*DRAFT – REQUIRES BOARD APPROVAL*

EXHIBIT B

**REAL PROPERTY LICENSE AGREEMENT**

 This Real Property License Agreement (the “Agreement”) is made and entered into this \_\_\_\_ day of March \_\_,2021 (the “Effective Date”) by and between the SLEEPY HOLLOW FIRE PROTECTION DISTRICT (“Licensee”) and the SLEEPY HOLLOW CHARITABLE FOUNDATION (“SHCF” or “Licensor”) with the express consent of the Sleepy Hollow Homes Association (“SHHA). From time to time in this Agreement, Licensee and Licensor are each referred to individually as a “Party” and collectively as the “Parties”.

**RECITALS**

A. Licensee is an autonomous Special District of the State of California responsible for fire protection and emergency services in the unincorporated area of Sleepy Hollow in Marin County.

B. SHCF is a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law of the State of California for public and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 (the “Code”).

C. SHHA is a nonprofit mutual benefit association organized in the State of California and formed under Section 501(c)(4) of the Code. SHHA is the owner of the real property located at 1317 Butterfield Road, San Anselmo, California (the “Property”). The Property consists of two buildings (the “Main Building” and the “Pool Building”; collectively, the “Buildings”), surface parking and other improvements, a swimming pool, and areas for the general common use or benefit of SHHA’s members, their invitees, or the public, as such areas currently exist and as may be changed from time to time.

D. SHHA has leased the Property to SHCF for the express purpose that SHCF shall operate and maintain the Buildings and certain adjacent areas outside the Buildings and within the exterior boundary lines of the Property. SHCF is currently in the process of remodeling both Buildings as well as making certain related site improvements.

 E. Licensee has proposed and intends to become a tenant at the Property for office, educational, training, public assembly, emergency, and other uses for an initial term of fifteen (15) years commencing upon delivery of possession and subject to compliance with all conditions precedent specified in the proposed lease (the “Lease”). Pursuant to the Lease, Licensee, as tenant, shall have exclusive use of certain office space within the Main Building, plus shared, non-exclusive use of the entire Property for certain other purposes on a preferential basis.

 F. Separately, Licensee and Licensor have engaged in discussions regarding allowing Licensee to install a *Fire-Smart Demonstration Garden* at the Property (the “Garden”). The Garden’s purpose is to influence residents to plant and maintain species that are strategically planted to resist the spread of fire to residences and reduce the potential for conflagration.

 G. Licensor desires to grant to Licensee and its directors, employees, agents, invitees, consultants, contractors, and subcontractors (collectively, its “Representatives”) a revocable, exclusive license to enter, use, and occupy certain premises depicted on the site plan attached hereto as Exhibit A for the installation of the Garden (collectively, the “Licensed Areas”) on the terms and conditions set forth in this Agreement.

 H. SHHA hereby expressly approves and consents to the terms of this Agreement.

ACCORDINGLY, in consideration of the foregoing and the mutual representations, warranties, covenants, and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

**AGREEMENT**

 **1. Grant of License.** Subject to the terms and conditions contained in this Agreement, Licensor hereby grants to Licensee an exclusive license (the “Exclusive License”) to use and occupy the Licensed Areas for the purposes specified in this Agreement for the duration of the Term. Licensor hereby further grants to Licensee a non-exclusive license (the “Non-Exclusive License”, and together with the Exclusive License, the “License”), in common with Licensor and other occupants of the Buildings, to use for the duration of the Term the Property Systems (as defined in Section 7, below) and other common areas of the Property located in or adjacent to the Licensed Areas that may be reasonably necessary to provide adequate and effective public access to the Garden and for Licensee’s performance of its responsibilities under Section 10(a), below, subject to the rights of Licensor and any tenants in the Buildings. Licensee acknowledges that the License pertains solely to the Licensed Areas and not to premises demised under the Lease, which Lease shall constitute a separate and distinct agreement with respect to premises on the Property other than the Licensed Areas. Licensor hereby further grants to Licensee the right to receive all of the services and benefits with respect to the Licensed Areas which are to be provided by the lessor under the Lease.

 **2. Term.**  Licensee’s right to use the Licensed Areas shall commence on the date on which Licensee commences installation of the Garden or any Related Equipment and shall terminate at 11:59 p.m. on the date that is one (1) day prior to the expiration date of the Lease (the "Term"), as the Lease may be extended, unless sooner terminated pursuant to any term or provision of this Agreement or pursuant to applicable law. Licensor will provide the Licensee with prior written notice of its intent to enter into an amendment to the Lease which will have a material adverse effect on Licensee’s occupancy or use of the Licensed Areas. Upon the termination of this Agreement, the Garden and the Related Equipment shall be removed by Licensee or by Licensor at Licensee’s expense, and Licensee shall reimburse Licensor for the costs of repair of any damage to the Property and the Property Systems (as defined in Section 7, below) caused by the removal and restoration of the Licensed Areas and Related Equipment. For purposes of this Agreement, the term “Related Equipment” means, collectively, equipment, tubing, fittings, conduits, cables, fixtures, fencing, and Garden-related materials owned, installed, maintained, and controlled by Licensee located in the Licensed Areas.

