

**PUBLIC PURPOSE LEASE AGREEMENT
BETWEEN
MARTIN COUNTY AND
HALPATIOKEE OUTDOOR CENTER, LLC**

THIS LEASE AGREEMENT ("Lease") made this ____ day of _____, 20__, between **MARTIN COUNTY**, a political subdivision of the State of Florida, having its principal office at 2401 SE Monterey Road, Stuart, Florida 34996, ("COUNTY"), and **Halpatiokee Outdoor Center, LLC**, a Florida limited liability company, having its principal office at 9060 W. Indiantown Rd. Jupiter, FL 33478 ("LESSEE").

WITNESSETH:

WHEREAS, the COUNTY is authorized, pursuant to Section 125.35, Florida Statutes, to lease real property owned by the County; and

WHEREAS, the COUNTY owns Halpatiokee Park ("Halpatiokee"), which consists of approximately 65 acres of active parkland located on Lost River Road just east of I-95 at the Stuart/Kanner Highway Exit; and

WHEREAS, Halpatiokee includes a parcel of land located at the northeast corner of the park, consisting of approximately 3.46 +/- acres and containing a 1,500 square foot building, separate restroom building, and adjacent open space known and addressed as 7647 SW Lost River Road, Stuart, FL 34997 (the "Premises")

WHEREAS, the COUNTY desires to lease the Premises out as a kayak, canoe, mountain bicycle, and electric assist mountain bicycle rental, with guided and self-guided tours and instruction with concessionaire services; and

WHEREAS, the COUNTY has determined that such use of the Premises is compatible with the primary purposes and use of the Premises; and

WHEREAS, the COUNTY has found that the Premises to be leased to the LESSEE is suitable for such use and is not currently needed for County purposes.

NOW THEREFORE, in consideration of the foregoing and in further consideration of the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true, correct, and incorporated herein.
2. **The Premises.** The COUNTY hereby leases the Premises to the LESSEE, and the LESSEE hereby leases the Premises from COUNTY, on the terms and conditions hereinafter provided, with the Premises more particularly described and depicted in the legal description attached hereto as **Exhibit "A"** and incorporated by reference herein.
3. **Use of the Premises.**

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- A. The LESSEE shall use the Premises for the sole and specific purpose of an outdoor recreation center that includes (i) a kayak, canoe, mountain bicycle and electric assist mountain bicycle rentals, (ii) guided and self-guided tours and instruction, (iii) professionally captained pontoon boat tours, outdoor and interpretive nature tours and experiences and other eco-tourism activities, (iv) concession services for food, beverage including beer, wine and liquor, and retail recreational equipment, all on the terms and conditions hereinafter provided (the "Permitted Use"). In addition to the Permitted Use, the LESSEE may arrange for the provision of mobile vending services for food and beverage sales at the Premises, provided LESSEE obtains all necessary permits and prior written approval from the County Administrator or designee, which shall be provided or withheld in the County Administrator's or designee's sole and absolute discretion. LESSEE agrees that its use of the Premises shall be in compliance with all applicable laws and regulations, and that the Premises shall be used and occupied solely for the Permitted Use and in accordance with the terms of the Request for Proposal 2022-3449 and for no other use whatsoever. LESSEE specifically acknowledges and agrees that the currently existing floating dock, the pathway access to the floating dock, the seawall and, the handicapped parking spaces located on the Premises must be kept available for free public use and access at all times, and LESSEE shall not interfere in any manner with such public use. The LESSEE specifically acknowledges that storage upon the Premises of vehicles, golf carts, vessels, RVs, campers, trailers and containers that do not support the Permitted Use shall not be permitted. Overnight camping or occupancy of the Premises shall not be permitted.
- B. Except as otherwise provided herein, LESSEE shall have no rights to use any part of Halpatiokee located outside of the Premises, including but not limited to, the baseball fields, dugouts, fencing, or playground areas, without first obtaining the prior written approval of the County Administrator or designee, which shall be provided or withheld in the County Administrator's or designee's sole and absolute discretion. The LESSEE, its employees, and visitors shall have the non-exclusive right, in common with the general public, to use the driveways, parking areas, walkways, floating dock, and other common areas for the uses permitted thereof by the COUNTY. The LESSEE shall have the right to conduct tours, excursions and to rent non-motorized equipment (including electric assist mountain bicycles as set forth in Section 3.A. above) for use on the waterways and trails of Halpatiokee; provided, however, COUNTY specifically waives any and all liability related such use, and LESSEE accepts all waterways and trails in their current AS-IS condition without representation or warranty on the part of COUNTY. LESSEE shall not permit its customers, guests or invitees to swim or bathe in the waterways of Halpatiokee. Notwithstanding any provision of this Lease to the contrary, LESSEE hereby acknowledges and agrees that any proposed expansion of or change to the Intended Use (including, without limitation, (i) motorized vessel or personal watercraft rentals; (ii) operation of a permanent restaurant, kitchen or live music venue; (iii) operation of an intra-Park tram or other parking or transportation service or (iv) construction of additional improvements) shall be subject to the prior written approval of the County Administrator or designee, which shall be provided or withheld in the County Administrator's or designee's sole and absolute discretion.

