipment, plumbing or electrical fixtures; (vi) all charges for water, sewer, electric, and trash collection services to the Premises; and (vii) a telephone system and any installation and maintenance charges associated with the system.
- B. Tenant Responsibility. Tenant, at its expense, will maintain the interior of the Premises in a clean and healthy condition and notify Landlord immediately when maintenance or repair is needed. Tenant will leave the Premises in as good or better condition as when received, except for reasonable wear and tear, loss by fire or other casualty, and acts of God, and will remove all trash and debris and leave Premises in broom-swept condition.
- C. Tenant Negligence. Landlord will not be responsible for the cost of any repairs necessitated by the negligent acts or omissions of Tenant, its directors, officers, agents, employees, licensees, or invitees. Tenant will reimburse Landlord for any repairs upon written demand.

7. Alterations and Improvements.

- A. With Landlord's written consent, Tenant, at Tenant's expense, will have the right to remodel, redecorate, and make structural improvements to the Premises provided the same are pre-approved by Landlord at both the planning and building phase. All improvements and alterations, including plumbing, light fixtures, and affixed partitions will become Landlord's property and will remain upon and be surrendered with the Premises upon termination or expiration of this Agreement.

- B. If Tenant makes any alteration or improvement to the Premises without Landlord's written consent, Tenant will restore Premises substantially to its original or better condition as approved by Landlord, unless Landlord provides written notice that a particular alteration or improvement will remain intact.
- C. All furniture, portable partitions, appliances, electronic equipment, or computers, which have been or will be installed by Tenant, at its expense, will remain the property of Tenant and may be removed at any time during the term of this Agreement by Tenant, provided that same can be removed without damage to Premises.

8. Right of Entry.

Landlord will have the right to enter the Premises at reasonable hours to inspect, maintain, clean, or repair the Premises, provided Landlord will not unreasonably interfere with Tenant's business on the Premises.

9. Covenant of Quiet Enjoyment.

Landlord covenants and warrants that upon Tenant's performance of its obligations herein, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable, and undisturbed and uninterrupted possession of the Premises during the term of this Agreement, subject only to the terms hereof, reservations, restrictions and easements of record, and applicable zoning and other government regulations.

10. Destruction of the Premises.

In the event that the Premises is totally destroyed by fire, act of God, or other casualty, or any substantial portion of the Premises is so damaged or destroyed thereby rendering same unfit for Tenant's purposes for at least sixty (60) consecutive days, Landlord may terminate this Agreement upon written notice to Tenant and the rights of all parties hereunder will cease, except any rights and liabilities that may have accrued to the date of the destruction.

11. Insurance, Property Loss and Damage.

- A. Comprehensive General Liability Insurance. Tenant will procure and maintain for the duration of this Agreement, general liability insurance coverage per occurrence, combined single limit for bodily injury, and property damage liability, including premises and operations, on the Premises with limits of not less than five hundred thousand dollars (\$500,000.00) per occurrence and one million dollars (\$1,000,000.00) general aggregate per policy year. The aggregate will apply separately to the Premises and will not be shared among other locations. Tenant's liability insurance policy will be the primary coverage on the Premises and Landlord will be named as an additional insured under the policy. Tenant's general liability coverage will also include coverage for its guests and invitees while on the Property.
- B. Fire Damage Liability Insurance. Tenant will procure and maintain for the duration of this Agreement, fire damage liability insurance on the Premises in the amount of two hundred and

fifty thousand dollars (\$250,000.00). Landlord will be named as an additional insured under the policy.

- C. All Risk/Special Perils/Casualty Insurance. Tenant will procure and maintain for the duration of this Agreement, all risk/special perils/casualty (to include sinkhole) property insurance (or the equivalent) to cover loss on the Premises resulting from damage to or destruction of personal property contents. The policy will cover one hundred percent (100%) of the replacement cost of Tenant's tangible personal property and content and will include an agreed value endorsement to waive coinsurance.
- D. Workers' Compensation Coverage. If Tenant is required by law to obtain workers' compensation coverage, proof of insurance in the statutorily required amounts must be provided.
- E. Certificates of Insurance and Renewal Policies. Within ten (10) days of procurement, Tenant will supply Landlord with certificates of insurance showing that all coverage required pursuant to this Agreement is in full force and effect. All certificates of insurance will be provided to the City Clerk's Office of the City of North Port, together with a copy of this Agreement. From time to time, Tenant will procure and pay for renewals of this insurance before it expires. Tenant will deliver to Landlord the renewal policy at least ten (10) days before the existing policy expires.
- F. Other Requirements. All policies must be issued by companies of recognized responsibility licensed to do business in Florida and must contain a provision that prohibits cancellation unless Landlord is given at least ten (10) days' prior written notice of cancellation by the insurance company. Landlord is not responsible for any premium payments or deductibles on Tenant's policies. Landlord reserves the right, upon written notice to Tenant, to review, alter, and amend the insurance requirements herein as needed on a yearly basis.

