

February 26, 2024



REQUEST FOR PROPOSALS

To operate up to four food and beverage kiosks in Bryant Park, New York City

Bryant Park Corporation (BPC) invites you to submit a proposal to operate one or more of four existing food and beverage kiosks in New York City’s Bryant Park for a 10-year term commencing on or about April 1, 2025. There may also be a renewal term of up to five years. A site plan of the park showing the location of each kiosk (Exhibit “A”) is attached. Additionally, photos of the four kiosks are attached (Exhibit B). For more information about Bryant Park Corporation visit our website at www.bryantpark.org. A fifth kiosk, known as the L’OR Porch, is the subject of a separate request for proposals and is not included here.

Bryant Park is an internationally acclaimed public park in the heart of midtown Manhattan, just one block from Times Square and its bustling theater district. It has won dozens of design and management awards and is often cited as one of the world’s most vibrant urban parks. The park draws more than 12 million annual visitors through programming, special events, and its reputation as a stunning and safe midtown green space. The park is fronted by 9 million square feet of high-rise offices and hotels, and is near some of the most-visited tourist attractions in New York City.

BPC, through a License Agreement with the New York City Department of Parks and Recreation (DPR), has managed Bryant Park for nearly 40 years, and has overseen the transformation of the park into a world-renowned mecca for New Yorkers, office workers, and tourists. BPC is a non-profit, tax-exempt organization.

The concession will be operated pursuant to a sublicense agreement with BPC and will also be subject to the requirements of BPC’s underlying License Agreement with DPR; no leasehold or other proprietary right is offered.

The sublicense agreement will be subject to review and approval by DPR. Proposers should be aware that in the event of a termination of BPC's underlying license agreement with DPR prior to the expiration of this sublicense, the sublicense shall automatically terminate and be of no further force and effect, with no further action required on the part of the City or DPR.

Applicants are invited to submit a proposal for one or more of the kiosks.

Proposals should include the following:

- **Your concept for the kiosk or kiosks.** This could range from a light freshening and equipment replacement to embarking on a reconceptualization of the kiosks' design, mission, and aesthetics. Tell us how you would build food and beverage sales. We welcome menu changes. You should submit a description of your intent along with plans, diagrams, renderings, photographs of existing operations, proposed menus and prices, and descriptions of your food and beverage programs. Please include proposed hours of operation, which may include breakfast. If your proposal covers more than one kiosk, each kiosk should have a distinct theme and menu, to provide a variety of experiences for park users.
- **Renderings and plans** for design and construction, to be prepared at your expense, may be submitted for consideration. Your renderings and plans should not include major structural modifications, and the overall footprint of the kiosk(s) cannot be enlarged.
- **Your firm's financial background and experience.** We'd like to know that you have the financial capacity to operate the kiosk(s) for the entire term of the agreement. In addition, we'd want to know more about your experience in running food and beverage businesses in urban environments. You may include links to websites, photography, press kits, media coverage, reviews, and other relevant credentials.
- **Your reputation for food quality and service.** These two criteria are of central importance because they affect not just the kiosks' viability but also the overall experience of the park's users. You should explain the relevance of your concept to this park's environment, as well as how your company can help enhance the park and support overall practices of sustainability.
- **Your financial proposal.** The proposal should set forth the annual fee, payable in monthly installments, for both the initial term and, if applicable, a renewal term. Proposals may specify a percentage of revenues with minimum guarantees, or a fee proposal in a different format.
- **Timeline.** Respondents are urged to provide estimates of the amount of time required between taking possession of the premises and opening for business.

The license contract will be substantially in the form of the attached sample License Agreement.

While the amount of the license fee offer will be of importance in selecting the licensee, other factors, such as the overall benefit to Bryant Park users, including aesthetic and visual interest, as well as environmental sensitivity and sustainability, will be accorded weight in the making of the award. BPC reserves the right to award the contract to one proposer or separate proposers, or to a proposer other than a proposer whose fee offer is not the highest, to defer making the award until a later date, to solicit further proposals, to withdraw this Request for Proposals entirely or in part, or to change the form and content of the agreement ultimately entered into.

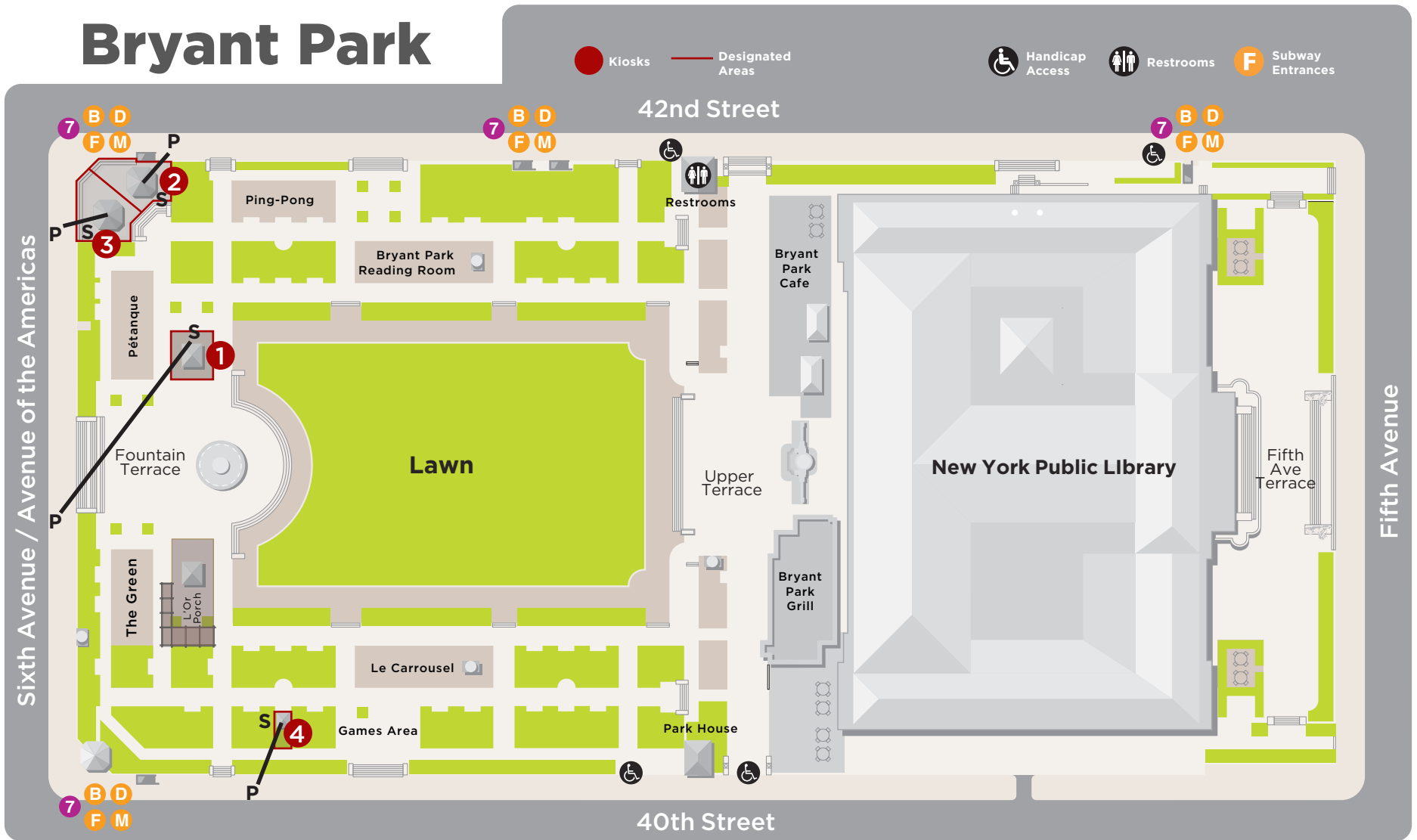
A meeting and a site tour of the kiosks will be scheduled with interested proposers.