C. **Gate.** The COUNTY shall have access to the gate to the Premises at all times, and the COUNTY shall maintain the gate to the Premises. The LESSEE shall work with the COUNTY in scheduling the dates and times for access to the Premises, and the LESSEE shall be primarily responsible for opening and closing the gate at the days and times agreed to by the LESSEE and the COUNTY.

D. **AS-IS Condition.** COUNTY shall deliver the Premises to LESSEE in its existing "AS IS, WHERE IS, AND WITH ALL FAULTS" condition, without any agreements, representations, understandings or obligations on the part of COUNTY to perform any alterations, repairs or improvements. No representations respecting the condition of the Premises or the waterways and trails of Halpatiokee have been made to LESSEE by or on behalf of COUNTY, except as expressly provided herein. LESSEE agrees to accept the Premises and the waterways and trails in such condition.

4. **Term.** The initial term of this Lease shall commence on the date on which LESSEE receives its business tax receipt from the applicable governmental authority and shall expire on the last day of the month, one hundred twenty (120) months thereafter, unless terminated earlier pursuant to the terms of this Lease. LESSEE shall provide written notice to COUNTY on the day it receives its business tax receipt, and LESSEE acknowledges and agrees that all certificates of insurance required by Section 9 shall be provided to the COUNTY prior to LESSEE'S occupancy or use of the Premises.

5. **Renewal.** No less than 180 days prior to expiration of this Lease, upon written request of the LESSEE, the LESSEE may renew the Lease for one (1) additional period of five (5) years at the end of the initial Term, so long as it is not in violation of any of the terms and conditions of this Lease.

6. **Rent.** Monthly rent shall be four thousand dollars (\$4,000.00) payable on or before the first (1st) of every month. The first rent payment shall be due on the date that is thirty (30) days after LESSEE opens the Premises for business with the public or obtains its business tax receipt, whichever occurs first, with subsequent payment to be prorated accordingly. Rent shall increase by three (3%) percent annually. In the event LESSEE is unable to operate its business as a result of the existence of any environmental condition occurring within Halpatiokee, including but not limited to a bacterial or blue-green algae advisory issued by the Florida Department of Health or Martin County, LESSEE shall have the right to request abatement of rent for such period of time, which abatement will be approved by the County Administrator or designee, not to be unreasonably withheld, conditioned or delayed.

Rent shall be late if not paid by the fifteenth (15th) of each calendar month, whereupon LESSEE shall pay to COUNTY a late fee equal to the greater of (a) \$250.00 or (b) five percent (5%) of the delinquent payment. LESSEE shall pay rent, together with any other amounts due pursuant to this Lease, to COUNTY at the address set forth in Section 19, or at such other address as COUNTY may from time to time designate in writing.

7. **Improvements.** As a material inducement to the COUNTY to enter into this Lease, the LESSEE agrees as follows:

A. Construction and/or Alteration of Improvements:

The LESSEE shall have the right to make renovations or improvements to the Premises only with the express prior written approval of the County Administrator or designee, who may, at his or her discretion, request approval by the COUNTY's Board of County Commissioners. This provision includes earth moving and alteration to the land. All plans and specifications for such renovations, or improvements shall be submitted in writing to the COUNTY with a request for approval, which approval shall be provided or withheld in COUNTY'S sole and absolute discretion. The County Administrator shall respond in writing within twenty (20) days of delivery by approving, rejecting, requesting revisions, or advising LESSEE that Board consideration is required. Any contract or agreement for labor, services, materials or supplies to be furnished in connection with the work to the Premises shall provide that no lien, claim or other encumbrance shall thereby be created, or arise, or be filed by anyone thereunder upon or against the Premises or the improvements thereto. Any permissive improvements to the Premises and any and all alterations and additions to any improvements or structures upon the Premises shall be made and maintained at the expense of the LESSEE and without cost or expense to the COUNTY. The LESSEE shall obtain a payment and performance bond or other surety pursuant to Section 255.05, Fla. Stat., prior to the commencement of any construction or alteration of any improvements or structures. Such surety shall ensure payment of all costs and the proper and timely completion of all the LESSEE's obligations and shall be issued by a provider approved by the COUNTY in an amount equal to one hundred and twenty-five percent (125%) of the total cost of completion of such work with the COUNTY named as an additional payee in the event the LESSEE fails to fully perform all the work in a timely manner and in accordance with all requirements of this Lease. Lessee agrees to record such payment and performance bond in the public records of Martin County pursuant to Section 255.05(1), Fla. Stat.

B. Governmental Approvals:

It shall be the LESSEE's sole responsibility to obtain the necessary governmental approvals and permits for any proposed renovations or improvements, including, but not limited to, all necessary development approvals from any governmental agency having jurisdiction over the proposed improvements or structures, including the COUNTY. Nothing herein shall be deemed to waive or imply waiver of any COUNTY regulation or required fee applicable to the review and/or development of any proposed improvements or renovations. Nothing herein shall be deemed to imply that the COUNTY is a co-applicant with the LESSEE for any governmental approval, including any COUNTY approval. It is expressly understood and agreed by the LESSEE that the COUNTY shall not be liable to the LESSEE for any expense or damage incurred by the LESSEE resulting from the failure of the COUNTY, or any other governmental entity having jurisdiction over the proposed improvements or structures, to approve any or all necessary approvals required for the construction of any proposed improvements or structures.