 **3. Termination.** In addition to any and all other rights or remedies provided in this Agreement or which Licensor may have at law, in equity, or otherwise, in the event that Licensee fails to comply with any obligations imposed upon Licensee under this Agreement, Licensor shall have the right, following thirty (30) days’ prior written notice to Licensee of any such non-compliance and Licensee’s failure to remedy the same within such period (or if such non-compliance cannot be remedied within such thirty (30) day period, then Licensee’s failure to commence a cure within such period and diligently thereafter pursue such cure to completion), to terminate this Agreement on the date specified by Licensor in such notice, and Licensee shall immediately vacate the Licensed Areas as required.

 **4. License Fee.** Irrespective of the pro rata share or out-of-pocket costs to Licensor of Licensee’s use and occupancy of the Licensed Areas pursuant to this Agreement, the total license fee due and payable by Licensee to Licensor for the entirety of the Term is One Dollar ($1.00) and other good and valuable consideration, receipt of which is hereby acknowledged by Licensor.

 **5. No Representations.** Licensee has inspected and is familiar with the Licensed Areas and Licensee acknowledges and agrees that Licensee is being provided with access to and use and occupancy of the Licensed Areas, and Licensee accepts the Licensed Areas, in their then “as-is” condition as of the Effective Date, and Licensee’s occupation or use of any portion of the Licensed Areas shall be conclusive evidence that the Licensed Areas were in good order and satisfactory condition when Licensee was granted access. Licensor has not made nor does Licensor make any representations or warranties with respect to the Licensed Areas and Licensee agrees that Licensor does not have any obligation to perform any work or otherwise prepare the Licensed Areas for Licensee’s use. EXCEPT AS SET FORTH IN THIS AGREEMENT, THE PARTIES DO NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THIS AGREEMENT, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

 **6. Use.** Licensee may use and access the Licensed Areas for a *Fire-Smart Demonstration Garden,* including interpretive signage (whose size, composition and content shall be subject to Licensor’s prior approval, which approval shall not be unreasonably withheld) that enhances visitor perceptions of the Garden, and for no other purpose, except as may be reasonably agreed upon in writing by Licensor and Licensee. Nothing in this Section 6 shall require Licensee to use and occupy a Licensed Area(s). Subject to the terms of this Agreement, Licensee shall have access to the Licensed Areas at all times (24 hours per day, 7 days per week basis), subject to Force Majeure. Licensee shall not commit waste or subject the Licensed Areas or the Buildings or Property to any use which could damage the same or raise or violate any insurance coverage, permit any unreasonable odors, smoke, dust, gas, substances, noise, or vibrations to emanate from the Licensed Areas, take any action which would constitute a nuisance or would disturb, obstruct, or endanger any others on the Property or in the Buildings, take any action which would abrogate any warranties, or use or allow the Licensed Areas to be used for any unlawful purpose. For purposes of this Agreement, the term “Force Majeure” means accidents, fire or other casualty, severe weather events, acts of God, actions of any government agency, pandemics or health crises, civil commotion, insurrection, acts of terrorism, equipment failure, telecommunications failures, or the stability or availability of the Internet or portions thereof.

 **7. Plans and Specifications.** Licensee shall submit plans and specifications (or other descriptions reasonably acceptable to Licensor) for the Garden, including, in reasonable detail, the Related Equipment and Property Systems located in the Licensed Areas as of the Effective Date to be utilized in connection with the Garden, to Licensor for its review and written approval, which approval shall not be unreasonably withheld, conditioned, or delayed. If Licensor raises any issues concerning the Garden’s possible adverse effects on the mechanical, plumbing, electrical, or life safety systems of the Property (collectively, the "Property Systems") owned by Licensor, then these issues must be resolved to Licensor's reasonable satisfaction. Once approved by Licensor, no changes to the plans and specifications may be made without Licensor's prior written consent, *provided, however*, that Licensee may from time to time substitute plants or make other physical changes to the Garden and Related Equipment that are cosmetic in nature and do not adversely affect the Property Systems without obtaining Licensor’s prior written consent.

 **8. Garden Installation.**  The Garden shall be constructed and installed substantially as shown on the Licensor-approved plans. The following provisions shall apply to the construction and installation of the Garden:

 **(a)**  **(a)** **Licensee Access.** Licensee may enter the Property and the Licensed Areas during the remodeling of the Buildings for the purpose of designing and installing the Garden and Related Equipment so long as such entry will not interfere with the timely and orderly completion of the Building’s remodeling. ng. Licensee shall have a reasonable right of access to the Property Systems for purposes of installing, repairing, and maintaining the Garden and Related Equipment, *provided, however*, such access shall be subject to the reasonable approval of Licensor. Licensor shall work with Licensee to reasonably accommodate any landscape materials or items of Related Equipment that Licensee wishes to stage at the Property prior to or during the Garden’s installation and thereafter. Licensee shall not, except as provided in this Agreement, without the prior written consent of Licensor, make or cause to be made any alterations in or to the Property, the Buildings, or the Property Systems serving the Licensed Areas.