All inquiries should be directed to Dan Pisark, Vice President, Retail Services, Bryant Park Corporation; telephone 917-438-5126; or email dpisark@34bp.org

Proposals must be received no later than **Friday, March 29, 2024** and should be submitted to the office of Bryant Park Corporation, 5 Bryant Park, Suite 2400, New York, NY 10018, to the attention of Dan Pisark, Vice President, Retail Services, or may be submitted by email to dpisark@34bp.org.

Exhibit A

Bryant Park



Bryant Park Kiosk Trash Locations

- P = Pickup Location
- S = Storage Location

February 26, 2024

EXHIBIT B



Kiosk 1
Currently Le Pain Quotidien



Kiosk 2
Currently Breads Bakery



Kiosk 3
Currently Wafels & Dinges



Kiosk 4
Currently Joe Coffee

February 26, 2024

SAMPLE SUBLICENSE AGREEMENT

SUBLICENSE AGREEMENT (“**Agreement**” or “**License**”) made as of the ___ day of _____, 202_, by and between **BRYANT PARK CORPORATION**, a New York not-for-profit corporation maintaining an address at 1065 Avenue of the Americas, Suite 2400, New York, New York 10018 (hereinafter referred to as the “**Licensor**”) and _____, a _____ Corporation / LLC, maintaining an address at _____, hereinafter referred to as the “**Licensee**”:

WHEREAS, under a License Agreement (the “**City-BPC License Agreement**”) dated June 8, 2018, between The City of New York (the “**City**”), acting by and through the Department of Parks and Recreation (“**Parks**”), Licensor is the manager and licensee of the property commonly known as Bryant Park, New York, New York, between 40th Street, Avenue of the Americas and 42nd Street, west of the New York Public Library main building (the “**Park**”), as shown in Exhibit A annexed hereto, and manages the Park on behalf of the City for the benefit of the public;

WHEREAS, the City-BPC License Agreement allows Licensor to enter into sublicense agreements for various concessions, with the approval of Parks;

WHEREAS, Licensee desires to license from Licensor the facility located in the Park, which is shown in **Exhibit A** annexed hereto as “Kiosk # ___ (the “**Kiosk**”), for the sale of food, beverages and, if permitted, other items to the public;

WHEREAS, Licensor is willing to enter into such a license on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of ten dollars (\$10.00) and other good and valuable consideration and the mutual covenants herein contained, the receipt and sufficiency of which are hereby mutually acknowledged, Licensor and Licensee hereby agree as follows:

1. **SUBLICENSE**. (a) License Granted. Licensor hereby grants Licensee an exclusive sublicense to use the Kiosk during the Term (as hereinafter defined), for the purpose of serving food and beverages to the public, and sale of such other items (if any) as Licensor may approve from time to time upon written request, and for no other purpose, on the terms and conditions contained in this Agreement. This Agreement shall constitute a license and not a lease. Licensee hereby acknowledges that it does not, and shall not during the Term, possess any rights as a tenant of the Kiosk or any other portion of the Park. This Agreement and the rights of Licensee shall not be deemed to be or construed as a month-to-month tenancy or any other type of tenancy, and Licensee hereby waives any and all notices which would otherwise be required to be given by a landlord to a tenant to terminate a tenancy.

This agreement is subordinate to the City-BPC License Agreement and in the event of any conflict between the terms of this Agreement and the City-BPC License Agreement, the terms of the City-BPC License Agreement shall govern. In the event of a termination of the City-BPC License Agreement prior to the expiration of this Agreement, this Agreement shall automatically terminate and be of no further force and effect, with no further action required on the part of the City or Parks.

(b) Sublicense Limited to Kiosk. No areas outside the walls of the Kiosk, regardless of whether such areas are “Designated Areas” shown in **Exhibit A**, are licensed to Licensee hereunder and the areas adjacent to the Kiosk are portions of a public park for the use of the public at large. There are now, and may be in the future, umbrellas, tables and chairs located in the Designated Areas or elsewhere in the vicinity of the Kiosk. Neither Licensee nor its patrons shall have the exclusive use of any such areas or furniture, and Licensee acknowledges that persons who did not purchase any items from Licensee may use such outside areas and furniture, which may be used by Licensee’s patrons on an “as available” basis. No carts or equipment may be placed or left outside the footprint of the Kiosk by Licensee except as expressly permitted by Licensor in advance, at Licensor’s discretion.

(c) Other Vendors. Licensee acknowledges that other vendors, both permanent and temporary, are authorized to serve and sell food and beverage products at various locations in and around the Park, and no such activities shall be deemed a violation of the rights of Licensee, whose only exclusivity is within the Kiosk except as may be otherwise stated in this Agreement.

2. **TERM**. (a) Term. Provided that this Agreement has received the approval of the Commissioner of Parks (the “Commissioner”), as provided in Section 20 below, the term of this Agreement (the “**Term**”) shall commence on April 1, 2025, or such earlier or later date as the parties may agree to in writing (the “**Commencement Date**”), and shall expire on March 31, 2035, or the last day of the Renewal Term, if applicable (the “**Expiration Date**”), or such earlier date on which the Term is terminated in accordance with this Agreement. The portion of the Term prior to March 31, 2035 is sometimes referred to herein as the “**Initial Term**.”

(b) Renewal Term. Licensee may, at its option, elect to renew this Agreement for a further term of up to five years (the “**Renewal Term**”), subject to the approval of Licensor and subject to the provisions of Section 29 below.

(c) Limitation. Licensee acknowledges that the term of the City-BPC License Agreement is currently scheduled to expire on July 18, 2028. By mutual agreement, Licensor and DPR shall have the option to renew the City-BPC License Agreement with DPR for up to two (2) additional five-year periods. If such term is not extended (in addition to other events which could lead to early termination of this License Agreement for the Kiosk, as set forth in this Agreement) Licensee may not be able to enjoy the full Term contemplated hereunder. Neither Licensor nor the City shall have any liability or

obligation to Licensee following the expiration or term of the City-BPC License Agreement, or early termination of this Agreement in accordance with the terms hereof. However, if upon expiration or termination of the City-BPC License Agreement a replacement agreement takes effect, and such replacement agreement grants BPC the right to continue the license granted by this Agreement, then such replacement agreement shall be deemed to be an extension of the City-BPC License Agreement for purposes of this Agreement.

3. **LICENSE FEE.**

(a) **Definitions:** As used in this Agreement:

(i) “**Kiosk Revenues**” shall mean the aggregate sum of all of Licensee’s revenues from the following sources: (A) sales from the Kiosk made directly to Licensee’s patrons, regardless of whether the sales were made in the form of payment by cash, credit or any other means, (B) sales from the Kiosk for functions which do not take place at the Kiosk, including, without limitation, catering services, office or home delivery services, internet sales or any other similar services, whether or not taking place in the Park, (C) sales made by reason of Licensee’s location in the Park, including, without limitation, for functions or events which take place in the Park, and (D) any and all other revenues (including commissions and rebates) received by Licensee in connection with the operation of the Kiosk.

There shall be excluded from Kiosk Revenues, or deducted therefrom, as applicable, (1) sums collected for any sale, use, luxury or excise tax, or any other tax, collected separately from customers by Licensee; (2) returns to shippers or suppliers, wholesalers or distributors, for credit; (3) cash or credit refunds, but only to the extent that the amounts refunded or credited were originally included in gross sales; or (4) interest or carrying charges charged separately to customers.

(ii) “**License Year**” shall mean any twelve (12) calendar month period ending on March 31st during the Term (or, if the Term is terminated before March 31st, the shorter period beginning April 1st and ending on the last day of the Term).

(b) **License Fee Payable.** Licensee shall pay to Licensor a license fee equal to the Percentage License Fee set forth below, but in no event less than the Base License Fee set forth below.