C. Ownership:

All improvements, structures, and fixtures upon the Premises shall be exclusively operated and controlled by the LESSEE during the Term of this Lease at no cost to the COUNTY. Upon the expiration or earlier termination of this Lease, the LESSEE shall deliver the Premises to the COUNTY in good repair and condition, reasonable wear and tear excepted, and all improvements, structures, and fixtures (excepting only sign panels and movable trade fixtures installed at the LESSEE's costs), whether installed by the COUNTY, the LESSEE or any other person or entity,

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shall become, when made, a part of the Premises, and upon the expiration or earlier termination of this Lease, shall be surrendered with the Premises in good condition.

D. Signage:

The LESSEE may install reasonable information signage at the Premises and at the main entrance to Halpatiokee, which may include exterior building signage and directional signage and at the sole expense of the LESSEE, indicating that the Premises is owned by Martin County and is being operated by the LESSEE for a public benefit. The signage shall be installed at such places as are mutually agreed upon by the COUNTY and the LESSEE. Signage must be in compliance with all County requirements. Subject to the written approval of the COUNTY, the LESSEE may place non-permanent advertising materials at the Premises and the LESSEE's expense.

8. Repairs and Maintenance

A. The LESSEE shall be solely responsible for the cost of installation, connection and usage of electrical service; internet, telephone, cable, and wireless communication service and equipment to the Premises throughout the Term of this Lease. The LESSEE shall be solely responsible for ensuring that separate meters and/or submeters and bills are used for all utilities. The LESSEE shall be responsible for its share of the shared water and sewer services.

B. The LESSEE shall make all repairs, replacements and alterations necessary to maintain in good condition all lines, apparatus, ducts, and equipment relating to utilities inside the Premises at all times during this Lease.

C. Except as otherwise provided in this Lease, the LESSEE agrees that all portions of the Premises shall be kept in good repair and condition by the LESSEE. The LESSEE shall meet, at a minimum, the Minimum Maintenance Standards (**Exhibit "B"**). The LESSEE shall maintain and make all repairs and alterations of every kind with respect to the Premises (including but not limited to necessary replacements) to keep it in good condition, and do all repairs required by any laws, ordinances or requirements of public authorities, beginning at the point from which they serve the Premises exclusively, whether located inside or outside. At all times during the Lease, the LESSEE shall maintain a service contract with an air conditioning repair firm, fully licensed to repair air conditioning units in the State of Florida, for the regular maintenance of the heating, ventilating and air conditioning ("HVAC") system servicing the Premises, which firm shall regularly service and inspect the air conditioning unit(s) on the Premises in accordance with the manufacture's requirements. The LESSEE shall furnish copies of all maintenance records and service reports to the COUNTY's Park and Recreation Department on a quarterly basis. Additionally, if any air conditioning or heating equipment (or other utility equipment) is damaged in any way, LESSEE shall repair (and if necessary, replace) the equipment. The LESSEE's sole right of recovery shall be against its insurers for losses or damage to stock, furniture and fixtures, equipment, improvements and betterment. Any necessary repair work must be performed within ten (10) days of any written notice by the COUNTY requiring such repair; provided, however, that such ten (10) day period may be extended in the event of catastrophic occurrence and damage to the Premises. The LESSEE agrees to make or contract for emergency repairs and provide protective measures necessary to protect the Premises from damage and to prevent injury to persons or loss of life. The LESSEE agrees to use its best efforts to ensure that the Premises is maintained in an attractive condition and in a good state of repair. The LESSEE shall also clean up trash and debris generated from LESSEE'S use of the Premises. The LESSEE will be

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responsible for providing its own dumpster to be located on site at an area to be approved by the Parks Director.

D. The interior and exterior of the Premises shall be kept clean. It shall be the LESSEE'S responsibility to provide and pay for interior facility cleaning services. The LESSEE shall be responsible for prioritizing the safety and health, and welfare of the public, and the protection of the environment, wildlife, and natural areas. The LESSEE is responsible for the appropriate removal and disposal of all waste on the Premises. The LESSEE will maintain the design of the Premises measure features that minimize the environmental impacts to the nearby body of water and natural areas and incorporate initiatives to educate users and the public. The LESSEE will be required to work closely with the COUNTY to maintain these standards.

E. The COUNTY shall retain responsibility for the maintenance and repair of the structural components of the building located on the Premises, specifically the roof, foundation, and exterior walls.

F. The COUNTY shall assume the responsibility for the maintenance and repair of the public floating dock, pathway access to the floating dock, and handicap parking spaces associated with the public floating dock.

9. **Insurance, Indemnification and Damage by Casualty.**

A. The LESSEE shall procure and maintain in force at its expense during the Term of this Lease, Commercial General Liability Insurance, including contractual liability, watercraft liability, and contamination liability, adequate to protect the COUNTY against liability for any and all damage claims in a minimum amount of One Million Dollars (\$1,000,000.00) per claim for bodily injury and property damage and an aggregate amount of three Million Dollars (\$3,000,000.00). A certificate of insurance evidencing such insurance and listing the COUNTY as an additional named insured shall be provided to the COUNTY prior to utilization of the property and will be provided annually with payment of rent. Such policy shall be non-cancelable with respect to County except upon thirty (30) days written notice to County, and a substitute policy meeting the requirements of this Lease shall be provided prior to the effective date of any such cancellation. A waiver of subrogation must be provided. Coverage should apply on a primary and non-contributory basis.

