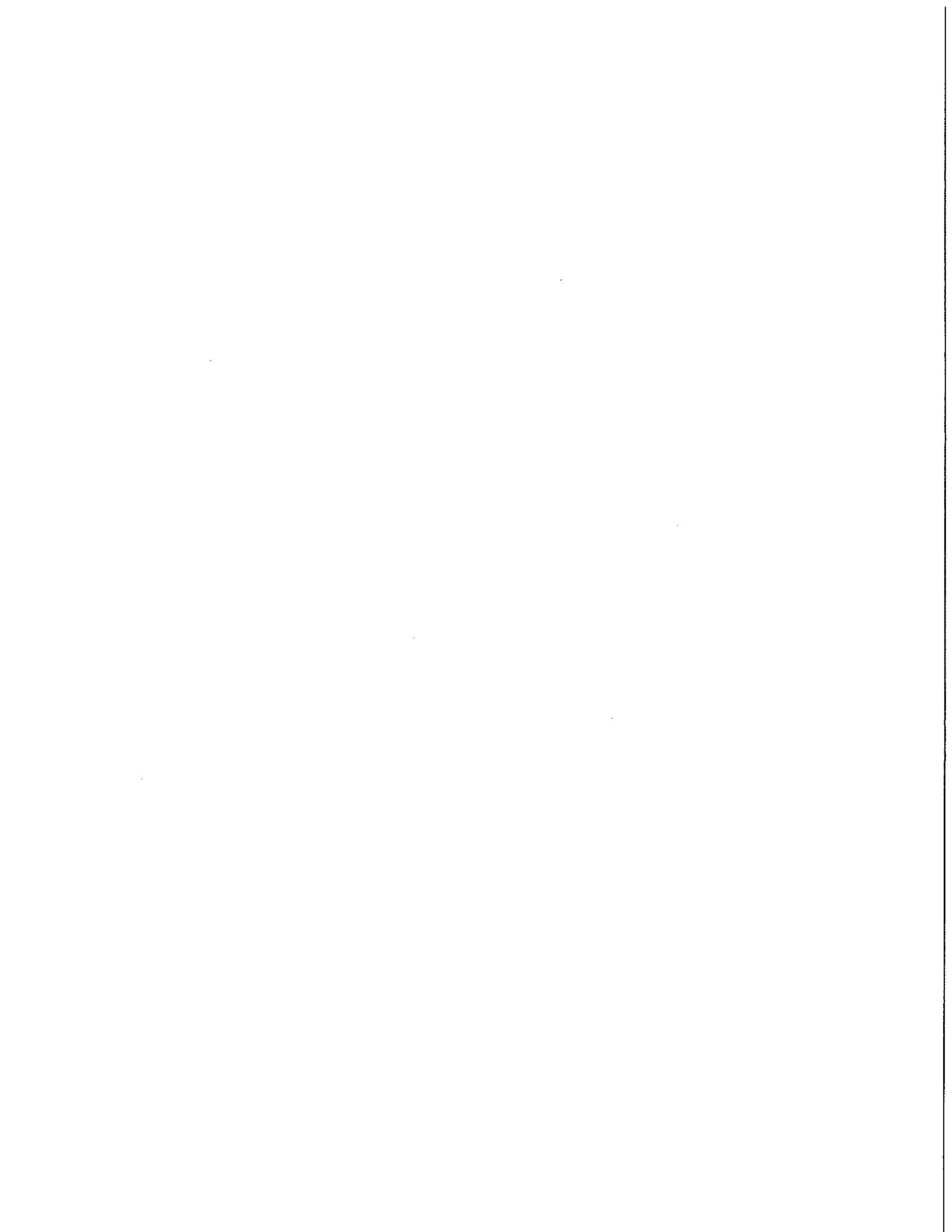




# **SJMHS Staff Garden Agreement**

**2018**

**Your Name:** \_\_\_\_\_



## SPACE LICENSE AGREEMENT

This Space License Agreement ("License") made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, is by and between Trinity Health-Michigan d/b/a St. Joseph Mercy Ann Arbor, a Michigan Nonprofit Corporation, having an address of 5301 McAuley Drive, Ypsilanti, Michigan 48197 ("Licensor"), and \_\_\_\_\_, an Individual.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. License.