(c) **Base License Fee.** During the Initial Term, Licensee shall pay to Licensor for the period commencing on the Commencement Date and ending on the Expiration Date, as the base license fee, the following sums (the “Base License Fee”), payable in advance, on the first (1st) day of each calendar month during the Term, without any setoff or deduction whatsoever:

License Year	Annual License Fee	Monthly Installment
Year 1		
Year 2		
Year 3		
Year 4		
Year 5		
Year 6		
Year 7		
Year 8		
Year 9		
Year 10		

Renewal Term, if applicable

License Year	Annual License Fee	Monthly Installment
Year 11		
Year 12		
Year 13		
Year 14		
Year 15		

Notwithstanding the foregoing, together with the execution of this License Agreement, Licensee shall pay to Licensor the sum of \$ _____ **[an amount equal to two months Base License Fee]** which shall be applied toward payment of the Base License Fee for the first and second month of the Term. In the event that the Commencement Date shall for any reason occur on a date other than the first day of a

calendar month, then the Base License Fee for such month shall be prorated and Licensee shall receive a credit against the Base License Fee due for the first calendar month following the Commencement Date for which license fees are payable under this Agreement.

(d) Percentage License Fee. **[Note: A bidder can propose the percentage for each category of Kiosk Revenues, e.g., beverages, food, merchandise, etc. and can insert schedule of escalating percentages if applicable]**. Licensee shall pay to Licensor, a percentage license fee in an amount equal to _____ percent (____%) of Licensee's Kiosk Revenues for each License Year (as hereinafter defined) during the Term (the "Percentage License Fee"); provided that in calculating the amount of Percentage License Fee to be paid a credit shall be given for amounts actually paid as Base License Fee for such License Year **[Bidder to propose schedule of escalating percentages if applicable]**

(e) Internal Control System **[Bidder should propose a POS system or alternative system of internal controls which can be used for auditing purposes]**

(f) Statements. On or before the tenth (10th) day of each calendar month during the Term, and the month following the Term, Licensee shall deliver a written statement of Kiosk Revenues for the immediately preceding calendar month, which statement shall be certified to be true and correct by an officer or principal of Licensee or, in lieu of such statement, will provide POS reports reflecting Kiosk Revenues for the immediately preceding calendar month (each such statement or report, a "**Sales Statement**"). Each Sales Statement shall set forth (i) all Kiosk Revenues for the month in question, (ii) the cumulative sum of Kiosk Revenues for the License Year in question, and (iii) a breakdown of all Kiosk Revenues received from the sources set forth in subsection 3(a)(i)(A), (B), (C) and (D) above, and any permitted exclusions and deductions, in a form reasonably acceptable to Licensor, and shall be accompanied by payment of the Percentage License Fee due for such month.

(g) Payment of Percentage License Fee. During each License Year, Licensee shall pay the Percentage License Fee to Licensor with respect to Kiosk Revenues on a monthly basis, on or before the tenth day of the calendar month. Each monthly statement shall be accompanied by any payment due at such time.

Any overpayment may be taken as a credit against the payments next coming due. In the event that at the end of the Term Licensee has overpaid or underpaid, Licensee shall pay the amount of any underpayment, or Licensor shall refund the amount of any overpayment, within thirty (30) days following the earlier to occur of (i) the Expiration Date or (ii) the sooner termination of this Agreement, which obligations shall survive the expiration or sooner termination of this Agreement. The Percentage License Fee shall be paid to Licensor as and when the same is due hereunder notwithstanding the expiration of the Term or earlier termination of this Agreement.

(h) Books and Records. In furtherance of the foregoing, Licensee covenants, represents and warrants to Licensor that all sales generated in connection with the operation of Licensee's business at the Kiosk shall be recorded on cash registers with tapes or another equally acceptable POS system and that Licensee shall preserve and maintain such tapes and all of its receipts (whether the same were generated in connection with cash, credit or other forms of transactions) for a period of one hundred eighty (180) days following the expiration or sooner termination of the Term.

(i) Audit Rights. Licensor and Parks shall have the right to inspect and copy Licensee's books and records (including, without limitation, all cash register receipts, all sales receipts, ledgers, bank statements and sales tax returns) during regular business hours upon reasonable prior notice to Licensee. If any such inspection discloses an underpayment of any installment(s) of the Percentage License Fee, the amount underpaid shall be immediately due and payable. In addition to the foregoing, if the amount underpaid shall be greater than 3% of the reported Kiosk Revenues, then Licensee shall (i) pay to Licensor interest on the amount underpaid at the Prime Rate (as hereinafter defined) plus two percent (2%) from the date such payment should have been made to Licensor until the date the underpayment is actually received by Licensor and (ii) reimburse Licensor for the reasonable cost of its inspection. If the first or last month during the Term shall be a partial calendar month or if the Kiosk shall not be open for business for a portion of any calendar month, the corresponding Sales Statement(s) and Percentage License Fee(s) shall be based upon the gross sales for the days during the months in question in which the Kiosk (or portions thereof, as the case may be) were open for business. "**Prime Rate**" means the prime commercial lending rate from time to time announced by JPMorgan Chase Bank to be in effect at its principal office in New York, New York, or, in the event such rate is no longer published, a similar rate published by such bank or another "money center" bank to be designated by Licensor.

(j) Payment in General. All sums to be paid to Licensor by Licensee hereunder, shall be paid to Licensor at its above address or at such other place(s) as Licensor may designate, from time to time, without notice, set-off or deduction whatsoever, and without regard to whether Licensor has submitted a demand or invoice therefor. All amounts payable by Licensee under this Agreement shall be paid to Licensor as and when the same are due notwithstanding the expiration of the Term or earlier termination of this Agreement.

(k) Late Charges. In the event that Licensee fails to pay any installment of the Base License Fee, the Percentage License Fee, or any other sum due hereunder within ten (10) days after the same shall be due and payable, then, in addition to, and without waiving, any rights or remedies Licensor may have, Licensee shall pay a late charge of ten percent (10%) of any overdue payment, which shall be due and payable on demand. In addition to the foregoing, Licensee shall pay a monthly interest charge of two percent (2%) per month (or the highest rate allowed by applicable law, whichever is less) with respect to any overdue payments which shall be delinquent for a period of thirty (30) or more days, which shall be due and payable on demand; provided that such 30-day grace period shall not apply, and such interest shall be calculated from the day the payment is due, if Licensee has made late payments twice previously in the then-current License Year.

4. **DATES AND HOURS OF OPERATION.** (a) Minimum hours for the Kiosk. Licensee shall keep the Kiosk open for business to its customers seven (7) days per week throughout the year during the hours from [Bidder to propose].

The Kiosk shall not be open past the time when the Park is closed to the public. Orders for service shall not be accepted later than 30 minutes before scheduled Park closing. No closures of the Kiosk shall be permitted except as required under this Agreement or expressly permitted by Licensor in its discretion. Without limiting the generality of the foregoing, no closure of the Kiosk to the public for a private event by Licensee shall be permitted except with the advance written approval of Licensor in each instance. Such approval may be granted or withheld at the Licensor's and Parks' discretion.

(b) Changes in Operating Hours. Notwithstanding anything to the contrary contained in this Section 4, Licensee may, to the extent permitted by applicable law, codes, rules and regulations and Parks, open the Kiosk for business to its customers earlier than the minimum opening hours set forth herein and may keep the Kiosk open for business to its customers later than the minimum closing hours set forth herein. Licensee's hours of operation shall not be affected or reduced due to weather or other non-emergency conditions, except as provided in this Agreement. Subject to the prior written consent of Licensor and Parks, Licensee shall have the right to alter its hours of operations at the Kiosk, but Licensee acknowledges that the continuous and regular operation of the Kiosk is of utmost importance to Licensor.

(c) Commissioner's Discretion. Licensee acknowledges and agrees that its dates and hours of operation may be increased or decreased from time to time by the Commissioner.