B. The LESSEE shall procure and maintain in force at its expense during the Term of this Lease, Commercial Umbrella Insurance, adequate to protect the COUNTY against liability for any and all damage claims in a minimum amount of Five Million Dollars (\$5,000,000.00) per claim for bodily injury and property damage and an aggregate amount of Five Million Dollars (\$5,000,000.00). A certificate of insurance evidencing such insurance and listing "Martin County and its Board of County Commissioners" as an additional named insured shall be provided to the COUNTY prior to utilization of the property and will be provided annually with payment of rent. Such policy shall be non-cancelable with respect to County except upon thirty (30) days written notice to County, and a substitute policy meeting the requirements of this Lease shall be provided prior to the effective date of any such cancellation. A waiver of subrogation must be provided. Coverage should apply on a secondary basis.

C. The LESSEE shall procure and maintain in force at its expense during the Term of

this Lease, Liquor Liability Insurance, including assault and battery coverage, adequate to protect the COUNTY against liability for any and all damage claims in a minimum amount of one Million Dollars (\$2,000,000.00) per claim for bodily injury and property damage and an aggregate amount of five Million Dollars (\$5,000,000.00). A certificate of insurance evidencing such insurance and listing "Martin County and its Board of County Commissioners" as an additional named insured shall be provided to the COUNTY prior to utilization of the Premises and will be provided annually with payment of rent. Such policy shall be non-cancelable with respect to the COUNTY except upon thirty (30) days written notice to the COUNTY, and a substitute policy meeting the requirements of this Lease shall be provided prior to the effective date of any such cancellation. A waiver of subrogation must be provided. Coverage should apply on a primary and non-contributory basis.

D. The LESSEE agrees to take out and maintain, during the Term of this Lease, applicable Worker's Compensation Insurance for all its employees employed in connection with the business operated under this Lease. Such insurance shall fully comply with the Workers Compensation Law, Chapter 440, Florida Statutes. The workers compensation insurance policy required by this Lease shall also include Employers Liability. The LESSEE shall provide proof of worker's compensation insurance as required by law, if applicable. A waiver of subrogation must be provided.

E. The LESSEE shall take out and maintain, during the term of this Lease, Business Automobile Liability Insurance specifically covering the Premises. Such insurance coverage shall have minimum limits of Five Hundred Thousand and 00/100 (\$500,000.00) per occurrence, and One Hundred Thousand and 00/100 Dollars (\$100,000.00) per person combined single limit for bodily injury liability and property damage liability. This insurance shall be an "any-auto" type of policy including owned, hired, non-owned, and employee non-ownership coverage. A waiver of subrogation must be provided. Coverage should apply on a primary and non-contributory basis.

F. The LESSEE will carry an "All Risk" Commercial Property Insurance policy in an amount of not less than one hundred percent (100%) of the replacement value of the fixtures, equipment, LESSEE improvements and betterments including improvements and betterments made by previous LESSEE'S of the Premises thereof in accordance with normally accepted standards in the insurance industry in the event of a fire or other casualty. In addition to the LESSEE, the policy shall name the COUNTY as an additional named insured and loss payee. The intent of the preceding is to ensure that the insurance proceeds are payable jointly to both parties. Such policy shall be non-cancelable with respect to COUNTY except upon thirty (30) days' written notice to COUNTY. A waiver of subrogation must be provided. Coverage should apply on a primary and non-contributory basis.

G. The LESSEE shall procure and maintain during the full Term of this Lease, and any extension thereof, adequate Flood Insurance from a provider approved by the COUNTY, in an amount which would be sufficient to cover all damages to LESSEE'S personal property located upon the Premises, in an amount equal to the full replacement cost thereof.

H. **Indemnification.** The COUNTY shall not be liable for any loss, injury, death or damage to persons or property which at any time may be suffered or sustained by the LESSEE or by any person whosoever may to any time be using or occupying or visiting the Premises, the waterways and trails of Halpatiokee, or be in, on or about the same caused by or in any way result

from or arise out of any act, omission or negligence of the LESSEE or of any occupant, visitor or user of any portion of the Premises. The LESSEE is advised to carry contents insurance as well as insurance on improvements to the Premises made by the LESSEE.

LESSEE shall indemnify and hold harmless the COUNTY, its elected officials, employees, and agents, from all claims, suits, causes of action, losses or liabilities of any character brought on account of any injuries or damages received or sustained by any person or property arising out of or resulting from LESSEE's use of the Premises, the waterways and trails of Halpatiokee under this Agreement, except claims arising from the negligence of the COUNTY. The provisions of this section shall survive the expiration or earlier termination of this Lease.

10. **Taxes.** The LESSEE will be required to pay all taxes lawfully levied against the Premises during the Term of this Lease, if any.

11. **Inspection by the COUNTY.**

A. The COUNTY and its agents, upon reasonable written notice (except in case of emergency), may make periodic inspections, including annual safety inspections, of the Premises to determine whether the LESSEE is operating in compliance with the terms and conditions of this Lease. The LESSEE shall be required to make any and all changes required by the COUNTY that are reasonably necessary to ensure compliance with the terms and conditions of this Lease and/or any applicable law(s) or regulation(s).