Licensor hereby grants to Licensee a nonexclusive and revocable license (the "License") to use the approximately \_\_\_\_\_ square foot plot (the "Premises") situated in the Community Garden of the land commonly known as The Farm at St. Joe's, as such Premises is depicted on Exhibit A attached hereto, on the terms and conditions set forth herein. Licensor warrants that it is the holder of fee simple title to the Premises, or is the holder of a valid and enforceable leasehold interest in the Premises, and has full right and authority to enter into this License, and Licensee shall have quiet and peaceful possession and use of the Premises during the Use Periods.

2. Term.

The License shall commence on \_\_\_\_\_, 20\_\_\_\_ (the "Commencement Date"), and expire on \_\_\_\_\_, 20\_\_\_\_, for occupancy of the Premises by Licensee from dawn until dusk Monday through Sunday (the "Use Periods"), if not earlier terminated by either party according to the terms of this License (the "Term"). During the Use Period, Licensee shall have exclusive use of the Premises subject, however, to rules and regulations for the use thereof as proscribed by Licensor from time to time. Licensee shall return the Premises to Licensor at the close of each Use Period, and upon the expiration or earlier termination of this License in as good a condition as upon the Commencement Date.

3. Fees.

As consideration for the License, Licensee agrees to pay Licensor a license fee (the "License Fee") equal to:

Small plots \$15 per season (plus \$25 refundable deposit)

Large plots \$25 per season (plus \$35 refundable deposit).

Payments are due on or before the first day of Garden Orientation. Payment of the License Fee to Licensor is a precondition to Licensee's use of the Premises. It is the intent of the Parties that the License Fee is in the nature of a full service or gross (as opposed to net) occupancy fee, which includes, without limitation, Licensee's use of the Premises as furnished and equipped by Licensor, if at all. Licensor and Licensee acknowledge and agree that the purpose of entering into this License is to perform a community service by providing and performing in the community in which the

Building is located the Permitted Use (hereinafter defined). To ensure the parties' mutual intent that a community service is provided, Licensee shall not charge any fees to its invitees, attendees, or participants, unless such fees have been approved in advance in writing by Licensor.

4. Acceptance, Use and Maintenance of Premises.

(a) Licensee may use the Premises for planting, maintaining and harvesting produce and for no other purpose (the "Permitted Use"). Licensee will be allowed to access the Premises, from Monday through Sunday from dawn until dusk; provided, however, that Licensee shall not have access to the Premises at those times, if any, at which Licensor determines, in its sole judgment, that The Farm at St. Joe's (which includes the Premises) is closed to the general public. Furthermore, the parties agree that they are entering into this License to further the accomplishment of the charitable purposes of each party. As such, Licensee agrees that the Premises shall be operated exclusively in furtherance of the exempt purposes for which Licensee has been granted federal tax exemption under Section 501(c)(3) of the Internal Revenue Code of 1986 and that Licensee shall not use the Premises in a manner inconsistent with the purposes for which it has received tax-exempt status. Licensee's use of the Premises shall also be restricted to uses qualifying for exemption from real estate taxes pursuant to the statutes of the State in which the Premises are located, as the same may exist and change from time to time. Further, in the event that Licensee either (i) engages in a use at the Premises other than the Permitted Use, (ii) loses or receives notice of threatened loss of Licensee's tax exempt status, or (iii) is the subject of an investigation or administrative action that threatens (A) the tax exempt status of Licensee or Licensor, (B) Licensor's ability to receive or retain the proceeds of tax-exempt bonds, (C) Licensor's licensure or accreditation, or (D) Licensor's ability to participate or receive reimbursement under the Medicare, Medicaid, or other insurance or managed care program, then this License may be terminated by Licensor immediately upon delivery to Licensee of notice of such termination, without necessity of providing any cure period, in which event Licensee will immediately vacate the Premises and return the Premises to Licensor in the condition required under this License.