(d) Closure for Licensor Events. Licensor shall have the right, upon at least seven (7) days' prior written notice to Licensee (or as soon as possible, if seven days' advance notice is impracticable), to schedule occasional events in the Park for periods not to exceed five (5) consecutive days, or seven days in the aggregate in any License Year (including load-in and load-out, if applicable), during which periods the Kiosk shall be closed and the Base License Fee shall be reduced pro rata based on the number of days the Kiosk is open with respect to such periods. Licensee may not have access to the Kiosk during the periods when it is closed pursuant to this Section 4. In no event shall Licensor be liable to Licensee for any claims, damages, penalties, costs, charges or expenses suffered by Licensee by reason of the closure of the Kiosk pursuant to this subsection except as provided herein.

(e) Water shut-off. Licensee acknowledges that the Kiosk may currently have only the services, insulation and heating as provided on **Exhibit C**. In the event that Licensor deems Licensee's heating or insulation to be insufficient under the circumstances, Licensor, in its reasonable discretion, shall have the right during winter months to shut off water service to the Kiosk to prevent its water pipes from freezing.

(f) Closure by Governmental Authority. Licensee acknowledges and agrees that Parks, and other governmental agencies, have the right to temporarily close, or require Licensor to temporarily close, the Park or any portion thereof (including the Kiosk) from time to time for the maintenance, repair, construction or landscaping of the Park, or any portion thereof, or in order to comply with applicable law, or for any other reason. In such event, the Base License Fee for any such month during each calendar year during the Term in which Parks or any other governmental agency has closed the Kiosk shall be reduced pro rata based on the number of days the Kiosk is open.

(g) Force majeure. In the event of severe weather or public emergency, repairs, alterations, fire, flood or other casualty, or any other reason or cause beyond the reasonable control of Licensee which renders Licensee's operation of the Kiosk in the ordinary fashion during the required hours impossible or impracticable, Licensee shall be excused from the obligations set forth in subsections (a) and (b) above to the extent required by such exigencies. In such event Licensee shall give Licensor such notice as is practicable under the circumstances, and resume operation as soon as reasonably practical to do so.

5. USE. In General. Licensee shall use the Kiosk only for the retail sale of the food and beverages which are expressly set forth on Exhibit D [**Note: Bidder should propose initial menu items and price lists in Exhibit D**] annexed hereto, as the same may be amended from time to time with Licensor's and Parks' prior approval, and for no other purpose. Licensee shall not sell any merchandise not approved by Licensor in writing, nor any items not expressly set forth in Exhibit D, as the same may be amended from time-to-time except with Licensor's prior written consent in each case. At no time shall the Kiosk be used as a storage area and Licensee shall not cause, allow or suffer the Kiosk to be used as a storage area other than with respect to customary quantities of Licensee's goods, supplies and stock which are incidental to the operation of its business at the Kiosk, all of which shall be kept inside the Kiosk at all times. If Licensee desires to modify or alter the uses of the Kiosk, Licensee shall provide Licensor with reasonable advance written notice of the intended change in the manner in which it is operating the Kiosk. Any such change shall require the advance approval of Licensor. At no time shall any portion of the Park outside the Kiosk be used for storage by Licensee, except as expressly permitted herein.

6. SECURITY DEPOSIT. (a) Deposit. Simultaneously with the execution of this Agreement, Licensee shall deposit with Licensor the sum of \$ _____ [**amount equal to the first two full months of the Base License Fee**] (the "**Security Deposit**") as security for the full, faithful and punctual performance by Licensee of all of the terms of this License Agreement. In the event Licensee defaults in the performance of any of the terms of this License Agreement, including the payment of the Base License Fee or Additional License Fee, Licensor may use, apply or retain the whole or any part of the Security Deposit to the extent required for the payment of any fees due hereunder or for any sum which Licensor may expend or may be required to expend by reason of Licensee's default in respect of any of the terms of this License Agreement, including any damages or deficiency in the re-licensing of the Kiosk, whether accruing

before or after summary proceedings or other re-entry by Licensor. In the case of every such use, application or retention, Licensee shall, on demand, pay to Licensor the sum so used, applied or retained which shall be added to the Security Deposit so that the same shall be replenished to its former amount. If Licensee shall fully and punctually comply with all of the terms of this License Agreement, the Security Deposit, without interest, shall be returned to Licensee within sixty (60) days after the expiration or termination of this License Agreement and delivery of exclusive possession of the Kiosk to Licensor.

(b) Assignment. In the event of an assignment of Licensor's interest in this License Agreement, Licensor shall have the right to transfer (at no expense to Licensor) the cash security deposited hereunder to the assignee, and Licensor shall, after notice to Licensee of such transfer, sent by certified mail, return receipt requested, including the name and address of the assignee, be released by Licensee from all liability for the return of such cash security. In such event, Licensee agrees to look solely to the new licensor for the return of said cash security. It is agreed that the provisions hereof shall apply to every assignment made of said cash security to a new licensor. In all other cases, Licensee will not assign or encumber, or attempt to assign or encumber, the monies deposited hereunder as security, and neither Licensor nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment, or attempted encumbrance.

7. **CONDITION OF THE KIOSK.** The Kiosk shall be delivered to Licensee on the Commencement Date and Licensee shall accept the Kiosk in its then "as is" condition, but broom-clean and free of all refuse and free and clear of any and all occupants, tenants or licensees. Licensor represents to Licensee, that, to the best of the knowledge of Licensor's personnel, the Kiosk is, and on the Commencement Date will be, structurally sound. Except as expressly set forth in this Agreement, Licensor shall not be required to perform any work or alterations to prepare the Kiosk for Licensee's occupancy. Licensor has not made nor does Licensor make any other representations or promises with respect to the Park or the Kiosk.

8. **MAINTENANCE AND REPAIR.** (a) Licensee's Obligations—in General. Licensee shall maintain the Kiosk and the fixtures and appurtenances contained therein in good repair and attractive appearance consistent with the general ambiance in the Park. Licensee, at its sole cost and expense, shall make all repairs and replacements to interior, non-structural portions of the Kiosk and to all of Licensee's installations and alterations, using only contractors first approved in writing by Licensor in its reasonable discretion. In addition, Licensee shall be responsible for the prompt repair of any damage, whether structural or nonstructural, caused by Licensee's personnel or operations to any equipment or structures in or on the Kiosk, regardless of whether such items have been provided by Licensor or Licensee. If Licensee shall fail to make any repairs which it is required to make under this Agreement and if such repairs are not made within fifteen (15) days after written notice from Licensor, which sets forth the need to make such repairs, then Licensor may make such repairs on behalf of and for the account of Licensee, and Licensee shall reimburse Licensor for the costs of such repairs upon presentation of the invoice(s) therefor. Notwithstanding the foregoing, if such repairs cannot be completed within 15 days, unless Licensor elects to make such repairs,

Licensee shall commence the process of making such repairs within such time and shall use all reasonable means to complete such repairs as soon as practicable; in such event Licensee shall give Licensor a report on the progress of such repairs not less frequently than weekly until the repairs have been completed.

(b) Licensor's Obligations. All repairs and replacements to the Kiosk (whether structural or non-structural) and all structural repairs and structural replacements to the interior and exterior portions of the Kiosk which are not the responsibility of Licensee under this Agreement, shall be performed by Licensor, at Licensor's sole cost and expense, unless said repairs and/or replacements are caused by Licensee's negligence or misuse of the Kiosk, in which event the same shall be paid by Licensee within twenty (20) days after rendition of an invoice to Licensee therefor.

(c) Lighting. Responsibility for lighting apparatus shall be shared as follows:

(i) Licensee shall be responsible for the prompt maintenance and repair, and assuring the safety, of all interior lighting fixtures and associated bulbs, ballasts, and electrical wiring. Licensee shall also be responsible for the prompt maintenance and repair of other related Kiosk interior fixtures and appurtenances such as ceiling and wall fans, wall lightings, and control switches.

(ii) Licensor shall be responsible for the prompt maintenance and repair of all exterior lighting fixtures, including specifically the façade lights mounted on the outside (exterior) of the Kiosk. Licensor will be responsible for prompt replacement of non-functioning fixtures and associated bulbs and ballasts, and associated wiring. If the need for replacement is a result of damage(s) or negligence caused by Licensee's personnel, operations and contractors, Licensee shall promptly reimburse Licensor for the expense of such replacements upon invoice therefor.