B. The COUNTY, or its designated agents, may order that the operations of the LESSEE at the Premises stop if a condition of immediate danger to the public or COUNTY employees, equipment or property exists. This provision shall not shift responsibility or risk of loss for injuries or damage sustained from the LESSEE to the COUNTY, and the LESSEE shall remain solely responsible for compliance with all safety requirements and for the safety of all persons and property at the Premises.

12. **Prohibition on Assignment and Encumbrances.**

A. The LESSEE shall not assign this Lease or sublet the Premises to any other party without the prior express written approval from the COUNTY in the COUNTY's sole discretion. Any attempt to assign this Lease or sublet the Premises without the prior express written approval of the COUNTY will constitute an automatic termination of this Lease. This covenant shall be binding on the successors in interest, assignees and sublessees of the LESSEE.

B. The LESSEE shall not mortgage, pledge, or encumber this Lease, in whole or in part, or the leasehold estate granted under this Lease, to any other person, firm or entity. Any attempted mortgage, pledge, or encumbrance of this Lease, or the leasehold estate granted under this Lease, shall be void and may, at the sole option of the COUNTY, be deemed an event of default under this Lease. This covenant shall be binding on the successors in interest of the LESSEE.

C. The LESSEE shall not pledge the COUNTY's credit or make the COUNTY a Guarantor of payment or surety for any contract debt, obligation, judgment, lien or any form of indebtedness. The LESSEE warrants and represents that it has no obligation or indebtedness which

would impair its ability to fulfill the terms of this Lease.

D. The LESSEE shall not permit to be recorded any mechanics' liens for materials or labor claimed to have been furnished to the Premises or the improvements thereon.

13. **LESSEE's Responsibilities.**

A. The LESSEE agrees to follow and abide by all local, state and federal laws, ordinances and regulations and to follow and abide by the rules and regulations of Halpatiokee Park as those rules may be amended from time to time.

B. The LESSEE agrees that the Premises will be operated in accordance with the approved Business Plan, Marketing Plan, and Financial Plan, attached as **Exhibit "C"** as these may be amended from time to time upon approval by the County.

C. *Intentionally omitted*

D. The LESSEE agrees to submit its schedule of fees to the COUNTY for its review on or before September 1 of each year. The LESSEE and the COUNTY agree that, in the event that the COUNTY does not approve the LESSEE's fee schedule, the COUNTY's determination of reasonable fees shall be the final determination. If the COUNTY fails to act within thirty (30) days, upon LESSEE's request for approval of the fee schedule, such schedule shall be deemed approved for that fiscal year.

E. The LESSEE agrees to keep books, accounts, and records that reflect all revenues and expenditures received in connection with the management and operation of the Premises. The books, accounts and records shall be maintained in accordance with generally accepted accounting principles at the LESSEE's principal place of business. The LESSEE shall make the books, accounts and records required to be maintained hereunder available to the COUNTY for examination or audit during normal business hours, upon five (5) days written notice. In addition, the LESSEE shall provide the COUNTY with a copy of its annual audit or other financial statements relating to the LESSEE's occupancy and use of the Premises.

F. Except as provided in Sections 6 and 14G, the LESSEE agrees to operate the Premises for the above-described permitted use a minimum of 6 days per week with minimum hours of 9 a.m. to 5 p.m. hours of operation shall be posted on or around the entrance. The operation must be open for business and use during weekends and holidays.

G. The LESSEE shall hire and designate a qualified experienced manager for its leased uses, who shall be physically available during the designated operating hours. The LESSEE agrees a designated assistant manager shall be available when the manager is not on duty or available. It is agreed by the parties that the officers of the LESSEE may fill the roles of manager and assistant manager for the leased uses.

H. The LESSEE agrees to maintain free public access from the Premises to the water, the floating dock and the kayak/canoe launch at all times during park operating hours.

I. The LESSEE shall provide and maintain an active website listing, at a minimum, a copy of its schedule of activities to be held on the Premises, and general contact information.

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J. The LESSEE acknowledges and agrees that it is prohibited from possessing, dispensing, selling, cigarettes or tobacco products of any nature whatsoever from, in, around or in connection with the Premises. Alcoholic beverages may be sold, dispensed, given away, and consumed on the Premises in compliance with all requirements set forth in Chapter 561, Florida Statutes.

K. The LESSEE is solely responsible for providing all documentation for proper licensing as required by Florida Department of Business & Professional Regulation and shall be responsible for obtaining any and all other licenses, permits and certifications as required by law as well as following all applicable local and state laws for the LESSEE's activities on the Premises.

L. The LESSEE agrees to maintain all licenses and certifications and require all staff to complete and be in compliance with required training and certifications listed in **Exhibit "D"**. The licenses, certifications, and training requirements may be amended from time to time upon approval of the County.

M. The LESSEE must obtain a County Permit from the Martin County Parks and Recreation Department for any and all events hosted that would require additional park space outside of the Premises, prior to setting a date. All events need to be coordinated with the Martin County Parks and Recreation Department to ensure conflicts do not exist.

N. The LESSEE agrees all persons engaged in any activity on the Premises shall be at all times, and in all places subject to the LESSEE's sole direction, supervision and control and shall not be considered employees agents or servants of the COUNTY.