 **(b)** **Contractors.** Licensee shall in connectLicensee shall notify Licensor of its desired time(s) of entry and shall submit for Licensor’s approval the scope of the work to be performed and the name(s) of its Representatives who will perform such work. Work performed in connection with installing the Gardenn shall be completed at such time and in such manner as Licensor may from time to time designate, and only by contractors approved by Licensor, which approval shall not be unreasonably withheld, conditioned, or delayed, *provided, however*, that Licensor may, in its sole discretion, specify the contractors to perform all work relating to the Property Systems. The contractors who may be used are further limited to those whose work will not cause or threaten to cause disharmony or interference with Licensor or tradespeople performing work in or about the Building or other users of the Property.

 **(c)** **No Fees Payable.** Such activities by Licensee and/or its Representatives shall be without payment of any rent or fees, but such activities and all acts and omissions in connection with them are subject to and governed by all other provisions of this Agreement, including Licensee’s indemnification obligations, insurance obligations, and the provisions of subsection (d), below.

 **(d)** **Liens.** Licensee shall not permit any lien or claim for lien of any mechanic, laborer, or supplier or any other lien to be filed against the Licensed Areas, the Buildings, or any other part of the Property arising out of work performed, or alleged to have been performed by, or at the direction of, or on behalf of Licensee. If any such lien or claim for lien is filed, Licensee shall within ten (10) days of receiving notice of such lien or claim (i) have such lien or claim for lien released of record, or (ii) deliver to Licensee a bond in form, content, amount, and issued by surety, satisfactory to Licensor, indemnifying, protecting, defending, and holding harmless Licensor against all costs and liabilities resulting from such lien or claim for lien and the foreclosure or attempted foreclosure thereof. If Licensee fails to take any of the above actions, then Licensor, in addition to its rights and remedies provided in this Agreement, without investigating the validity of such lien or claim for lien, may pay or discharge the same and Licensee shall reimburse Licensor upon demand for the amount so paid by Licensor, including Licensor’s direct expenses and reasonable attorneys’ fees.

 **10. Garden Maintenance and Repairs**

 **(a) Licensee’s Responsibilities.** Licensee, at its sole cost and expense, shall maintain and take good care of the installed Garden features only, including the Related Equipment therein. Licensee or its Representatives shall perform any Garden maintenance task that (i) requires special expertise in *Fire-Smart* gardening practices, (ii) is not performed at pre-determined intervals, and/or (iii) ordinarily would be performed on a regular basis in the course of upkeep of the Garden, but has become substantial in scope because it has been put off, and involves expenditures that would otherwise materially distort the level trend of maintenance expenses incurred by Licensor in connection with Licensor’s performance of regular, routine landscape maintenance pursuant to subsection (b), below. In the performance of its responsibilities hereunder, Licensee shall not damage any furniture, fixtures, or equipment of any person or knowingly take or fail to take any action which would result in an interruption or permanent reduction in the level, quality, or reliability of the Property Systems. If such interruption or failure, as the case may be, results in the denial or otherwise renders impossible or impractical the intended use of the Property Systems, and restoration of such services is within Licensee’s reasonable control, then Licensee shall use reasonable diligence to repair the same promptly. Licensee shall also be responsible for the cost to repair any damage to the Licensed Areas other than damage from the elements, fire, or other casualty. If any Related Equipment should break down or cease to function properly, then Licensee shall use reasonable diligence to repair the same promptly. All damage or injury to the Licensed Areas or to any other part of the Property or to its Buildings, fixtures, equipment, or appurtenances, whether requiring structural or nonstructural repairs, caused by or resulting from misuse or negligent conduct or omission of Licensee or its Representatives, shall be repaired at Licensee’s sole cost and expense by Licensee to Licensor’s reasonable satisfaction. Licensee also shall repair all damage to the Building and the Licensed Areas caused by the installation, de-installation, moving, or removing of the Garden or Licensee’s property.

 **(b) Licensor’s Responsibilities.** Licensor, at its sole cost and expense, shall maintain and take good care of the Property, the Buildings, and the Licensed Areas including, but not limited to, the general repair and maintenance of the Property Systems, utilities, and services in connection with the operation of the Licensed Areas. Licensor shall at all times maintain the services of (i) a security system consistent with proper operation of the Property, and (ii) a commercial landscape maintenance service staffed by experienced personnel trained in landscape maintenance to regularly perform regular, routine landscape maintenance (i) in and around the Property and the Buildings generally, and also (ii) in and around the Licensed Areas and the Garden in accordance with a Landscape Maintenance Plan to be furnished by the licensed landscape architect including, but not limited to, plant, shrub, and tree care (e.g., deadheading, trimming, pruning, debris removal), weed control, insect and disease control, and irrigation management, lighting management, animal exclusion, and the sweeping of hardscape surfaces and paths.