12. Indemnification.

- A. **TENANT REIMBURSEMENT, INDEMNIFICATION, AND ASSUMPTION OF DEFENSE.** Tenant will reimburse Landlord and its officers, commissioners, agents, employees, and representatives (collectively, "Landlord Parties") for and will indemnify, defend, and hold harmless Landlord Parties from and against any and all loss or damage sustained by, liability or costs of any kind, and claims or causes of action asserted against Landlord Parties arising in whole or in part out of or by reason of:
 - (i) Any accident or occurrence in or on the Premises, any use of or business conducted in or on the Premises, or any hidden or apparent defect in the Premises; or
 - (ii) Any damage to or loss of any property of Tenant or any person occupying the Premises or any of their respective officers, directors, shareholders, affiliates, agents, employees, sublessees, subtenants, or contractors (collectively, "Tenant Parties"), whether the

damage to or loss of property occurs on the Premises or on any other part of the Property;
or

- (iii) Any act, omission, negligence, or fault of Tenant Parties, whether occurring on the Premises or on any other part of Property.

Tenant's reimbursement and indemnity obligations will include, but not be limited to, any and all penalties, assessments, fines, damages, interest, settlement amounts, judgments, losses, reasonable attorneys' fees and other costs and expenses, whether incurred in negotiations, at the trial level, on appeal, or in the collection of attorneys' fees. In the event of any claim, action, or proceeding, the indemnified Landlord Parties shall have the right to select the attorneys to represent them in matter and the cost shall be borne by Tenant.

- B. **ASSUMPTION OF LIABILITY AND WAIVER.** Because of Tenant's insurance obligations under this Agreement, Tenant assumes full responsibility and liability for the condition of the Premises for the duration of this Agreement, and Tenant waives all rights and claims against and holds harmless Landlord Parties for any and all property loss or damage occurring anywhere on the Premises and any and all personal injury or death occurring in or about the Premises. As part of its waiver, Tenant waives all rights and claims against Landlord Parties arising from:

- (i) Theft, vandalism, criminal acts, or lack of security (Tenant hereby acknowledges that it is solely responsible for its own security, and that Landlord is not required to provide or to continue to provide any security equipment, devices, or services);
- (ii) Any acts or omissions of other tenants of the property or any other property owned or managed by Landlord;
- (iii) Any freezing, bursting, or leaking of, or water otherwise coming out of pipes or sprinklers, leaks in the roof, or the lack of a sprinkler system or fire prevention system, or the failure of a sprinkler system or fire prevention system to work properly (Tenant hereby acknowledges that it has sole responsibility for insuring over loss or damage caused by malfunctions or failures to function of the sprinkler system or fire prevention system);
- (iv) Any lack of or failure of the plumbing, heating, air conditioning, or any other mechanical system (including, but not limited to, those described in (iii) above); and
- (v) Any failure to cause the Premises to comply with laws or otherwise to be in a condition suitable for tenant's use.

This provision and Tenant's reimbursement and indemnification obligations set out above will apply notwithstanding the fact that Landlord is the owner of the Premises, and even if the incident that is the subject of the waiver, reimbursement, or indemnification arises from the negligence of Landlord Parties or Landlord's contractors. This section will not exclude liability if the exclusion of that liability is prohibited by the laws of the State of Florida.

- C. **INSURANCE COVERAGE NOT A LIMITATION.** Tenant's insurance coverage and the limits required in this Agreement may or may not be adequate to protect Landlord and the insurance coverage will not be deemed a limitation on Tenant's liability under the indemnity provided in this section. In any proceedings between the parties arising out of or related to this indemnity

provision, the prevailing party must be reimbursed all costs, expenses, and reasonable attorney fees through all proceedings (at both trial and appellate levels).