O. The LESSEE shall annually, or more frequently upon request, ensure that all of its volunteers, employees, contractors and mobile vendors have passed a Level 1 background screening at the expense of the LESSEE and shall submit to the COUNTY a signed affidavit attesting to compliance with the provisions of Chapter 435, Florida Statutes and this paragraph. Prior to allowing any volunteer, employee contractor or mobile vendor access the Premises, the LESSEE shall be responsible for providing the signed affidavit described herein and shall also ensure that none of its volunteers, employees, contractors or mobile vendors are a sexual predator/sexual offender. Information received from these background screenings will be used to determine if the LESSEE is in compliance with the terms of this Lease.

P. The LESSEE for itself and its permitted successors in interest, as a part of the consideration for this Lease, does hereby covenant and agree that:

1. No person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of the services offered in or at the Leased Premises on the basis of age, sex, physical handicap or other disability, race, color, national origin, religion or ancestry; and
2. The LESSEE shall not discriminate against any employee or applicant for employment in connection with the Premises and the leasehold estate granted hereunder with respect to hiring, tenure, terms, conditions or privileges or employment, or any matter directly or indirectly related to employment on the basis

of age, sex, physical handicap or other disability, race, color, religion, national origin or ancestry; and

3. The LESSEE's facilities and programs, including the Premises, shall from time to time and at all times comply with the Americans with Disabilities Act ("ADA"). Prior to any event held by the LESSEE at Halpatiokee, the LESSEE shall provide the COUNTY with an ADA compliance plan in conformance with ADA requirements. Notwithstanding the foregoing this Section 13P3 shall not require LESSEE to make Halpatiokee ADA compliant.

Q. The LESSEE shall furnish the COUNTY with a list of its officers and Board of Directors and notify the COUNTY of the names of any new officers and directors at the time of their election. The LESSEE shall furnish the COUNTY with the names and addresses of the LESSEE's offices and employees who have the authority to pay the LESSEE's bills.

R. The LESSEE acknowledges and agrees that it has been informed of the possible presence of pathogens, asbestos or any other potentially hazardous substances that may be present in, on or about the Premises. To the extent that pathogens, asbestos or any other potentially hazardous substances may exist in, on or about the Premises, then the LESSEE shall have the obligation to properly remove and dispose of such pathogens, asbestos or any other potentially hazardous substances at the LESSEE's sole cost and expense and shall indemnify and hold the COUNTY harmless from any liability or damage incurred by the LESSEE in connection with the presence of any pathogens, asbestos or any other potentially hazardous substances existing on the Premises. As used herein, the term "hazardous substance" means: (a) any "hazardous substance" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, as well as any regulations promulgated thereunder; and (b) any "hazardous substance" as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended from time to time, as well as any regulations promulgated thereunder.

S. The LESSEE agrees all persons engaged in any use or activity on the Premises shall be at all times, and in all places subject to the LESSEE's sole discretion, supervision and control and shall not be considered employees, agents or servants of the COUNTY.

14. Termination.

A. The COUNTY shall have the right to terminate this Lease upon the occurrence of any of the following, hereinafter referred to as "Event of Default":

1. Institution of proceedings in voluntary bankruptcy by the LESSEE.
2. Institution of proceedings in involuntary bankruptcy against the LESSEE if such proceedings continue for a period of ninety (90) days and are not dismissed.
3. Assignment of this Lease for the benefit of creditors.
4. Failure to operate the Premises in a manner consistent with the purposes of this Lease.

5. Abandonment of or discontinuance of operations at the Premises by the LESSEE for more than thirty (30) days.
6. Dissolution, whether voluntary or involuntary of the LESSEE's corporation.
7. Default, non-performance or other non-compliance with any covenant, requirement or other provision of any nature whatsoever under this Lease, including the timely payment of rent.

B. Upon the occurrence of an Event of Default, the COUNTY shall send a written notice to the LESSEE, in the manner set forth in Article 18 of this Lease, setting forth the Event of Default in specific detail and identifying the end of the cure period and date this Lease shall terminate in the event the LESSEE does not cure the default to the reasonable satisfaction of the COUNTY.

C. The cure period shall be thirty (30) days after receipt of a written default notice from the COUNTY. The cure period may be extended by the Parties in writing if the Event of Default is of such nature that it cannot be completely cured within thirty (30) days. If the LESSEE does not commence such curing within such thirty (30) days and thereafter proceed with reasonable diligence and in good faith to cure such default, then the COUNTY may terminate this Lease on not less than ten (10) days' written notice to the LESSEE.

D. In the event the LESSEE fails to cure the Event of Default within the cure period, this Lease shall be deemed to be terminated upon written notice to LESSEE of COUNTY's election to terminate as provided for in subsection 15.C. above. In no event, however, shall such termination relieve the LESSEE of its obligation to pay any and all remaining rent due and owing to the COUNTY for the period up to and including the date of termination.

E. The LESSEE shall have the right, upon providing thirty (30) days prior written notice to the COUNTY in the manner set forth in this Lease, to terminate this Lease at any time for any reason. Such termination by LESSEE shall release LESSEE from future liability following payment by LESSEE of any and all amounts due under this Lease through the date of termination and inspection and approval by the COUNTY of the safety and security of the improvements made by LESSEE.