 **(c) Other Licensor Services.** So long as this Agreement is in full force and effect, in addition to the services that Licensor is required to furnish pursuant to subsection (b), above, Licensor shall supply the Licensed Areas with standard amounts of water and electricity at no cost to Licensee, including for weekend and after-hours operations, on an all year round basis, which Licensee shall hereby have the right to use until the termination of this License. Licensor shall limit its usage of water and electricity to no more than is reasonably required to ensure a healthy a public *Fire-Smart* demonstration garden at the Property. Licensee or its Representatives shall have free access to the Property Systems and any and all mechanical installations of Licensor including, but not limited to, irrigation and lighting controls and electrical closets. Licensee further agrees that neither Licensee nor its Representatives shall at any time enter tamper with, adjust, touch, or otherwise in any way affect said mechanical installations without Licensor’s consent. Licensee acknowledges and agrees that Licensor reserves the right to stop service of the landscape maintenance, water, or electrical services when necessary by reason of accident or emergency or for inspection, repairs, alterations, additions, or improvements which in the judgment of Licensor are desirable or necessary to be made, until the same shall have been completed, and shall further have no responsibility or liability for failure to supply any of such services in such instance, nor shall Licensor have any responsibility or liability for any such action taken by Licensee.

 **(d) Damage and Destruction.**

 **(i)** Neither Licensor nor Licensee shall have any responsibility to each other in the event of any damage to or theft of any equipment or property of the other Party except if caused by the gross negligence or willful misconduct of such Party, and the Party incurring such loss shall look to its own insurance coverage, if any, for recovery in the event of any such damage, loss, or theft.

 **(ii)** If the Licensed Areas or a portion thereof are destroyed or damaged by fire or other casualty, then Licensor shall have repaired and restored the Licensed Areas or damaged portion thereof (but not Licensee’s property and Related Equipment therein) to substantially the same condition it was in prior to the occurrence of such casualty. If the casualty or damage occasioned to the Licensed Areas shall be so extensive as to entitle either or Licensor or Licensee to terminate the Lease, and either Licensor or Licensee shall terminate the Lease therefor in accordance with the terms thereof, then this License Agreement with respect to the Licensed Areas shall automatically terminate on the Lease termination date.

 **11. Requirements of Law; Condition Subsequent; Observance of Lease Provisions**

 **(a)** **Compliance.** Licensee, at its sole cost and expense, shall comply with all present and future applicable laws, rules, orders, ordinances, regulations, statutes, requirements, codes, and executive orders, extraordinary as well as ordinary, of all governmental authorities now existing or hereafter created, and of any and all of their departments and bureaus, and of any applicable Board of Fire Underwriters or any similar fire rating bureau, or other body exercising similar functions, affecting the Building and/or the Licensed Areas to the extent only, however, that such compliance relates to Licensee’s manner of use of the Licensed Areas as opposed to the mere use for the purposes permitted by this Agreement. To the extent that for the Licensed Areas Licensee is not required to comply with any laws pursuant to this Section 11, Licensor shall comply with such laws applicable to the Licensed Areas or, if applicable, Licensor shall exercise reasonable efforts to require SHHA to comply with such laws to the extent such compliance is the obligation of SHHA under the terms of SHHA’s master lease of the Property to Licensor or under the Lease.

 **(b) Condition Subsequent.** This Agreement is entered into and its continued effectiveness and the obligations of the Parties hereunder are expressly conditioned on the execution and delivery, as soon as reasonably practicable but within one hundred eighty (180) days following the Effective Date of this Agreement, of the Lease between Licensor, as lessor, and Licensee, as tenant (the "Condition Subsequent"). In the event the Condition Subsequent is not satisfied or waived by Licensee within the time set forth above, this Agreement shall be rendered null and void and without further force or effect. In such event Licensor and Licensee shall jointly execute and deliver an instrument confirming the same and any such termination shall be without liability of any party to any other party, except that the indemnity (Section 21) and dispute resolution (Section 22) provisions contained in this Agreement shall remain in effect. Any waiver by Licensee of the Condition Subsequent must be in writing and received by Licensor on or before the expiration of the time set forth above, and in the event of such timely waiver by Licensee, this Agreement shall remain binding on the Parties and remain in full force and effect, *provided, however*, that no such waiver of the Condition Subsequent shall constitute a waiver by Licensee of any of its rights or remedies if Licensor shall be in default under this Agreement.