(b) Licensee shall be responsible for all day-to-day maintenance, supplies, and cleaning of the Premises. Licensor may, in its sole discretion, assist Licensee with maintenance and cleaning of the Premises. Other than the agreed upon use; Licensee shall make no alterations, additions or improvements to the Premises without the written permission of Licensor, and Licensee shall not suffer or permit to be enforced against the Premises, Building, or the land on which the Building is situated, or any part thereof, any mechanic's, materialmen's, contractor or subcontractor liens or claims.

(d) Licensee shall be solely responsible for all applicable licensing associated with its activities and operations at the Premises. Licensee shall be solely responsible for all taxes of any kind whatsoever on or resulting from its operations, including without limitation, income, sales, and personal and real property taxes. Licensee shall not consume or serve any alcoholic beverages on the Premises, nor shall Licensee allow any alcoholic beverages to be served or consumed on the Premises.

(e) Licensee accepts and acknowledges that the Premises is provided in its "as-is" condition. Licensee shall not commit, or suffer to be permitted, waste, or allow any nuisance or illegal act to occur upon the Premises.

(f) Licensee shall return the Premises to Licensor at the close of each Use Period, and, upon the expiration or earlier termination of this License, in as good a condition as upon the Commencement Date, reasonable wear and tear excepted.

(g) Licensee shall, at all times, follow all Garden Rules (Exhibit B).

5. **Insurance; Indemnification; Subrogation.**

(a) Licensee shall sign Waiver attached as Exhibit C.

6. **Right of Entry.**

Licensor and its agents shall have the right to enter the Premises at such reasonable times as will not unreasonably interfere with Licensee's use of the Premises in the normal course, for purposes of inspecting the Premises or maintaining the Building.

7. **Revocation/Termination.**

Licensor may, in its sole discretion, upon seven (7) days' prior written notice, terminate this License for any reason, or for no reason. Further, in any instance that Licensee fails to perform or is in default of its obligations under this License, then this License may be revoked by Licensor upon delivery to Licensee of notice of such revocation, in which event Licensee will immediately vacate the Premises and return the Premises to Licensor in the condition required under this License.

8. **Holding Over.**

If Licensee continues its use of the Premises after expiration of the Term hereof, without Licensor's acquiescence and without written agreement of the Parties, Licensee shall be an occupant at sufferance only, subject to all of the terms and provisions of this License, except that the License Fee shall be 125% of the License Fee in effect immediately preceding the occupancy at sufferance.

9. **Post-Termination Obligations.**

Notwithstanding the termination of this License, the parties shall carry out any provisions hereof which contemplate performance subsequent to termination. The termination of this License shall not in any way affect any liability or other obligation of the Parties which may have accrued prior to the date of termination. Upon termination of this License, Licensee shall promptly pay Licensor all sums due and owing hereunder.

10. **Assignment; Successors and Assigns.**

In no event may Licensee assign all or any portion of its rights under this License or in and to any portion of the Premises without Licensor's consent, which such consent may be withheld by

Licensor in its sole discretion. A transfer of a majority of the beneficial ownership interest in Licensee shall constitute the conveyance of an interest or rights for purposes of this Section, which shall apply to such a transfer. This License and the respective rights and obligations of the Parties hereto shall inure to the benefit of and be binding upon the successors and assigns of the Parties hereto as well as the Parties themselves.