F. In the event that COUNTY terminates this Lease as provided in this section, then at COUNTY's option the entire remaining balance of unpaid rent for the remaining term of the Lease shall accelerate, and the entire sum shall become immediately due and payable

G. **Force Majeure.** Except as otherwise provided in this Lease, neither party shall be deemed in default or in breach of this Lease to the extent it is unable to perform due to an event of *force majeure*. For the purpose of this Lease, *force majeure* shall mean and include any act of God, accident, fire, lockout, strike or other labor dispute, riot or civil commotion, act of a public enemy, failure of transportation facilities, enactment, rule, order, or act of government or governmental instrumentality (whether domestic or international and whether federal, state or local, or the international equivalent thereof), failure of technical facilities, or any other cause of any nature whatsoever beyond the control of either party which was not avoidable in the exercise of reasonable care and foresight.

15. **Integration.** The drafting, execution, and delivery of this Lease by the parties has been induced by no representations, statements, warranties or agreements other than those expressed in it. This Lease contains the entire agreement between the parties and there are no further or other agreements or understandings written or oral in effect between the parties relating to its subject matter unless expressly referred to it. This Lease cannot be changed or modified except by written instrument executed by all parties hereto. This Lease and the terms and conditions hereto apply to and are binding upon the heirs, legal representatives, successors and assigns of both parties.

16. **Severability.** If any term of this Lease or the application thereof to any person or circumstances shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease, 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 Lease shall be valid and enforceable to the fullest extent permitted by law.

17. **Governing Law, Venue, Fees and WAIVER OF JURY TRIAL.**

a. This Lease shall be construed in accordance with the laws of the State of Florida. Venue of any action arising out of this Lease shall be in the 19th Judicial Circuit in and for Martin County, Florida.

b. The rights and remedies with respect to any of the terms and conditions of this Lease shall be cumulative and not exclusive and shall be in addition to all other rights and remedies available to either party in law or equity. In connection with any litigation (including all appeals there from) arising out of this Lease, the parties expressly agree that each party will bear its own attorney's fees and court costs incurred in connection with this Lease. FURTHER, THE PARTIES EXPRESSLY AND SPECIFICALLY WAIVE THE RIGHT TO A JURY TRIAL IN ANY WAY CONNECTED WITH THIS LEASE, INCLUDING AN ADVISORY JURY. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION. EACH PARTY ACKNOWLEDGES THAT IT HAS BEEN ADVISED BY ITS OWN COUNSEL WITH RESPECT TO THE TRANSACTION GOVERNED BY THIS LEASE AND SPECIFICALLY WITH RESPECT TO THE TERMS OF THIS SECTION.

18. **Property Interests.** Nothing contained in this Lease shall be deemed to create or be construed as creating in the LESSEE any ownership interest in or to the Premises.

19. **Notices.** Whenever either party desires to give notice to the other, such notice must be in writing in at least one of the following methods:

- (a) Certified United States Mail, postage prepaid, return receipt requested; or
- (b) Overnight courier, such as by FedEx or UPS, with a request for receipt acknowledgment; or

(c) Hand-delivery to a person authorized to accept delivery of notice with a request for a receipt acknowledgment; or

(d) Email if and only if agreed to in advance by LESSEE and the COUNTY in writing specifying the email addresses, and if so agreed, the email shall request a receipt acknowledgement.

The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR COUNTY:

Martin County Administrative Offices
2401 SE Monterey Road
Stuart, Florida 34996
Attn: Real Property Manager
Email: real_property@martin.fl.us
Telephone: (772) 221-2354

Martin County Administrative Offices
2401 SE Monterey Road
Stuart, Florida 34996
Attn: Parks and Recreation Department
Email: MCParksCustomerService@martin.fl.us
Telephone: (772) 221-1418

A copy shall be provided to:

County Attorney's Office
Martin County Administrative Offices
2401 SE Monterey Road
Stuart, Florida 34996
Email: sfox@martin.fl.us
Telephone: (772) 288-5400

FOR LESSEE:

Jupiter Outdoor Center
Attn: Rick Clegg
810 Saturn Street
Suite #21
Jupiter, Florida 33477
Email: Rick@jupiteroutdoorcenter.com, jbennett@servingtheworld.net
Telephone: 561-346-0844

LESSEE shall be required to notify the COUNTY, in writing, whenever there is a change in the address of LESSEE (to the place) for which notice is to be sent (giving notice), as required in this section. In the event LESSEE fails to maintain a current address on record with the

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COUNTY as required herein, The COUNTY shall be deemed to have notified LESSEE by using the last known address on record and the COUNTY shall not have any responsibility or obligation to investigate the validity of the address that LESSEE has provided. As a result, LESSEE agrees to hold the COUNTY harmless and defend same for any action or occurrence or non-occurrence as a result of LESSEE not receiving notice due to LESSEE's failure to update its address for notification.

All notices sent in accordance with this section shall be deemed to be effective upon receipt or refusal of same unless otherwise expressly provided in this Agreement.

20. **LESSEE's Duties Regarding Public Records.** Failure to comply with the following provisions shall be deemed a material default subject to termination as provided herein. To the extent that disclosure of information is required by the Public Records Act, Ch. 119, Florida Statutes (**i.e., because of a public records request**), or any other applicable law, regulation or regulatory process, the COUNTY shall give notice as is practicable to the LESSEE that such disclosure is required. LESSEE shall comply with public records laws, specifically, LESSEE shall:

(i) keep and maintain public records required by COUNTY in connection with the park;

(ii) upon request from COUNTY's custodian of public records, provide COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;

(iii) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Lease term and following completion of this Lease if LESSEE does not transfer the records to COUNTY; and

(iv) upon completion of this Lease, transfer, at no cost, to COUNTY all public records in possession of LESSEE or keep and maintain public records required by COUNTY to perform the service. If LESSEE transfers all public records to COUNTY upon completion of this Lease, LESSEE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If LESSEE keeps and maintains public records upon completion of this Lease, LESSEE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to COUNTY, upon request from COUNTY's custodian of public records, in a format that is compatible with the information technology systems of COUNTY.