 **(c) Lease Provisions**. This Agreement is subject to, and Licensee accepts this Agreement subject to, all the terms, covenants, provisions, conditions, and agreements contained in the Lease and the matters to which Licensor is subject and subordinate, all of which shall be deemed to be a part of this Agreement as though fully set forth herein as if Licensee were the tenant named in the Lease and Licensor were the lessor named therein. This Agreement shall also be subject to, and Licensee accepts this Agreement subject to, any amendments and supplements to the Lease hereafter made between Licensor, SHHA, or any successor lessor and Licensee provided the same do not limit the rights or expand the obligations of Licensee hereunder in any material respect. Licensee covenants and agrees (i) to perform, observe, and be bound by each and every covenant, condition, and provision of the Lease as applicable to the related Licensed Areas (including the Main Building rules and regulations, if any), and (ii) that Licensee will not do or cause to be done or suffer or permit its agents or Representatives to do any act or thing to be done which would or might cause SHHA or the rights of Licensor as master tenant to any lease be cancelled, terminated, or forfeited or make Licensor liable for any damages, claim, or penalty. Licensor (A) will not do or cause to be done or suffer or permit any act or thing to be done which would or might cause the Lease or the rights of Licensee thereunder (through this License Agreement) to be cancelled, terminated, or forfeited or make Licensee liable for damages, claims, or penalty, (B) will not voluntarily terminate the Lease without the prior consent of Licensee, and (C) shall deliver to Licensee promptly upon receipt or delivery copies of all default notices sent or received by Licensor under the terms of SHHA’s lease of the Property to Licensor or under the Lease.

 **12. Insurance.**

 **(a) Prior to Commencement of Lease.** Pending the Lease’s commencement, Licensee shall obtain and shall keep in full force and effect, at Licensee’s sole cost and expense, a policy of comprehensive public liability (including coverage for bodily injury, property damage, and personal injury, contractual liability, owner’s protective liability, and broad form property damage) with (a) Licensee named as the insured thereunder, and (b) Licensor, SHHA, and any mortgagee (of which Licensor shall give Licensee notice) named as additional insureds thereunder. Such insurance shall include coverage for Licensee’s indemnification obligations contained in Section 21, below. The minimum limits of liability under such policy shall be a combined single limit of not less than \_\_\_ Million Dollars ($\_,000,000) with respect to each occurrence. Such policies of insurance shall be issued by an insurance company licensed to do business in California. Licensee shall deliver certificates of said insurance to Licensor prior to Licensee’s occupying the Licensed Areas, said certificates to provide that thirty (30) days’ prior notice shall be given to Licensor in the event of cancellation or non-renewal. All insurance maintained by Licensee shall be primary to any insurance provided by Licensor. The limits of such insurance shall not, under any circumstances, limit the liability of Licensee hereunder. Licensee, on its behalf and on behalf of its insurer, hereby waives all rights of subrogation with respect to Licensor.

 **(b) Upon Lease Commencement**. Upon commencement of the Lease, to the extent carrying such insurance is not Licensor’s responsibility under the Lease, Licensee shall, at Licensee’s sole cost and expense, maintain in full force and effect throughout the Term with respect to the Licensed Areas the insurance (other than property insurance as to alterations in the Licensed Areas or equipment owned by Licensor in the Licensed Areas, which insurance Licensor shall carry) required to be maintained by Licensor under the Lease. Upon request by Licensor, if Licensee carries such insurance separate from Licensor, Licensee shall provide evidence of such insurance to Licensor in accordance with the requirements of the Lease.

 **13. Non-Exclusive Use.** The Non-Exclusive License granted hereunder is expressly non-exclusive and neither the payment of any amounts hereunder by Licensee nor any other provision of this Agreement shall impair in any way Licensor’s rights or ability to negotiate with any person with respect to the use by such person of the Licensed Areas, except to the extent of the rights specifically granted to Licensee hereunder including, but not limited to, those pursuant to the Exclusive License.

 **14. Assignment; Sublicensing.** The License granted hereby is personal to Licensee and shall not be assigned nor shall Licensee sublicense or otherwise permit or suffer the occupancy of any/all Licensed Areas by any third party without first obtaining the prior written consent of Licensor and if required by the Lease, the SHHA. Notwithstanding the foregoing, Licensee may, without Licensor’s prior written consent and without constituting an assignment or sublicense hereunder, assign this License Agreement or sublicense any of the Licensed Areas to a successor entity related to Licensee by merger, consolidation, or reorganization.

 **15. Default of Lease Agreement by Licensor.** Licensee agrees that if Licensor’s rights under the Agreement are terminated as a result of Licensor’s default under the Lease, then this Agreement shall terminate immediately and Licensor would no longer be obligated to honor or in any way perform any of the obligations of Licensor as defined in this Agreement. Further, Licensee shall have no recourse against Licensor pursuant to this Agreement as a result of such termination.