**11. Notices.**

All notices required or given under this License shall be deemed effective if made by personal delivery, or by certified U.S. mail, postage prepaid, or by nationally recognized overnight courier via next day delivery, (a) to Licensee at Licensee's address given above, and (b) to Licensor at Licensor's address given above to the attention of the CEO, with a copy sent simultaneously to Trinity Health, 20555 Victor Parkway, Livonia, Michigan 48152-7018 Attn: General Counsel, and shall be deemed delivered (i) when delivered personally, upon actual receipt or refusal thereof, or (ii) if sent by certified mail, three (3) business days after mailing or (iii) if sent by overnight courier, the next business day following deposit with such courier. Notice shall also be effective on Licensee if posted by Licensor conspicuously on the Premises. Licensor and Licensee may each also, from time to time, designate, in writing by notice to the other, a new address for receipt of its notice.

**12. Compliance with Laws, Regulations, and Directives.**

(a) Licensee shall conduct its activities on the Premises in compliance with (i) all governmental laws, ordinances, rules, regulations and orders, including without limitation the Public Health Code of the State in which the Premises is located, Joint Commission on Accreditation of Healthcare Organizations, and American Osteopathic Association guidelines, and (ii) the Ethical and Religious Directives for Catholic Health Care Services as interpreted in the Roman Catholic tradition, and as the same may be subsequently revised from time to time. Further, Licensee shall not erect or display any signage without the consent of Licensor; provided, however, that in no event may Licensee display any signage that could reasonably be expected to embarrass or otherwise adversely impact the public image of Licensor, including, without limitation, the identification of any use or of any person or entity whose business, mission, or purpose is contrary to the generally recognized teachings of the Catholic Church.

(b) The Parties agree that Licensee's rights and obligations under this License do not include or require the use of or access to protected health information of Licensor ("PHI") as defined by the Health Insurance Portability and Accountability Act 1996, as amended ("HIPAA"). Licensee will instruct its employees, contractors, and agents (the "Licensee's Personnel") regarding the confidentiality of PHI and shall not permit Licensee's Personnel to access, view, obtain, copy, review or use PHI. If at any time Licensee requires access to PHI, will use or be given PHI, or Licensee's Personnel will be given access to information systems that may contain PHI, then, prior to using or accessing such PHI, Licensee will execute and return a Business Associate Agreement in a form reasonably acceptable to Licensor.

(c) The parties intend that this License comply at all times with federal and state laws applicable to relationships between healthcare providers (collectively,

"Applicable Laws"), including without limitation, what is commonly known between the parties as the federal "Stark Law." If at any time, as a result of the issuance of new federal regulations, or otherwise, a party in good faith determines that this License does not comply with Applicable Laws, then the parties shall use good faith efforts to conform the License in such a manner so that it does comply with Applicable Laws. If after the exercise of such good faith efforts, the parties determine that the License cannot be so conformed, either party may terminate this License immediately upon written notice to the other party.

(f) In addition, Licensor may terminate this License immediately if termination is necessary, in the good faith belief of Licensor, to: (i) preserve the tax-exempt status of Licensor; (ii) preserve Licensor's ability to receive or retain the proceeds of tax exempt bonds; (iii) preserve Licensor's ability to participate or receive reimbursement under the Medicare, Medicaid or other insurance or managed care program; (iv) preserve Licensor's licensure or accreditation; (v) preserve Licensor's compliance with applicable state or federal laws, or (vi) prevent exposing Licensor to civil or criminal penalties.

(g) In no event whatsoever will Licensee use the Premises for any form of patient care.

13. General. Licensee acknowledges it is not a tenant of Licensor and has only a revocable contract right to use and occupy the Property as provided in this License. This License and the relationship between Licensee and Licensor are governed by the laws of the State in which the Property is located, excluding any applicable conflict of law provisions. All litigation, court proceedings, arbitration proceedings, mediation proceedings, lawsuits, court hearings and other hearings will be venued exclusively in the County (if applicable) and State in which the Property is located. If any part of this License is determined to be invalid or unenforceable pursuant to applicable law, including, but not limited to, any disclaimers and liability limitations set forth herein, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this License shall continue in effect. The Parties are not partners or in any joint venture or partnership relationship. Licensor's employees and agents shall not be deemed employees or agents of the Licensee, and Licensee's employees and agents shall not be deemed employees or agents of Licensor. This License constitutes the entire agreement between Licensee and Licensor and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, between the Licensee and Licensor. Signatures delivered electronically or via facsimile shall have the same force and effect as an original signature. This License may be executed in one or more counterparts, by the different parties to this License, each of which shall be deemed an original, and all of which together shall constitute one and the same document. The person(s) executing this License on behalf of a Party represent that they have full authority to execute this License on behalf of such Party.