- D. **LANDLORD RIGHTS, PRIVILEGES, AND IMMUNITIES.** Nothing in this Agreement will be deemed to affect the rights, privileges and immunities of Landlord as set forth in Florida Statutes Section 768.28. This Agreement does not constitute a waiver of sovereign immunity or consent by Landlord to suit by third parties.
- E. **SURVIVAL OF COVENANTS.** The terms of this section will survive the termination of this Agreement.
- F. **Landlord cooperation and notice.** Landlord will provide all available information and assistance that Tenant may reasonably require regarding any claim. In the event of a claim, Landlord must promptly notify Tenant in writing by prepaid certified mail (return receipt requested) or by delivery through any nationally recognized courier service (such as Federal Express or UPS) which provides evidence of delivery, at the address provided for receipt of notices in this Agreement.

13. Default and Remedies.

- A. **Tenant Default.** The occurrence of any one of the following events will constitute a default of Tenant:
 - (i) Abandonment of the Premises for a period of thirty (30) consecutive days;
 - (ii) Failure to pay rent or any other monies due and continuing for a period of ten (10) days after the same is due;
 - (iii) Filing a voluntary petition in bankruptcy;
 - (iv) Receivership, attachment, or other judicial seizure of substantially all of Tenant's assets on the Premises;
 - (v) Failure to execute and deliver to Landlord any estoppel certificate, certificate of incumbency or Agreement amendment within the time periods and in the manner required by Landlord;
 - (vi) An assignment or sublease, or attempted assignment or sublease, of this Agreement or the Premises;
 - (vii) Failure in the performance of any agreements or obligations in this Agreement;
 - (viii) Chronic delinquency, as determined in Landlord's sole discretion, in the payment of rent, or any other payments required to be paid by Tenant under this Agreement; or
 - (ix) Failure to perform or observe any other condition or obligation of this Agreement and to cure the failure within thirty (30) days following Landlord's written notice to Tenant.

- B. Landlord Default. Landlord will be in default if Landlord fails to perform or observe any condition or obligation of this Agreement within thirty (30) days following Tenant's written notice to Landlord, provided that:
- (i) If the nature of the default reasonably requires more than thirty (30) days, Landlord will not be in default hereunder if Landlord has promptly commenced and is diligently pursuing a cure; and
 - (ii) If the nature of the default poses an imminent danger to persons or property, then the period of time for cure will be a reasonable period of time in light of the circumstances.
- C. Landlord Remedies. In the event of Tenant's default, Landlord may take the following action:
- (i) Terminate this Agreement;
 - (ii) Re-enter the Premises, terminate Tenant's right of possession of the Premises, and re-let all or any part of the Premises;
 - (iii) Cure the default on behalf of Tenant and Tenant will pay the reasonable costs of the cure upon written demand; and/or
 - (iv) Pursue any other remedy available under the law.
- D. No Waiver of Landlord's Remedies. Landlord's acceptance of any rent payment in an amount less than the amount due and owing, and/or any other act of forbearance concerning any breach or default by Tenant, will not constitute a waiver of Landlord's right to collect the full amount due or pursue remedies for default, including proceeding with an eviction claim. Landlord's acceptance of rent, partial rent, and/or any act of forbearance or waiver of any breach or default of this Agreement by Tenant will not be construed as a continuing waiver or consent to any subsequent breach, or default by Tenant and will not bar Landlord's right to demand strict compliance with that provision or any other provision of this Agreement. No course of dealing between Landlord and Tenant will constitute a waiver of any of Landlord's rights or any of Tenant's obligations as due hereunder.
- E. Tenant Remedies. In the event of Landlord's default, Tenant has the following remedies:
- (i) Cure the default on behalf of Landlord, and Landlord will pay the reasonable costs of the cure upon written demand; and/or
 - (ii) Pursue any other remedy available under the law.
- F. Mitigation. Both parties agree to mitigate their damages upon default.

14. Notices.

Except as otherwise provided herein, all notices, invoices, reports, or any other type of documentation required by this Agreement will be made in writing and will be deemed given and served when

deposited in the United States mail, postage paid, to the addresses listed below. Either party may change its address or representative by providing written notice to the other party.

