

**COMMUNITY BENEFITS AGREEMENT**

**between**

**CONTRA COSTA COUNTY**

**and**

**THE ARTIST TREE V, LLC**

**County File LP#\_\_\_\_\_**

This Community Benefits Agreement (“Agreement”) is entered into as of \_\_\_\_\_, 2020, (“Effective Date”) by and between Contra Costa County, a political subdivision of the State of California, (“County”) and The Artist Tree V, a California limited liability company (“Artist Tree”).

Recitals

A. On \_\_\_\_\_, 2020, the County issued Artist Tree a land use permit (the “LUP”) for Artist Tree’s storefront cannabis dispensary (the “Dispensary”), located at 4100-4108 San Pablo Dam Road, in the unincorporated community of El Sobrante, Contra Costa County (County File No. LP# 20-2016).

B. In addition to obtaining the LUP and other discretionary state and local approvals to operate the Dispensary, Artist Tree intends to obtain a County building permit and make improvements to the Dispensary. Once those improvements are complete and have passed all required inspections by the County, Artist Tree will receive a certificate of occupancy from the County (“Occupancy Certificate”).

C. Commercial cannabis storefront dispensaries are a unique land use with unique impacts on the community. When Artist Tree submitted a proposal to apply for one of four storefront dispensary land use permits, it pledged to enter into this Agreement with the County. This Agreement includes voluntary commitments made by Artist Tree when it submitted a proposal to seek an opportunity to apply for one of four land use permits to operate commercial cannabis storefront dispensaries in unincorporated Contra Costa County.

Agreement

NOW, THEREFORE, the County and Artist Tree agree as follows:

1. **Purpose.** The purpose of this Agreement is to memorialize Artist Tree’s commitment to paying the County a portion of the Dispensary’s Gross Sales, endeavoring to hire residents of the County for 90% of its workforce and implementing a business-to-business discount program to encourage customers to support other local businesses.

2. **Term.** The term (“Term”) of this Agreement begins on the Effective Date, and it expires upon the earliest of any of the following to occur: (a) the expiration of the LUP and any extensions and renewals thereof; (b) the revocation of the LUP; (c) the effective date of any court decision ruling that the LUP is invalid; (d) the effective date of any change in the law that invalidates the LUP or that prohibits sales of all cannabis and cannabis products at the Dispensary.

3. **Community Benefits Payments.**

- a. Artist Tree shall make an annual community benefits payment to the County (each a “Payment”) for each year, or portion thereof, during the Term that the Dispensary operates (each an “Operating Year”). The first Operating Year begins on the date of the first retail sale at the Dispensary, and it ends one year thereafter. Each subsequent Operating Year begins on the anniversary of the date of the first retail sale at the Dispensary, and it ends one year thereafter. Upon commencing retail sales at the Dispensary, the Artist Tree shall provide the Director of Conservation and Development with a letter documenting the date of the first retail sale at the Dispensary.
- b. For each of the first seven Operating Years, Artist Tree shall pay the County a Payment that is equal to the greater of (i) two percent (2%) of the Dispensary’s Gross Sales during the Operating Year, or (ii) the fixed amount for the Operating Year set forth below (each a “Fixed Amount”). However, notwithstanding the previous sentence, if an Operating Year’s Fixed Amount is greater than three percent (3%) of Gross Sales during the Operating Year, Artist Tree shall pay the County a Payment for that Operating Year equal to three percent (3%) of Gross Sales during the Operating Year. For the purposes of this Agreement “Gross Sales” means the total sales of all cannabis, cannabis products, and other products and services sold at the Dispensary before any deductions.

<u>Operating Year</u>	<u>Fixed Amount</u>
Operating Year 1	\$92,583
Operating Year 2	\$112,500
Operating Year 3	\$119,917
Operating Year 4	\$126,000
Operating Year 5	\$132,000
Operating Year 6	\$138,000
Operating Year 7	\$144,000

- c. In addition to the Payment required for Operating Year 7 under Section 3(b), Artist Tree shall pay the County a true-up payment (“True-Up Payment”) equal to

the lesser of Resultant 1 or Resultant 2, calculated as follows. For the purposes of this Section, “Total Fixed Amount” shall mean the amount of \$865,000

- (i) Resultant 1 = (Total Fixed Amount) – (Sum of Payments for Operating Years 1 through 7).
- (ii) Resultant 2 = (3% of Gross Sales during Operating Years 1 through 7) – (Sum Payments for Operating Years 1 through 7).

If either calculation results in zero or a negative number, Artist Tree shall not be required to make a True-Up Payment to the County. In no event shall Artist Tree be entitled to any refund of any Payments made to the County.

- d. For the eighth Operating Year, and for each Operating Year thereafter, Artist Tree shall make a Payment to the County that is the greater of (i) two percent of the Dispensary’s Gross Sales during the Operating Year, or (ii) \$144,000 ( “Later Years Fixed Amount”).
- e. Beginning on January 1, 2028, and on each January 1 thereafter, the Later Years Fixed Amount shall increase based on any increase in the Consumer Price Index for the San Francisco-Oakland-Hayward Combined Statistical Area (U.S. Bureau of Labor Statistics) for the 12-month period ending on the October 31 immediately preceding the January 1 when the increase takes effect.