 **16. Quiet Enjoyment;** **Licensor Access.** Licensor covenants and agrees that, so long as Licensee shall fully, faithfully and timely observe and perform within applicable notice and cure periods the agreements, covenants, and conditions of this Agreement on its part to be observed and performed with respect to the related Licensed Areas, Licensee shall and may peaceably and quietly have, hold, and enjoy the Licensed Areas for the Term, as same may be extended, without disturbance, hindrance, ejection, or molestation by or from Licensor (subject, however, to the provisions of this Section 16) or any one claiming by, through, or under Licensor. Licensee acknowledges and agrees that Licensor and its respective agents shall have the right, from time to time throughout the Term, to enter any portion of the Licensed Area to examine the same, to show the same to prospective purchasers, mortgagees, licensees, or lessees of the Property or the Buildings, or any space therein, and to make such repairs as Licensor may deem necessary or desirable to the Licensed Areas including, but not limited to, pipes, conduits, and structural modifications or to make repairs or perform any work which Licensee is obligated to make or perform under this Agreement, at Licensee’s sole cost and expense, which Licensor is entitled to make or may elect to perform following Licensee’s failure to so repair or perform. Any work performed or inspections or installations made pursuant to this Section 16 shall be made with reasonable diligence and in a manner designed to minimize interference with Licensee’s use of the Licensed Areas.

 **17. End of Term of the License.**  Upon the expiration or earlier termination of the Term, Licensee shall vacate the Licensed Areas, broom clean, in good order and condition, ordinary wear and tear excepted, and Licensee shall remove all of its property therefrom. If Licensee fails to fulfill its obligations under this Section 17, then Licensor shall have the right, in its sole discretion and without prejudice to any other remedy it may have under this Agreement or at law, to satisfy Licensee’s obligations under this Section 17 at Licensee’s sole cost and expense.

 **18. Notices.** Any notice or other communication required or permitted under this Agreement shall be deemed to have been duly given and made if (a) in writing and served by personal delivery upon the Party for whom it is intended; (b) if delivered by facsimile with receipt confirmed; (c) if by e-mail, if sent to the e-mail address given below (provided no delivery failure message is received by the sender); or (d) if delivered by certified mail, registered mail, or courier service, return‑receipt received to the party at the address set forth below, to the Persons indicated:

 If to Licensor, to: Sleepy Hollow Charitable Foundation Attn: President

 1317 Butterfield Road

 San Anselmo, California 94804
 E-mail: *shhapresident@gmail.com*

 If to Licensee, to: Sleepy Hollow Fire Protection District

 Attn: President

 1317 Butterfield Road

 San Anselmo, California 94804
 E-mail: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

 If to SHHA: Sleepy Hollow Homes Association

 Attn: President

 1317 Butterfield Road

 San Anselmo, California 94804
 E-mail: *shhapresident@gmail.com*

Such addresses may be changed, from time to time, by means of a notice given in the manner provided in this Section 18.

 **19. Subordination**.  The License granted herein is subject and subordinate to all ground, master, and underlying leases affecting the Property and to all mortgages which may now or hereafter affect such leases or the Property.

 **20. Recording.** Neither this Agreement nor any notice or memorandum hereof shall be recorded by Licensee or any entity claiming under or through Licensee in any public real estate records.

 **21. Indemnity.**

 **(a) Prior to Commencement of Lease.** Pending the Lease’s commencement, except as set forth in this Section 21 and to the extent not prohibited by applicable law, Licensor, its members, and its respective officers, directors, agents, servants, employees, and independent contractors (collectively, the “Licensor Parties”) shall not be liable for any damage either to person or property or resulting from the loss of use of the Licensed Areas, which damage or loss is sustained by Licensee or by other persons claiming through Licensee, except to the extent such damage or loss was caused by the gross negligence or willful misconduct of Licensor Parties. Licensee shall indemnify, defend, protect, and hold harmless the Licensor Parties from any and all loss, cost, damage, expense, and liability (including, without limitation, court costs and reasonable attorneys’ fees) incurred in connection with or arising from any cause related to Licensee’s occupancy of the Licensed Areas and occurring in, on or about the Licensed Areas or any acts, omissions, or negligence of Licensee or any other person claiming by, through, or under Licensee and its respective officers, directors, agents, servants, employees, and independent contractors (collectively, the “Licensee Parties”) in, on or about the Licensed Areas, either prior to, during, or after the expiration of the Term, provided that the terms of the foregoing indemnity shall not apply to the gross negligence or willful misconduct of Licensor or the Licensor Parties. Should any Licensor Party be named as a defendant in any suit brought against Licensee in connection with or arising out of an event covered by the foregoing indemnity, Licensee shall pay to Licensor or such Licensor Party its direct costs and expenses incurred in such suit including, without limitation its reasonable professional fees such as appraisers’, accountants’, and attorney’s fees. Further, Licensee’s agreement to indemnify Licensor Parties pursuant to this Section 21 is not intended and shall not relieve any insurance carrier of its obligations under policies required to be carried by Licensee pursuant to the provisions of this Agreement to the extent such policies cover the matters subject to the Parties’ respective indemnification obligations; nor shall they supersede any inconsistent agreement of the Parties set forth in any other provision of this Agreement. The provisions of this Section 21 shall survive the expiration or sooner termination of this Agreement with respect to any claims or liability occurring prior to such expiration or termination.