[End of Text]

SIGNATURE PAGE TO SPACE LICENSE AGREEMENT

By and Between

Trinity Health Michigan d/b/a St. Joseph Mercy Ann Arbor, Licensors  
And

\_\_\_\_\_, Licensee

LICENSOR:

Trinity Health Michigan d/b/a St. Joseph Mercy  
Ann Arbor, a

Michigan Nonprofit Corporation

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

Printed Name: Michael P. Gusho

Its: RHM CFO SE MI Region



**SIGNATURE PAGE TO SPACE LICENSE AGREEMENT**

**By and Between.**

**Trinity Health Michigan d/b/a St. Joseph Mercy Ann Arbor, Licensor**

**And**

\_\_\_\_\_, Licensee

**LICENSEE, an Individual**

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

**Printed Name:** \_\_\_\_\_

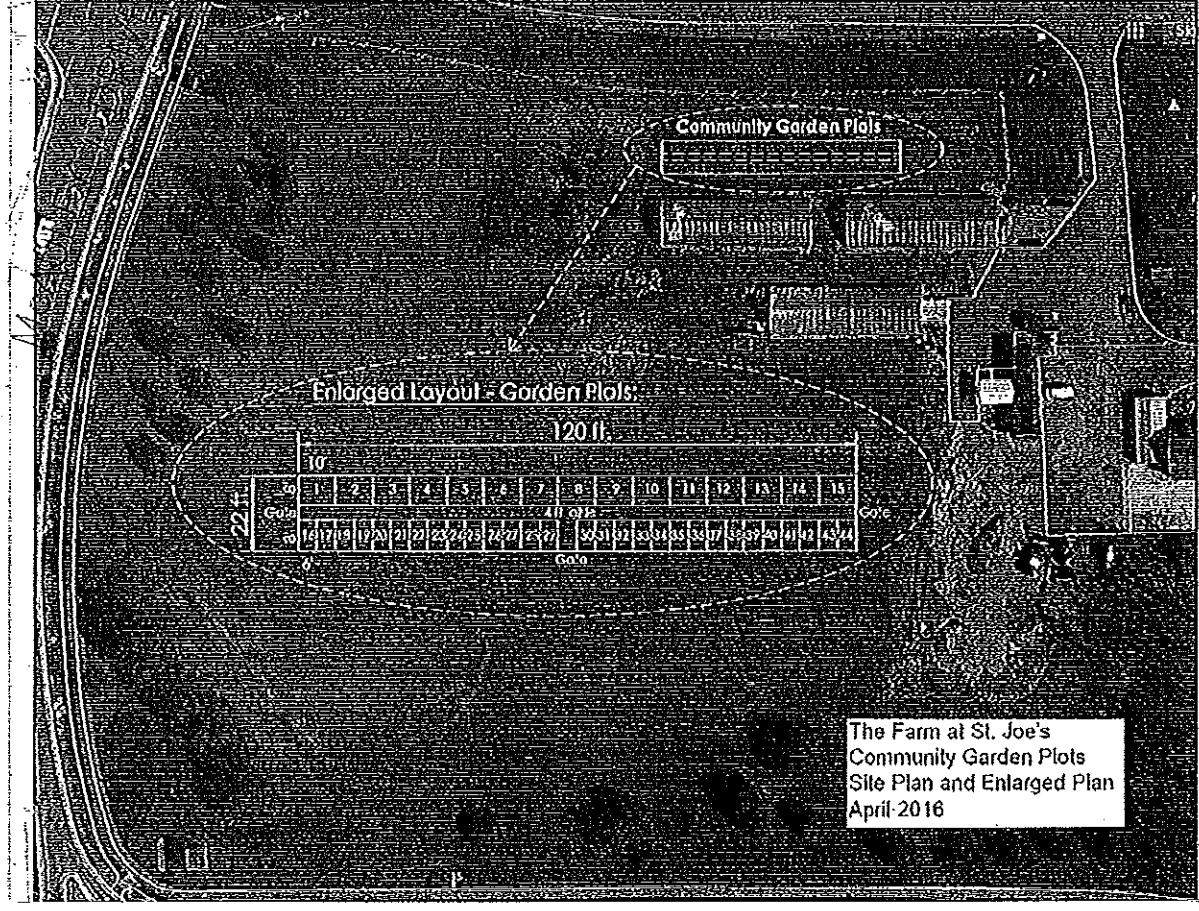
**SJMHS Department:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**EXHIBIT A**