(iii) Licensor will be responsible for the operation and maintenance of timers controlling the exterior Kiosk lighting, including but not limited to the adjustment of the timers consistent with seasonal time changes. Licensee shall provide Licensor with access to the Kiosk interior where such timers are installed. Licensor, as part of regular inspection of all Park lighting, will examine all exterior lighting at the Kiosk and take the necessary action to ensure all exterior light fixtures are operating properly.

(d) Cleaning and Maintenance. Licensee shall be responsible for cleaning and maintaining the Kiosk throughout the Term. Without limiting the generality of the foregoing, Licensee shall, at its expense, be responsible for:

(i) regular washing of the Kiosk and the exterior of the Kiosk (using cleaning agents approved by Licensor, so that the surfaces will not be damaged) and otherwise maintaining the Kiosk so that it is free of spills, stains, litter, and debris at all times

(ii) regularly cleaning all Kiosk windows, exterior and interior, using cleaning agents approved by Licensor.

(iii) all routine plumbing, such as maintaining grease traps, sink drains, air conditioning condensate lines (where applicable), floor drains, and water supply lines. Notice shall be sent by Licensee to Licensor that cleaning of grease traps, and other items in this section, has been completed not less frequently than annually. If Licensee, with the consent of Licensor, shall utilize air conditioning units, then during the seasons when such units are in use, Licensee shall clean the air conditioning filters, condensate drip trays inside the units, and condensate lines, no less frequently than monthly, and shall replace the filters as needed to ensure that the unit operates at peak efficiency at all times.

(iv) all electrical work required by, or because of, Licensee's interior Kiosk fit-out alterations, operations, and equipment needs.

(v) all requisite pest and insect control and prevention, in coordination with Licensor's pest control program and vendor.

(vi) proper maintenance and repair of gas supply lines, valves, emergency sensors and other components of gas service within and serving the Kiosk, including the cost of any service calls from a qualified gas plumber to perform maintenance or necessary repairs.

(vii) prompt replacement or repair of broken signs, broken windows and window blinds, etc.

(viii) proper maintenance and cleaning of Kiosk exhaust fans.

(ix) keeping the Kiosk roof, gutters, and drain pipes free and clear of leaves, twigs, branches, and other natural debris dropped from trees.

(e) Grease Traps for Wastewater. Before commencement of operations Licensee shall provide Licensor with its plan for management of grease traps, including identification of its licensed plumbing contractor and grease removal contractor, as well as the plan for handling and disposal of fats, oils and grease (FOG) pursuant to NYC DEP best management practices. Licensee shall be solely responsible for installation and maintenance of such equipment in accordance with such practices.

(f) Designated Areas. At the start of business each day in which the Kiosk is opened for business, Licensee shall open its umbrellas in the Designated Areas. At the close of business each day in which the Kiosk is opened for business, Licensee shall (i) clean the Outdoor Furniture (as hereinafter defined) located within the Designated Areas and (ii) subject to Licensee's reasonable discretion, close its umbrellas which are located in the Designated Areas.

(g) Outdoor Furniture. Throughout the Term, Licensor shall have the sole and absolute discretion to determine and control the color, size, quality and type of tables, chairs, umbrellas and lighting fixtures (the “Outdoor Furniture”) located in the Park, including Designated Areas, as well as their locations in the Park. Licensor shall have the right to limit the number, type or size of the Outdoor Furniture located in the Park and within the Designated Areas and to terminate the provision of any one or more of such items in order to comply with applicable laws, codes, rules, regulations, any request or directive by the Commissioner, or if Licensor, in its sole and absolute discretion, determines that the same unreasonably obstructs the pedestrian traffic within the Park or shall otherwise be impracticable or undesirable to keep or maintain.

9. **ALTERATIONS**. (a) Approval Required. Licensee shall not install or permit any party to install anything in the Park or at the Kiosk or perform any alterations, additions or improvements on or to the Park or the Kiosk, whether structural or non-structural or whether to the interior or exterior of the Kiosk, or perform any painting therein or thereupon (each of the foregoing being “**Licensee Work**”), without first obtaining the prior written consent of Licensor in each instance, which consent Licensor may grant or withhold in Licensor’s discretion.

(b) Submittal of Plans, etc. If Licensee shall desire to perform Licensee Work, Licensee shall first submit in writing to Licensor, detailed plans and specifications thereof (“**Plans**”), and if approved by Licensor, Licensee may only perform Licensee Work in strict accordance with such Plans and only after Licensee shall have first obtained and provided copies to Licensor of (i) all necessary permits and/or approvals to perform such work, including, without limitation, the approval of Parks, (ii) worker’s compensation insurance in statutory limits, (iii) general liability insurance in coverage and amounts reasonably determined by Licensor and (iv) such other requirements upon which Licensor may have conditioned its consent or Parks may require.

(c) Inspection. Licensor and Parks shall have the right to inspect the Kiosk at all reasonable times during the progress of Licensee Work.

(d) Report on Completion of Work. Upon completion of Licensee Work (other than Licensee’s trade fixtures) which involves structural work, exterior work or utility systems, Licensee shall promptly furnish Licensor with a detailed, itemized statement of costs actually incurred for such work, together with copies of all lien waivers from contractors and materialmen.

(e) Title. Title to all alterations, fixtures and other improvements made, installed, attached, or affixed to the Kiosk shall pass to the City immediately upon construction or installation, attachment or affixation thereto. Without limiting the generality of the foregoing, unless otherwise agreed to by Licensor in writing in advance, Licensee shall not be entitled to any payment, credit or reimbursement for any expenditure for any trade, display or other fixtures, or any alterations or improvements.

10. **COMPLIANCE WITH LAWS.** Licensee, at its sole cost and expense, shall comply with all present and future applicable governmental laws, rules, orders, ordinances, regulations, statutes, requirements, codes, and executive orders, extraordinary as well as ordinary, of any and all of governmental and quasi-governmental departments and bureaus, and of any applicable fire rating bureau, or other body exercising similar functions, in connection with the granting of this License and Licensee's use of the Kiosk, including, but not limited to, obtaining and at all-time maintaining a permit from the Department of Health and Mental Hygiene (NYC DOHMH) and all other permits, approvals and requirements necessary for the operation of Licensee's business at the Kiosk for the use permitted hereunder. Licensee shall obtain all such required permits and approvals prior to the Commencement Date and shall maintain the same in full force and effect throughout the Term.

11. **BUSINESS CONDUCT.** (a) **General.** Licensee, recognizing that Bryant Park is a well-known New York City park, and a Scenic Landmark designated by the New York City Landmarks Preservation Commission, and is being operated and maintained as a world class public space, and as a special inducement to Licensor to enter into this Agreement, covenants and agrees that at all times:

- (i) Licensee's activities at the Kiosk throughout the Term will be consistent with the character and dignity of the Park;
- (ii) the sales methods in said business, as well as all other elements of presentation, merchandising, display and advertising, will be dignified and in conformity with the highest standards of practice;
- (iii) Licensee's employees shall maintain a neat and clean appearance and shall conduct themselves in a polite, courteous and professional manner;
- (iv) the appearance of the Kiosk, including the interior of the Kiosk to the extent visible by the public from outside, shall be subject to Licensor's approval and Licensee shall promptly comply with any instructions from Licensor to change such appearance if it is found unacceptable in Licensor's discretion and;
- (v) the appearance, number, location, nature and subject matter of all displays and exhibits placed or installed on or about the Kiosk, and of any signs, lettering, announcements, or any other kinds or forms of inscription displayed in or about the Kiosk, shall be subject to Licensor's prior written approval, and shall not be displayed until Licensee shall have obtained such approval and all necessary permits therefor.
- (vi) Licensee shall observe all restrictions required of "sublicensees" under the City-BPC License Agreement, including, without being limited to, restrictions on categories of merchandise offered or advertised, limitations as to use of City-owned intellectual property, and Parks rights of approval.