Tenant: Kiwanis Club of North Port, Inc.
 Elaine Allen-Emrich, President
 P.O. Box 7222
 North Port, Florida 34290
 (941) 223-7120

Landlord: City of North Port, Florida
 City Manager
 4970 City Hall Blvd.
 North Port, Florida 34286

With copies of Notices to:

 City of North Port, Florida
 City Attorney
 4970 City Hall Blvd.
 North Port, Florida 34286

15. Radon Gas.

Pursuant to Florida Statutes Section 404.056(5), Landlord is required to provide the following notice:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

16. Estoppel Certificates.

Each party agrees to provide to the other, at any time, within ten (10) business days of a written request, a certificate certifying that this Agreement is unmodified and in full force and effect or in full force and effect as modified and stating the modifications, and indicating defaults, if any, under this Agreement. The certificate will also state the amount of monthly rent, the dates to which the rent has been paid in advance, and the amount of any security deposit or prepaid rent. It is intended that any certificate may be relied upon by any prospective purchaser or mortgagee of the Premises, or any portion thereof, or any lender of Landlord.

17. Sublease and encumber.

Tenant will not transfer, sublet, underlet, mortgage, pledge or encumber this Agreement.

18. Force Majeure.

Should performance of any obligation (other than payment obligations) created under this Agreement become illegal or impossible by reason of:

- a. A strike or work stoppage, unless caused by a negligent act or omission of any party;
- b. An act of God, tornado, hurricane, flood, sinkhole, fire, explosion, landslide, earthquake, epidemic, pandemic, quarantine, pestilence, or extremely abnormal and excessively inclement weather;
- c. An act of a public enemy, act of war, terrorism, effect of nuclear radiation, blockage, insurrection, riot, civil disturbance, state of martial law, or national or international calamity;
- d. A declared emergency of the federal, state, or local government; or
- e. Any other cause not enumerated that is beyond the reasonable control of the non-performing party;

then the performance of any such obligation is suspended during the period of, and only to the extent of, such prevention or hindrance, provided the affected party provides reasonable notice of the event of force majeure and exercises all reasonable diligence to eliminate the cause of force majeure.

19. Miscellaneous.

- A. Authority to Execute Agreement. The signature by any person to this Agreement will be deemed a personal warranty that the person has the full power and authority to bind any corporation, partnership, or any other business or governmental entity for which the person purports to act hereunder.
- B. Binding Effect/Counterparts. By the signatures affixed hereto, the parties intend to be bound by the terms and conditions hereof. This Agreement is binding upon and will inure to the benefit of the parties and their respective heirs, executors, administrators, successors, and assigns. It may be signed in counterparts.
- C. Governing Law and Venue. The laws of the State of Florida govern the rights, obligations, and remedies of the parties under this Agreement. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida, and the United States District Court for the Middle District of Florida.
- D. No Agency. Nothing contained herein will be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the parties, it being understood and agreed that neither the method of computation of rent, or any other provisions contained herein, or any acts of the parties will be deemed to create any relationship between them other than that of Landlord and Tenant.
- E. Severability. If a court holds any provision of this Agreement to be illegal, invalid, or unenforceable the remaining provisions will be valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition, or covenant will not be construed as a waiver of a subsequent breach by the other party.

- F. Headings. The descriptive titles appearing in each respective paragraph thereof are for convenience only and are not a part of this Agreement and do not affect its construction.
- G. Complete Agreement. This Agreement incorporates and includes all prior negotiations, correspondence, agreements, or understandings between the parties, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. This Agreement supersedes all other agreements between the parties, whether oral or written, with respect to the subject matter.
- H. Amendment. No amendment, change, or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement.
- I. Assignment. Tenant will not assign this Agreement or any right or responsibility herein unless with the written consent of the City.
- J. Nondiscrimination. The City of North Port, Florida, does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. Tenant will not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

IN WITNESS WHEREOF, the parties have executed this First Amendment as follows.

(This space left intentionally blank; signature pages follow)

TENANT

Kiwanis Club of North Port, Inc., a Florida not for profit corporation

By: _____
Elaine Allen-Emrich, President

Date: _____

ACKNOWLEDGEMENT

STATE OF FLORIDA
COUNTY OF _____

Sworn to and subscribed before me by means of physical presence or online notarization, this _____ day of _____, 2023, by Elaine Allen-Emrich, as President of Kiwanis Club of North Port, Inc., a Florida not for profit corporation.

Notary Public

___ Personally Known Or ___ Produced Identification
Type of Identification Produced _____

APPROVED by the City Commission of the City of North Port, Florida on _____, 2023.

LANDLORD

CITY OF NORTH PORT, FLORIDA

A. JEROME FLETCHER II, ICMA-CM, MPA
CITY MANAGER

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON, B.C.S.
CITY ATTORNEY