**DEPICTION OF PREMISES**



## EXHIBIT B



### **SJMHS Staff Community Garden Rules**

Welcome to the SJMHS Staff Garden at The Farm at St. Joe's!

Rules and guidelines help gardeners understand their responsibilities and the expectations. If you have any questions or comments about the garden rules, please contact Rozelle Copeland, Staff Garden Coordinator (volunteer), at [rozelle.copeland@stjoeshealth.org](mailto:rozelle.copeland@stjoeshealth.org) or call w/(734) 712-5118 or after work at c/(734)277-2069.

The SJMHS Staff Garden is a community garden open to employees only. Gardeners must be SJMHS employees at the time of registering for a plot. See the website for more information:  
<https://stjoefarm.wordpress.com/>

Payment of dues (both the fee and the deposit) are required before you will be assigned a plot and begin gardening. The dues may be paid during the SJMHS Farmers' Market (Wednesdays 11am start), sent via interoffice mail to Amanda Sweetman or brought to the orientation. The deposit should be preferably a check made out to "St Joseph Mercy Hospital", as it is refundable (credit cards will not be accepted for the deposit portion of the dues).

Gardeners are limited to one plot per employee until May 31<sup>st</sup>. At that time gardeners will be notified by the Staff Garden Coordinator of any remaining plots that are available. This will give all of our co-workers a fair chance of getting at least one plot.

Gardeners who were assigned a plot, but have not planted in their plot by June 15<sup>th</sup> (barring unforeseen circumstances) will forfeit their plot with a refund of the clean-up deposit. Existing gardeners and new staff will be notified of the newly available plot.

Deposits will be refunded to gardeners once their plot is cleaned out.

The garden area is open dawn until dusk, seven days a week.

Please use the restrooms at the hospital. Note that the Reichert Building is closed on the weekends.

Plot corners are clearly marked with stakes or sticks. Please do not remove these stakes during the season, unless you wish to replace them. These stakes help to mark the plots and to guide the hose from damaging your plot.

All gardeners are asked to volunteer their time for general maintenance (especially weeding adjacent pathways) to keep the garden site looking nice. Use of the garden is contingent on our ability to maintain it, as The Farm receives numerous visitors and conducts educational sessions. Help make this partnership a success.

#### Water:

Water access is limited to one spicket for the garden. Gardeners should expect to wait for use of the hose during popular times of the day. Please be patient and maybe use the time to get to know your fellow SJMHS gardeners.

Do not drag the hose over other people's plots. This will damage their plants. No one intentionally does this, so always look back and check the hose, as you pull it to your plot.

Make sure the spicket is turned off at the hoopouse (rather than at the nozzle) when you are done with the hose. A full hose will burst in the hot sun.

Unattended watering is not permitted.

Notify the Garden Coordinator of any leaks in the hose or nozzle.