(b) Objectionable Merchandise. Licensee will, promptly after demand by Licensor, and as often as each such demand shall be made, forthwith discontinue selling or offering for sale, or permitting to be sold, or otherwise dealing in, or exhibiting, or advertising in or upon the Kiosk, or any portion thereof, any article of merchandise to which Licensor may reasonably object. Licensee shall, promptly after demand by Licensor, and as often as each such demand shall be made, forthwith discontinue any advertisement, sign, notice, object, poster, exhibit and/or display at the Kiosk, or any portion thereof, to which Licensor may reasonably object.

(c) Appearance of the Kiosk. Licensee acknowledges that the appearance of the Kiosk is of the utmost importance to Licensor in preserving the image of the Park as a world class public space. Therefore, in the event Licensee fails to remedy the condition or cleanliness of the Kiosk, within twenty-four (24) hours after notice from Licensor, Licensor shall have the right to remedy the deficient condition, the cost of which shall be due and payable by Licensee upon demand.

(d) NYC DOHMH Rating. Licensee shall at all times maintain the highest grade given by the NYC DOHMH (currently an "A" rating) at the Kiosk. In the event that such rating is not maintained, Licensee shall correct the situation as quickly as possible. In the event that the highest rating is not achieved after re-inspection by the NYC DOHMH, then Licensor may order the Kiosk closed to the public, and may thereupon terminate this License Agreement, and the Term, on seven days' notice to Licensee; in such event, if the appropriate rating has not been achieved within such time, the Term shall end at the expiration of such seven days; provided that such period shall be extended for the period of any delay which is beyond the control of Licensee, such as delays in re-inspection caused by the NYC DOHMH. Licensee shall promptly report any rating received to Licensor. In addition, at all times that the Kiosk is operating, a staff person with a valid DOHMH food handler's license must be present.

(e) Sponsorships. Negotiations with any potential sponsor, or public or private event, for any product or service that may be promoted, featured or identified by brand name in any way within the Park are the exclusive right of Licensor and Licensee shall have no authority to represent Licensor in any sponsorship or promotional transaction. Licensee shall promptly notify Licensor and Licensor shall lead any discussions regarding this type of activity. All revenues deriving from sponsorship, product endorsement and promotion in any way within the Park and at the Kiosk remain the property of Licensor.

Licensor may require Licensee to offer for sale the products of one or more sponsors, for example beverages such as sodas and energy drinks, and may require exclusive pouring rights. Other than the revenue derived from the sales of these products there will be no additional compensation or reward offered or paid to Licensee by Licensor or the sponsor.

During any sponsored promotion Licensee shall cooperate with Licensor and any such sponsor to coordinate matters of presentation, displays, service and supply of products,

provided that such sponsor makes such products available to Licensee on a commercially reasonable basis.

(f) Events conducted by Licensor. In the event that Licensor requests services by Licensee in connection with any events conducted or authorized by Licensor, the parties hereto will cooperate fully in providing and coordinating such services, with such compensation to Licensee as may be negotiated.

(g) Events conducted by Licensee. Any private event conducted or authorized by Licensee which requires the closure of any portion of the Kiosk shall require the prior written approval of Licensor. This requirement shall apply to Licensee's photo shoots and other publicity activities as well as other events. Any inquiries, discussions or negotiations regarding "pop-up" brand activations, or any presence at the Kiosk by corporate brands who wish to temporarily display their products or outward facing signage with their logo, must be referred promptly to Licensor and Licensor shall lead any discussions regarding this type of activity. Any inquiries, discussions or negotiations regarding external film or photo shoots must also be referred promptly to Licensor and Licensor shall lead any discussions regarding this type of activity. It is the understanding of the parties that approval will normally not be given for such events.

(h) Sound Restrictions. Unless specifically approved by Licensor, no music or other noise generated by Licensee or its employees shall be audible outside the Kiosk. In the event that music is permitted by Licensor which is audible outside the Kiosk, Licensor shall maintain complete control over the type of music, volume, apparatus used, and all other aesthetic matters, and Licensor's determination with regard to such matters shall be binding on Licensee, but Licensee shall be solely liable for all costs thereof.

12. **SANITATION.** (a) General Cleanliness. Licensee, at Licensee's sole cost and expense, shall (i) keep the Kiosk in a neat, clean and sanitary condition, (ii) keep the areas designated as "Designated Areas" shown in the color red on **Exhibit A** annexed hereto (the "**Designated Areas**") in a neat and clean condition and free from rubbish, dirt, litter, leaves and debris at all times, which should not be cleared from the Kiosk by pushing into any Park area outside the Kiosk footprint and (iii) routinely clean and bus all tables within the Designated Areas. The Designated Area for Kiosk #1 shall be measured from the outer walls of such Kiosk and shall extend in a straight line twenty-one (21) feet from all four (4) sides of such Kiosk to form a square. The Designated Area between Kiosk #2 and Kiosk #3 shall be the landing known as Heiskell Plaza, but shall exclude the steps immediately adjacent to Heiskell Plaza. The Designated Area for Kiosk #4 shall extend in a straight line six (6) feet from the outer walls of the Kiosk.

(b) Refuse Storage. Licensee shall neatly place in an orderly and safe manner all of its trash, waste and rubbish in one or more movable, self-contained, leak-proof, and secure trash storage containers. The container(s) shall be kept in the Trash Container Storage Area shown on **Exhibit A**, which is subject to change from time to time at the discretion of Licensor. Licensee shall not be permitted to dispose of its trash, waste or rubbish in the receptacles located in the Park. Refuse shall be carefully stored, cardboard folded,

and recyclables properly disposed of each day the Kiosk is open. Any shed for such refuse storage shall be constructed at Licensee's expense, and the location, design, appearance and materials for such shed shall be subject to Licensor's prior approval.

(c) Refuse Removal. Licensee, at Licensee's sole cost and expense, shall retain a licensed and reputable private carting company to remove on a daily basis, all trash, waste and rubbish produced by the operation of Licensee's operations from the Kiosk. Such removal shall be performed at the close of each day which Licensee is open for business and only in accordance with all applicable laws, codes, rules and regulations, including, without limitation, Title 16 of the New York City Administrative Code and the applicable rules and regulations of the NYC Department of Sanitation, as the same may be amended from time to time (collectively, the "**Sanitation Regulations**"). Licensee may not leave its secure trash container(s) by the curbs or streets adjacent to the Park except during the following times: (i) up to one hour immediately prior to Kiosk closing, or (ii) between the hours of 9 p.m. and 6 a.m. (or such shorter or different period as may be required under the Sanitation Regulations) Such trash storage container(s) may be left only at the Trash Container Pickup Location shown on **Exhibit A**, which may be changed from time to time by Licensor, and only for the purpose of placing the same for pick-up by Licensee's private carting company, and at no other location. Licensor may, in its sole discretion, require Licensee to remove its trash at additional or other times if Licensor shall determine that such removal should be performed more than once per day. Licensee shall promptly clean all spillage, leakage or other waste in or adjacent to the Park resulting from the removal of its trash storage container(s) from the Kiosk. Any fines incurred for violation of the Sanitation Regulations by Licensee or its employees or agents shall promptly be paid or reimbursed by Licensee.

(d) Trash Container Storage Area. Licensee shall keep the area shown on **Exhibit A** as the "Trash Container Storage Area" tidy and clean, and free of refuse and debris.

13. **DELIVERIES**. All deliveries to Licensee at the Kiosk shall be made between the hours of 6:00 a.m. and 8:00 a.m. or between the hours of 8:00 p.m. and 10:00 p.m. daily. Licensee shall not permit delivered merchandise to be left outside the Kiosk during or following deliveries at any time.