**4. Timing, Verification, and Use of Payments.**

- a. Timing of Payments. Artist Tree shall make each Payment to the County within 60 days after the end of the Operating Year. Artist Tree shall pay the True-Up Payment to the County within 60 days after the end of Operating Year 7. Artist Tree shall make its final Payment to the County under this Agreement within 60 days after the expiration of this Agreement.
- b. Payment Documentation. When Artist Tree makes a Payment to the County, Artist Tree shall include with the Payment a financial statement showing the Dispensary’s Gross Sales during the Operating Year, or portion thereof, for which the Payment is made, and a written calculation of the Payment required for that Operating Year, or portion thereof. When Artist Tree makes its True-Up Payment to the County, Artist Tree shall include with the True-Up Payment a financial statement showing the Dispensary’s Gross Sales during Operating Years 1 through 7, and a written calculation or determination of the amount of the True-Up Payment required under Section 3(c).
- c. Verification of Gross Sales. During the term of this Agreement and for three years following its expiration, the Director may request copies of Artist Tree’s state and federal tax returns, cash-flow reports, financial statements, income statements, books, journals, and other financial records for the Dispensary (“Financial Records”), to enable the Director to independently verify the Dispensary’s Gross Sales for the Operating Year or Operating Years for which

any Payment is made. Within 30 days after receiving the Director's written request for Financial Records under this section, Artist Tree shall provide the Director copies of all Financial Records requested by the Director. If the Director determines that Artist Tree has underpaid any Payment, Artist Tree shall pay the County the balance owed, as determined by the Director, within 30 days following a written request for payment from the Director.

- d. Deposit and Use of Payments. The Director will ensure that all Payments and any True-Up Payment are deposited in an account administered by the County. The use and allocation of all Payment and True-Up Payment revenues, and any interest that accrues thereon, will be determined by the Board of Supervisors, in its sole discretion. All Payments and any True-Up Payment, and all interest that accrues thereon, shall be the property of the County.
- e. Survival. Artist Tree's obligations under Sections 4(a) and 4(b) shall survive the expiration of this Agreement.

**5. Other Community Benefits.**

- a. Hiring a Local Workforce. To the extent permitted by applicable local, state, and federal laws and regulations, and to the extent practicable, Artist Tree shall ensure that, during any Operating Year, 90% of the Dispensary workforce is composed of Contra Costa County residents.
- b. Business-to-Business Discount Program. To the extent practicable, Artist Tree shall establish a business-to-business discount program with other businesses that have principal places of business in Contra Costa County (collectively, "Local Businesses"), to encourage Dispensary customers to make purchases at Local Businesses on the same day that they make purchases at the Dispensary. The business-to-business discount program shall provide a customer a 10% discount on purchases at the Dispensary if the customer shows a receipt or proof of purchase, dated the same day, from another Local Business participating in the discount program.
- c. Notice to the Director. At the time Artist Tree makes a Payment to the County under Section 4, Artist Tree shall provide a written notice to the Director that includes all of the following for the Operating Year, or portion thereof, for which the Payment is made: (i) the percentage of the Dispensary workforce that resides within Contra Costa County; and (ii) the names of Local Businesses participating in the business-to-business discount program.

- 6. **Notices.** All payments, notices, demands, and other communications made under this Agreement shall be in writing and personally delivered, sent by overnight carrier with delivery charges prepaid for next business day delivery, or sent by First Class U.S. Mail with postage prepaid, and addressed as follows:

To County: Director of Conservation and Development  
30 Muir Road  
Martinez, CA 94553

To Artist Tree: Artist Tree V  
11330 Ventura Blvd.  
Studio City, CA 91604

A payment, notice, demand, or other communication shall be deemed given on the same day it is personally delivered, on the next business day following deposit with and overnight carrier, or on the fifth day after deposit in the U.S. Mail. A party may change its address for delivery of notices under this Agreement by providing written notice of the change in accordance with this section.

7. **Assignment.** Artist Tree's obligations under this Agreement shall be binding upon Artist Tree's successors and assigns. Artist Tree shall not assign this Agreement, or any of its obligations under this Agreement, to any other person or entity without the advance written approval of the County, which shall be within its sole discretion to provide. If Artist Tree sells, conveys, or otherwise transfers ownership of the Dispensary to a third-party, Artist Tree shall require that third-party to accept an assignment of this Agreement.
8. **No Third-Party Beneficiaries.** Nothing in this Agreement confers and rights or obligations on any person or entity that is not a party to this Agreement.
9. **Counterparts.** The Agreement may be executed in counterparts.
10. **Governing Law.** This Agreement shall be governed by the laws of the State of California.

[Signatures on next page.]

Contra Costa County and The Artist Tree V, LLC, have executed this Agreement as of the Effective Date.

**CONTRA COSTA COUNTY**

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

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

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

**THE ARTIST TREE V, LLC**

By: Avi Kahan \_\_\_\_\_

Name: Avi Kahan \_\_\_\_\_

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

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

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

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

SMS

D:\A101520 (CCC-Artist Tree V CBA).docx