### Weeds:

Gardeners are expected to weed their plots on a regular basis throughout the season. Weeding is a chore that is a necessary part of gardening, so please plan on spending time regularly weeding. This will help keep down the spread of weeds to each other's plots and keep our garden looking nice.

Everyone is expected to weed the shared pathways around the garden.

Please dispose of weeds and plant materials in designated compost areas. There is one in the woods, at the end of the Staff Garden.

Use of herbicides and pesticides that are not organic is prohibited on SJMHS Farm property.

Growing food for commercial purposes is prohibited.

Do not allow plants to grow on the Farm fence.

### General

Crops must be harvested regularly and fallen vegetables removed. If you have more than you need, there are many food banks and senior citizens who could use extra vegetables. This will deter critters and bugs in the garden.

Do not take or use anything that belongs to the Farm without advanced permission from the Farmer, Amanda Sweetman. This includes compost, fertilizer, plants, etc.

Do not plant tall plants (over 6 feet tall) that will block the sun from your surrounding neighbors' plots, UNLESS you plant it so that it will not block the sun from your neighbor.

Please stake or support plants that need this—tomato plants can get top heavy and lean into other's plots.

Plant spreading plants with dedicated plot space. Route vining plants so as not to invade your neighbor's plot or block a main throughway path.

Keep the garden gates closed. This will help keep the rabbits out.

Plant in and harvest from your assigned plot only, unless you have permission from another gardener.

Perennials should be planted with the intent of removing them at the end of the season.

Bring your own garden tools and supplies. The Farm does not have storage space for everyone at this time.

Please report any wild animals sighted within the Staff Garden fence to the Garden Coordinator.

Dogs must be on a leash and under the owner's control. Dogs should not disturb other people's plots and should relieve themselves outside of the staff garden.

Children must be supervised and should not disturb other people's plots.

Park only in the parking lot or road. Do not park or drive your car on the lawn.

Use trash receptacles for any refuse. The trash cans are in the parking lot, near the hoopouses.

If you will be away for a week or longer, consider asking a fellow gardener to pick and water your plot.

Notify the Garden Coordinator if you are no longer able to tend your plot, will be absent for a long period of time, or have asked a friend not from the garden to tend your plot for you.

### Refund of the Deposit

Please clear your plot of fencing, trellises, stakes, cages, string and all inorganic and organic materials by the Fall deadline date: **November 1st**. The frost will kill many uncovered plants, turning them to a mush which is harder to scrap-up. Any perennials must be removed this year. Cleanup deposits will be refunded after your plot is cleaned out.

### E-mail List

There will be an e-mail list of fellow gardeners to help us connect and stay in touch. Your e-mail will be added to this list unless you direct the Garden Coordinator to do otherwise. Please use the e-mail list for any garden-related purposes.

Please e-mail any comments, issues and suggestions to the Garden Coordinator.

By abiding by the rules, our Staff Garden will be maintained and prosperous. When issues arise or when rules are not abided by, the gardener will be contacted with the intent of a resolution. If the issue is not able to be resolved, the gardener may lose their plot. Those who repeatedly do not abide by the rules may lose future gardening privileges.

### **SJMHS Staff Community Garden Rules Agreement**

By abiding by the rules, our Staff Garden will be maintained and prosperous. When issues arise or when rules are not abided by, the gardener will be contacted with the intent of a resolution. If the issue is not able to be resolved, the gardener may lose their plot. Those who repeatedly do not abide by the rules may lose future gardening privileges.

I have read and received a copy of the SJMHS Garden Rules. I understand all the SJMHS Staff Garden Rules and promise to follow them as referenced in the Space License Agreement with SJMHS. I agree to accept that The Farm assumes no liability for persons or property in the garden.