14. **UTILITIES AND COSTS**. (a) Utility hook-ups are provided which service the Kiosk, to the extent the same exist, as shown on **Exhibit C** attached hereto. Licensee shall pay the costs (including taxes, late fees, interest, meter reading charges and other fees) for the use and/or consumption of all the electrical, gas, water, telephone, and other utilities relating to the operation of the Kiosk. All such utility services shall be directly metered to Licensee and Licensee shall contract directly with the companies which supply such utilities; provided that if there is not a separate meter Licensor shall invoice Licensee for Licensee's estimated share of such service and Licensee shall reimburse Licensor within 30 days after the same have been furnished to Licensee. Licensee shall be solely responsible for the costs of installing any additional utility service it requires at the Kiosk, including securing any required permits and consents.

(b) Licensee shall not cause, allow or suffer the use of the electrical current at the Kiosk to exceed the capacity of the existing risers, wiring installation and/or feeders and shall not upgrade or otherwise increase the electrical components servicing the Kiosk without obtaining the prior written consent of Licensor in each instance.

(c) Licensee shall be responsible for assuring that the interior (to the extent visible from outside) and exterior of the Kiosk shall be illuminated every day from dusk to dawn; Licensee shall be responsible for the cost of electricity for such lighting.

(d) Licensee acknowledges that the Kiosk may only have the electrical service and capabilities shown on **Exhibit C**. Licensee acknowledges that, except as otherwise expressly provided in this Agreement, it is accepting the Kiosk and the utility services “as-is.” Licensor makes no warranty or representation that the electrical service and capabilities of the Kiosk are suitable for Licensee’s needs. Any heating or air-conditioning equipment, and the operation and maintenance thereof, shall be the responsibility of Licensee.

15. **SIGNS.** (a) In general. Licensee shall not install or maintain any signs at the Kiosk, or on the exterior of the Kiosk, without Licensor’s prior written consent. If Licensee proposes to install any signage, Licensee shall first submit full color drawings to Licensor which set forth the proposed design of the signage, the number, type, size, shape, color and method of installation, and subject, also, to compliance with all applicable legal requirements and regulations. Initial outside signage and interior “Menu Boards” shall be those depicted on **Exhibit D**, subject to final refinements and approval. Upon the expiration or sooner termination of this Agreement, if Licensor shall so elect, Licensee at its own expense, shall remove such signs and restore the affected places at the Kiosk to their original condition. In no event shall Licensee place signs on the inside or the outside of or displays of any kind on the exterior of the Kiosk or visible from outside the Kiosk without the prior written approval of Licensor in each instance, and then, only upon obtaining all necessary permits therefor. Upon the expiration or sooner termination of this Agreement, if Licensor shall so elect, Licensee, at its own expense, shall remove such signs and restore any affected places on the Kiosk to their original condition. Licensee shall be responsible for obtaining all necessary permits for signage. Free-standing signs and handwritten signs shall not be used at any time.

(b) Uniform Signage. Licensee acknowledges that Licensor may elect to seek uniformity in the signage in the general area of the Kiosk. In such event, Licensor, at Licensor’s sole cost and expense, may replace any sign(s) with sign(s) conforming to the uniform signage so established by Licensor; provided, however, that Licensor will endeavor to satisfy the specific needs of Licensee with respect to the identity and mark of Licensee.

(c) Areas Outside the Kiosk. Except as expressly permitted hereunder, in no event shall Licensee use or permit to be used the space adjacent to or any other space outside of the Kiosk, or anywhere else in the Park, for display, sale, solicitation, the distribution of signs, flyers or promotional material or any other similar undertaking without the prior consent of Licensor. In no event shall Licensee use, or permit to be used, any advertising

medium and/or loud speaker and/or sound amplifier and/or radio or television broadcast which may be heard outside of the Kiosk or which does not comply with the reasonable rules and regulations of Licensor which are then in effect.

16. **BPC's LICENSE AGREEMENT WITH THE CITY.** (a) In General. This Agreement and every right of the Licensee hereunder is and shall be subject and subordinate in all respects to each and every term, covenant, condition and provision of the City-BPC License Agreement, a copy of which is attached hereto as **Exhibit E.**

(b) Licensee Bound. Licensee hereby covenants, represents and warrants to Licensor that Licensee has received a copy of the City-BPC License Agreement and is bound by it, and shall comply with, each and every term, covenant, condition and provision of the City-BPC License Agreement to be performed by Licensor thereunder to the extent applicable to Licensee. Without limiting the foregoing in any manner whatsoever, Licensee hereby covenants, represents and warrants to Licensor, the Commissioner and Parks that (i) Licensee shall not violate any terms or conditions of the License Agreement and (ii) nothing contained in this Agreement shall create or be deemed to create any relationship of contract or agency between Licensee and the Commissioner, Parks or the City. Further, Licensee shall not take any action, or neglect to take any action, which action or failure would result in an Event of Default by Licensor under the City-BPC License Agreement. Without limiting the generality of the foregoing, Licensee shall abide by the provisions of Section 1.2 and Section 10 thereof setting forth requirements for Licensee's operations as a "Sublicensee" pursuant to the City-BPC License Agreement. In addition, in the event Licensor is assessed any penalties under Section 10.18 of the City-BPC License Agreement as a result of conduct or omission of Licensee, Licensee shall promptly reimburse Licensor for all costs thereof, including the costs of any appeals, upon submission by Licensor of an invoice therefor. In the event either party wishes to contest such assessment, the parties shall cooperate in conducting such appeal.

(c) City-BPC License Agreement Terminable by Commissioner. Licensee acknowledges that the license granted by the City to Licensor pursuant to the City-BPC License Agreement may be terminable by the Commissioner, upon written notice to Licensor. Notwithstanding anything to the contrary contained in Section 2 hereof or elsewhere in this Agreement, in the event that the Commissioner terminates the City-BPC License Agreement, this Agreement and the license granted hereunder shall automatically terminate, expire and come to an end. Licensor agrees to promptly notify Licensee of Licensor's receipt of any notice of termination of the City-BPC License Agreement, and neither the City nor Licensor shall have any liability to Licensee arising from such termination.

(d) Parks and other Governmental Approvals. Whenever Licensee is required to obtain the approval of Parks or another City or State agency or authority under this Agreement, or under the City License Agreement, Licensee shall first confer with Licensor, and Licensor shall determine which party shall submit the application for approval. If the application covers a matter that is also subject to Licensor's approval under this Agreement (e.g., application to the New York State Liquor Authority for a permit), such

application shall not be submitted to Parks or such other agency or authority unless Licensor shall consent. Once the parties have agreed on the application, the parties shall cooperate in any application for approval. Nothing in this Agreement shall grant to Licensee the right to object or intervene in any matter for which Licensee is not obligated to obtain Parks (or other agency or authority) approval pursuant to this Agreement, the City License Agreement, or applicable laws, rules, regulations or orders.

(e) Parks' Inspections: Inspectors from Parks will visit the site unannounced to inspect operations and ensure proper maintenance of the Kiosk. Based on their inspections, Parks may issue directives to Licensor regarding deficiencies that Licensor will be obligated to rectify in a timely fashion. To the extent that any such identified deficiency and its associated corrective actions fall within the scope and responsibility of Licensee, Licensee will correct the deficiency in a timely fashion at the direction of Licensor. The time required to correct the deficiency will be outlined in the written directive from Parks.