 **(b) Upon Lease Commencement**. Upon commencement of the Lease,

Licensee shall owe the same indemnification obligations to Licensor as set forth in the Lease covering such Licensed Areas as if the words "Owner" or "Landlord" and "Tenant "or "Lessee" or words of similar import, wherever the same appear in the Lease pertaining to indemnification were construed to mean, respectively, "Licensor" and "Licensee". To the extent the Lease is silent on the indemnification obligations running from the "Tenant" to "Landlord", then for the Licenses Areas, Licensee shall indemnify, defend and hold Licensor, and any partner, officer, agent, employee and director of Licensor (collectively, the "Licensor Indemnitees") harmless from and shall defend the Licensor Indemnitees against all claims made or judicial or administrative actions filed which allege that any one of the Licensor Indemnitees is liable to the claimant (other than to the extent caused by or arising from a Licensor Indemnitee’s gross negligence or willful misconduct) by reason of (i) any injury to or death of any person, or damage to or loss of property, or any other thing occurring on or about the Licensed Areas, or in any manner growing out of, resulting from, or connected with the use, condition or occupancy of, the Licensed Areas, if caused by any act or omission of Licensee or its agents, partners, contractors, employees, permitted assignees, licensees, sublessees, invitees or any other person or entity for whose conduct Licensee is legally responsible, (ii) violation by Licensee of any contract or agreement to which Licensee is a party in each case affecting the Licensed Areas or the occupancy or use thereof by Licensee, (iii) violation of or failure to observe or perform any condition, provision or agreement of this License Agreement on Licensee’s part to be observed or performed hereunder, and (iv) Licensee’s manner of use and occupancy of the Licensed Areas, except to such extent that any such claim arises from the gross negligence or willful misconduct of Licensor. Licensor shall similarly indemnify, defend and hold Licensee, and any partner, officer, agent, employee and director of Licensee (collectively, the "Licensee Indemnitees") harmless from and shall defend the Licensee Indemnitees against all claims made or judicial or administrative actions filed which allege that any one of the Licensee Indemnitees is liable to the claimant (other than to the extent caused by or arising from a Licensee Indemnitee’s negligence or willful misconduct) by reason of (i) any injury to or death of any person, or damage to or loss of property, or any other thing occurring on or about the Licensed Areas, or in any manner growing out of, resulting from or connected with the use, condition or occupancy of, the Licensed Areas, if caused by any negligent act or willful misconduct of Licensor or its agents, partners, contractors, employees, permitted assignees, licensees, sublessees, invitees or any other person or entity for whose conduct Licensor is legally responsible (other than Licensee), (ii) violation by Licensor of any contract or agreement to which Licensor is a party in each case affecting the Licensed Areas or the occupancy or use thereof by Licensor, and (iii) violation of or failure to observe or perform any condition, provision or agreement of this License Agreement on Licensor’s part to be observed or performed hereunder. In addition, and to the extent applicable, if Licensor is the beneficiary of an indemnity or release from the landlord under a Lease, Licensor shall use commercially reasonable efforts to similarly indemnify or release Licensee, to the extent Licensor actually receives the benefit of such indemnity or release.

 **22. Dispute Resolution.** Except as otherwise provided in this Agreement to the contrary, any dispute between the Parties arising out of or relating to this Agreement shall be resolved in accordance with the following procedures:

  **(a)** The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between their respective duly authorized officers who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for the administration of this Agreement. All negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the California Evidence Code and the Federal Rules of Evidence If the matter has not been resolved within sixty (60) days of a Party's request for negotiation, then either Party may initiate mediation wherein the Parties shall endeavor to settle the dispute with the assistance of a neutral third party under the procedures contained in the California Code of Civil Procedure.

 **(b)** If the dispute has not been resolved by non-binding means as provided herein within sixty (60) days of the initiation of such mediation, either Party may initiate litigation upon thirty (30) days written notice to the other Party; provided, however, that if one Party has requested the other Party to participate in negotiation or mediation and the other has failed to participate, the requesting Party may initiate litigation before expiration of the thirty (30) day period.

 **(c)** The procedures specified in this Section shall be the sole and exclusive procedures for the resolution of disputes between the Parties arising out of or relating to this Agreement; *provided, however*, that (a) a Party, without prejudice to the above procedures, may file a complaint for statute of limitations or venue reasons or to seek a preliminary injunction or other provisional judicial relief if in its sole judgment such action is necessary to avoid irreparable damage or to preserve the status quo. Despite such action, the Parties will continue to participate in good faith in the procedures specified in this Section 22; (b) all applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified in this Section 22 are pending. The Parties will take such action, if any, required to effectuate such tolling; and (c) each Party is required to continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

 **23. Attorneys' Fees**. Each Party shall be responsible for the payment of its attorneys' fees, costs, and expenses previously incurred, or to be incurred in the future, in connection with the preparation, drafting, and execution of this Agreement or any amendment to it. In the event any litigation is commenced by a Party to (i) determine rights, duties, or obligations hereunder, or (ii) determine a breach hereof and obtain damages therefor, or (iii) otherwise enforce this Agreement, the Prevailing Party in such action or proceeding shall be entitled to recover from the other Party all costs and expenses therefor, including reasonable attorneys' fees and costs. For purposes of this Section 23, the term "Prevailing Party" shall mean the Party whose position or positions are substantially upheld by the Court.