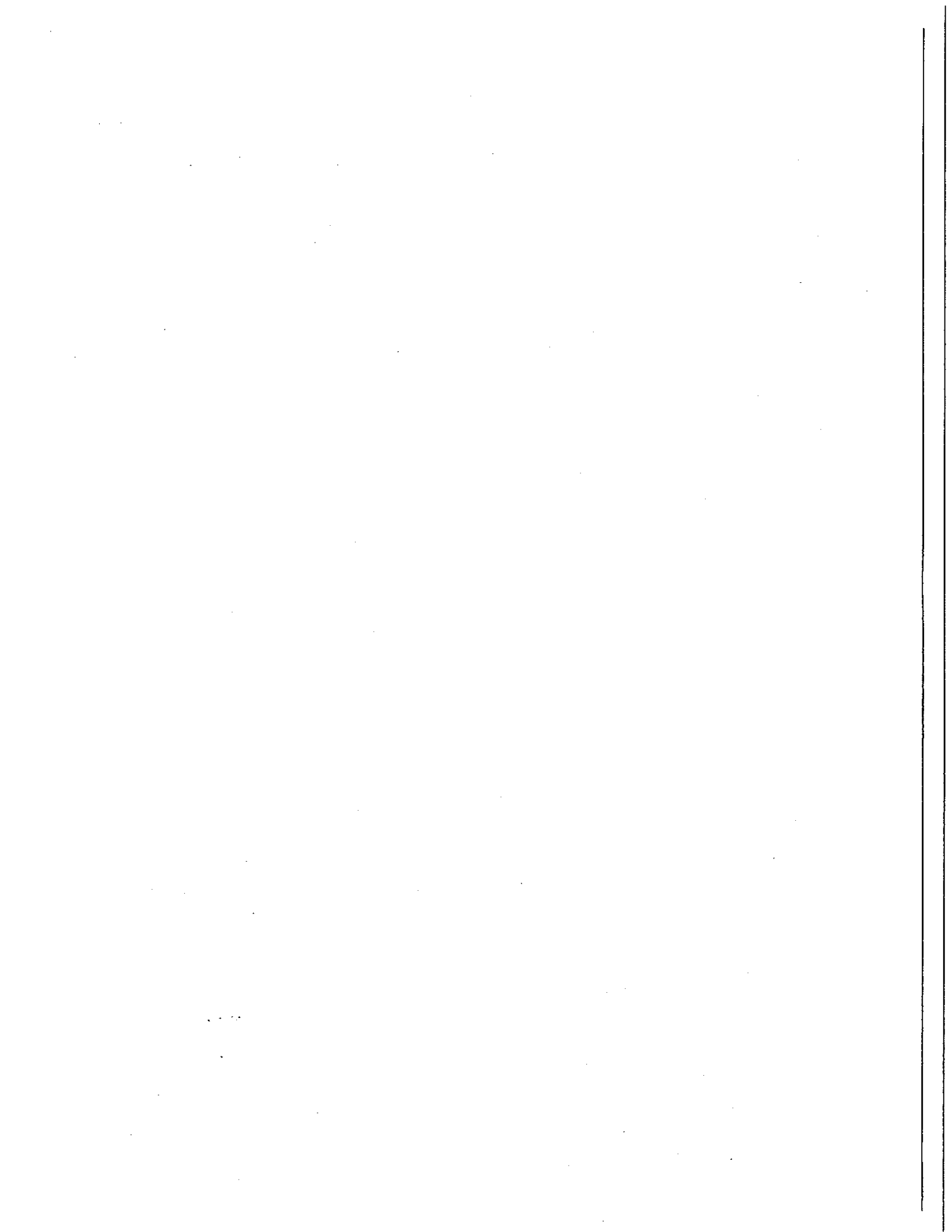


EXHIBIT C

I, \_\_\_\_\_ hereby hold harmless Trinity Health and The Farm at St. Joe's for bodily injury, personal injury and/or property damage and/or theft while participating in The Community Garden. I understand use of The Community Garden is voluntary and will include utilizing gardening tools and physical exertion.

I hereby understand the above and waive any and all rights for damages.

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Date