IF LESSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO LESSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE, CONTACT COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT (772) 419-6959, PUBLIC.RECORDS@MARTIN.FL.US, MARTIN COUNTY, ATTN: PUBLIC RECORDS LIAISON, 2401 SE MONTEREY ROAD, STUART, FLORIDA 34996.

21. **Radon Gas.** Radon is a naturally occurring radioactive gas that, when it has

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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.

22. **No Waiver.** There shall be no waiver of the right of either party to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there be any waiver of any breach, default or non-performance by either party, unless such waiver is explicitly made in writing by the other party. Any previous waiver or course of dealing shall not affect the right of either party to demand strict performance of the provisions, terms and covenants of this Agreement with respect to any subsequent event or occurrence of any subsequent breach, default or non-performance hereof by the other party.

23. **Intentionally Omitted.**

24. **E-Verify.** As a condition precedent to entering into this Lease, and in compliance with Section 448.095, Fla. Stat., LESSEE and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

a. LESSEE shall require each of its subcontractors to provide LESSEE with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. LESSEE shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Lease.

b. The COUNTY, LESSEE, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity.

c. The COUNTY, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but LESSEE otherwise complied, shall promptly notify LESSEE and LESSEE shall immediately terminate the contract with the subcontractor.

d. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. LESSEE acknowledges that upon termination of this Lease by the COUNTY for a violation of this section by LESSEE, LESSEE may not be awarded a public contract for at least one (1) year. LESSEE further acknowledges that LESSEE is liable for any additional costs incurred by the COUNTY as a result of termination of any contract for a violation of this section.

e. LESSEE or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. LESSEE shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

25. **Non-Exclusive Rights.** The LESSEE acknowledges and agrees that this Lease is exclusive only to the Premises and for the purpose set forth herein. The LESSEE acknowledges and agrees that nothing herein shall preclude the COUNTY from adopting, revising, or revoking

any ordinances, resolutions or rules that may materially interfere with the leasehold estate granted under this Lease when required by applicable federal or state law, statute, administrative rule or judicial decision. The LESSEE specifically recognizes that some promotions and specific special events are frequently sponsored, promoted or otherwise assisted at Halpatiokee by individuals or entities which may conflict with the LESSEE's events, and that such practices will continue. The COUNTY will give the LESSEE reasonable notice of all such promotions and special events thereby affording the LESSEE the opportunity to participate directly should the LESSEE so desire.

26. **Interpretation of Agreement.** This Agreement is the result of negotiation between the parties and has been typed/printed by one party for the convenience of both parties, and the parties covenant that this Agreement shall not be construed in favor of or against either of the parties.

27. **Copies.** Any copy of this fully executed lease, whether photostatic, photocopied, photographed, recorded, or scanned and saved in any electronic medium in any format (i.e., pdf) shall be as authentic as any original for any purpose, including but not limited to any legal proceeding.

28. **Time.** Time is of the essence for any deadline required by this Lease.

29. **Authority.** All persons executing this Lease on behalf of LESSEE covenant and warrant that LESSEE is a duly authorized and existing corporation; LESSEE has and is qualified to do business in the State of Florida; the corporation has full right and authority to enter into this Lease; and each person signing on behalf of the corporation was authorized to do so.

[Signature pages follow]

IN WITNESS WHEREOF, the Parties hereto have executed and delivered this Lease.

MARTIN COUNTY:

MARTIN COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chair, authorized to execute same by Board action on _____, and _____, signing by and through its _____ duly authorized to execute same.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

CAROLYN TIMMANN, CLERK OF THE
CIRCUIT COURT AND COMPTROLLER

EDWARD V. CIAMPI, CHAIRMAN

APPROVED AS TO FORM & LEGAL
SUFFICIENCY:

SARAH W. WOODS, COUNTY ATTORNEY

LESSEE:

HALPATIOKEE OUTDOOR CENTER, LLC,
a Florida limited liability company

WITNESS:

Kathryn M Fulks
Signature

Kathryn Fulks
Print Name

BY: Richard Clegg, President

BY: _____, Secretary

STATE OF Florida)
COUNTY OF Martin) SS.

The Lease Agreement was acknowledged before me by means of ☐ physical presence or ☐ online notarization this 27 day of February 2023 by Richard Clegg and _____, who are the President and Secretary, respectively, of **Halpatiokee Outdoor Center, LLC**, a Florida limited liability company, who are personally known to me or have each produced a driver's license issued within the past 5 years as identification.



MANDEE JOHNS
Commission # HH 271843
Expires August 14, 2026

Mande Johnson
Notary Public

My commission expires:

Exhibit A

Sketch and Legal Description

[To be attached]

Exhibit B

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Minimum Maintenance Standards

[To be attached]

Exhibit C

Business Plan, Marketing Plan, and Financial Plan

[To be attached]

Exhibit D

Training and Certifications

[To be attached]