 **24. WAIVER OF JURY TRIAL**

EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY), AND AGREES THAT ANY PARTY MAY FILE A COPY OF THIS SECTION 24 WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY IN ANY LITIGATION WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT OR THE CONTEMPLATED TRANSACTIONS. EACH PARTY (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, AND (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

 **25. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY PUNITIVE, INDIRECT, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING LOSS OF GOODWILL OR LOSS OF PROFITS.** Licensor and Licensee agree that neither their respective directors, officers, employees, shareholders nor any of their respective Representatives shall have any personal obligation hereunder, and that Licensor and Licensee shall not seek to assert any claim or enforce any of their rights hereunder against such directors, officers, employees, shareholders, or Representatives.

 **26. Governing Law**

**.** This Agreement and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of, or relate to this Agreement or the negotiation, execution, or performance of this Agreement (including any claim or cause of action based upon, arising out of, or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by the laws of the State of California.

 **27. Binding Effect**. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by each Party and by any successors or permitted assigns of a Party.

 **28.** **No Third-Party Beneficiaries**. Nothing in this Agreement shall confer upon any person or entity not a party to this Agreement, or the legal representatives of such person or entity, any rights or remedies of any nature or kind whatsoever under or by reason of this Agreement.

 **29. Force Majeure.** No Party shall be in breach of this Agreement if any of its obligations required to be performed hereunder are postponed or delayed because of an event of Force Majeure.

 **30. Survival.** The rights and obligations of the Parties which, by their nature, are normally intended to survive the termination or completion of an agreement similar to this Agreement shall remain in full force and effect following termination of this Agreement for any reason.

 **31.**     **Miscellaneous.** This Agreement contains the entire understanding of the Parties with respect to the subject matter of this Agreement and, upon its Effective Date, supersedes and nullifies all prior or contemporaneous conversations, negotiations, or agreements (oral or written) regarding the subject matter of this Agreement. This Agreement may not be modified, amended, or waived in any manner except by a written instrument signed by all Parties to this Agreement. This Agreement may be executed in counterparts. The Parties agree to execute any further or future documents which may be necessary to allow the full performance of this Agreement. The failure of a Party to require performance of any provision of this Agreement shall not affect the right of such Party to later enforce any provision. A waiver of the breach of any term or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same or any other term or condition.  Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, then such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement, the Parties shall endeavor in good faith negotiations to replace the prohibited or invalid provision with valid provisions the effect of which comes as close as possible to that of the illegal or unenforceable provisions. The headings in this Agreement are inserted for convenience of reference only and shall not control the meaning of any provision of this Agreement. Upon full execution by all Parties, this Agreement shall be binding as of the Effective Date.

 **32. Consent.** Wherever a Party’s consent is required in this Agreement, except as otherwise expressly provided herein, such consent shall not be unreasonably withheld, conditioned, or delayed.

 **33. Execution Authorized.** The person signing this Agreement on behalf of each of Licensor and Licensee represents and warrants that this Lease has been duly authorized by such Party and constitutes the valid and binding obligation of such Party.

 **34.** **Good Faith.** The Licensed Areas are of such configuration and are not of such size as to justify, in either case, in the opinion of the Parties, entering into formal leases and/or subleases covering the Licensed Areas. The Parties have therefore entered into this Agreement which, the Parties recognize, is not dispositive of all matters and issues that may arise during the Term with respect to the Licensed Areas. As and when issues and matters arise during the Term that are not definitively controlled by the provisions of this Agreement or the Lease, the Parties shall act reasonably and in good faith endeavor to adjust and resolve such issues and matters.  The Parties shall execute any additional agreements as may be reasonably necessary to effectuate the intent of this Agreement.

 IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date

first above written.

Date: March \_\_, 2021 **SLEEPY HOLLOW CHARITABLE FOUNDATION**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Name: Jan Blackford, President

Date: March \_\_, 2021 **SLEEPY HOLLOW FIRE PROTECTION DISTRICT**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Name: Richard C. Shortall, Jr., President

**CONSENT**

 The Sleepy Hollow Homes Association hereby acknowledges that it has received a copy of this Agreement and hereby consents to its contents.

Date: March \_\_, 2021 **SLEEPY HOLLOW HOMES ASSOCIATION**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Name: Spencer Adams, President