17. **REMOVAL UPON EXPIRATION OR TERMINATION OF AGREEMENT.** Any and all alterations, additions and improvements to or placed at or on the Kiosk, as well as all fixtures existing or installed upon the Kiosk at any time (whether or not prior to the date of this Agreement), either by Licensee or by Licensor on Licensee's behalf, shall, upon installation, become the property of Licensor and shall remain upon and be surrendered with the Kiosk unless Licensor, by notice to Licensee not less than twenty (20) days prior to the date fixed as the termination of this Agreement, elects to relinquish Licensor's right thereto and to have them removed by Licensee, in which event the same shall be removed from the Kiosk by Licensee prior to the expiration of this Agreement, at Licensee's sole cost and expense. Notwithstanding the foregoing, movable furniture, movable personal property and movable trade fixtures located at the Kiosk shall remain the property of Licensee and shall be removed by Licensee at or before the expiration or sooner termination of this Agreement. In connection with the removal of any property from the Kiosk by Licensee, Licensee shall, at Licensee's sole cost and expense, promptly repair any and all damage to the Kiosk to restore the Kiosk to the condition existing prior to installation, including, without limitation, repairs occasioned by the removal of any property. Any of Licensee's property or other items remaining at the Kiosk after the expiration or sooner termination of this Agreement shall be deemed abandoned and may be disposed of by Licensor as it sees fit in its sole discretion, at Licensee's expense. Licensee further agrees that Licensor shall have no liability for any disposal of property which is deemed abandoned. The foregoing provisions shall be effective regardless of whether the termination is the result of termination of the City-BPC License Agreement by Parks.

18. **ASSIGNMENT AND SUBLICENSING.** (a) Licensee, or its legal representatives, will not by operation of law or otherwise, assign (in whole or in part), mortgage or encumber this License Agreement, or sublet or permit any or all of the Kiosk to be used or occupied by others, without Licensor's prior written consent in each instance. The consent by Licensor to any assignment or sublicensing by Licensee shall not be waiver of or constitute a diminution of Licensor's right to withhold its consent to

any other assignment or sublicensing and shall not be construed to relieve Licensee from obtaining Licensor's express written consent to any other or further assignment or sublicensing. Such reasonable attorneys' fees as may be incurred by Licensor in connection with Licensee's request for consent to an assignment or sublicensing shall be paid by Licensee. Licensee hereby acknowledges that any proposed assignment of this License Agreement or sublicensing of the Kiosk shall be subject to the Commissioner's Approval.

(b) If Licensee (or its legal representatives) desires to assign this License Agreement or sublicense the Kiosk, Licensee shall promptly notify Licensor in writing. Upon obtaining a proposed assignee or sublicensee upon acceptable terms, Licensee shall submit to Licensor in writing: (1) the name of the proposed assignee or sublicensee and if the proposed assignee or sublicensee is not a person, the names and addresses of all principals having a ten percent (10%) or greater ownership interest in such proposed sublicensee or assignee; (2) a true and complete copy of the fully executed proposed assignment or sublicense and all side agreements relating thereto; (3) the nature and character of the business which the proposed assignee or sublicensee will conduct at the Kiosk and (4) banking, financial and other credit information relating to the proposed sublicensee or assignee as requested by Licensor to determine the financial responsibility of said proposed sublicensee or assignee; and thereafter Licensee shall promptly submit to Licensor any other information concerning the proposed assignment or proposed sublicense which Licensor may request.

(c) Licensor may grant or withhold its consent to any request for assignment or sublicensing in its sole discretion and may require further information and submissions prior to making its decision.

(d) If this License Agreement shall be assigned, or if the Kiosk shall be sublicensed or occupied by any person or persons other than Licensee, Licensor may, after default by Licensee, collect all monies owed to Licensor under this Agreement from the assignee, sublicensee or occupant and apply the net amount collected to the fees herein reserved, but no such assignment, sublicensing, occupancy or collection of monies shall be deemed a waiver of the covenants in this Section, nor shall it be deemed acceptance of the assignee, sublicensee or occupant.

(e) Each permitted assignee or sublicensee shall assume all of Licensee's obligations and covenants under this License Agreement and shall be and remain liable jointly and severally with Licensee for the payment of all sums owed to Licensor under this Agreement and for the due performance of all the terms, covenants, conditions and agreement herein contained on Licensee's part to be performed for the term of this License Agreement. No assignment shall be effective unless Licensee shall promptly deliver to Licensor a duplicate original of the instrument of assignment, in form reasonably satisfactory to Licensor, containing a covenant of assumption by the assignee of all of the obligations aforesaid and Licensee shall have obtained from Licensor the aforesaid written consent, prior thereto.

(f) Notwithstanding any provision of this License Agreement to the contrary, one hundred percent (100%) of any fees and/or consideration paid or payable by the sublicensee or assignee in excess of the fees reserved or payable under this License Agreement shall be paid by Licensee to Licensor as and when received by Licensee, less expenses proven to have been incurred by Licensee in assigning this License Agreement or sublicensing the Kiosk. Such expenses shall include, but not be limited to brokerage fees, attorneys' fees and disbursements, advertising costs, reasonable concessions, including, without limitation, free License Fees or work contributions, and the costs incurred in connection with alterations, decorations and installations made by Licensee in preparing such space for occupancy by the assignee or sublicensee.

(g) In the event of an approved sublicensing or assignment, Licensor may require such approved sublicensee or assignee to deposit such moneys as Licensor may require to be held by Licensor in accordance with the terms of Section 6 of this License Agreement. If such sublicensee or assignee shall fail to pay such funds to the Licensor as herein required no later than the third business day after the Licensor shall have given its consent to such proposed sublicense or assignment, then Licensor shall have the right to revoke its consent to such sublicense or assignment on three (3) days' prior written notice.

(h) No assignment of this License Agreement or sublicensing of the Kiosk shall release or discharge the Licensee hereunder from any of its obligations under this License Agreement nor relieve Licensee of the obligation to comply with the provisions of this Section in the event of a desire to further or additionally sublicense or assign.

(i) An "assignment" within the meaning of this Section 18 shall be deemed to include one or more sales, assignments, or transfers, by merger, consolidation, operation of law or otherwise, or creation of new stock, or any event by which an aggregate of fifty (50%) percent or more of Licensee's voting stock or ownership interest shall be vested directly or indirectly in a party or parties who are non-stockholders, or not holders of beneficial ownership interests, as the case may be, as of the date hereof.

(j) Notwithstanding anything to the contrary contained in this Section, Licensee may, without the consent of Licensor and without any right of termination in favor of Licensor or right on Licensor's part to require that Licensee sublicense or assign to Licensor, but subject to Commissioner's approval, sublicense all, but not less than all, of the Kiosk (together with Licensee's rights with respect to the Kiosk) or assign this License Agreement to any Subsidiary, Parent Company, Affiliate or successor by merger, consolidation or by operation of law or to an entity to whom all or substantially all of Licensee's assets or stock are sold or transferred (such a successor or person being herein called "**Successor**"), but only if prior to the effective date of any such transaction, Licensee demonstrates to Licensor's satisfaction that (i) the Successor has a net worth equal to or greater than Licensee's average net worth (as determined in accordance with generally accepted accounting principles) during the twelve (12) month period immediately prior to such merger, consolidation, sale or transfer and (ii) such merger, consolidation or transfer of assets is not effected for the primary purpose of transferring

this License Agreement or sublicensing the Kiosk. In the event of an assignment or sublicense to a Successor, Licensor shall not be entitled to any portion of any profits received by Licensee in connection therewith. For the purpose of this Section, a “Subsidiary,” “Parent Company” and “Affiliate” of Licensee shall mean the following: (a) “Subsidiary” shall mean any corporation not less than 51% of whose outstanding capital and voting stock shall, at the time, be owned directly or indirectly, by Licensee; (b) “Parent Company” shall mean any corporation which shall own, directly or indirectly, at least 51% of the outstanding capital and voting stock of Licensee at the time; and (c) “Affiliate” shall mean any corporation or other entity which, directly or indirectly, controls or is controlled by or is under common control with Licensee. For this purpose, “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise. No assignment or sublicense under this Section shall be valid unless Licensee shall give notice of the assignment or sublicense to Licensor at least twenty (20) days prior to the effective date thereof and a true and complete copy of the instrument of assignment or sublicense shall be received by Licensor within ten (10) days following the effective date thereof. Furthermore, no such assignment or sublicense shall be permitted or effective, and shall be deemed to be null and void, if Licensee is then in default under this License Agreement beyond any applicable notice and grace period.

19. **ACCESS.** Other than in cases of emergency where no prior notice is required, Licensor and its agents and representatives shall have access to the Kiosk at all reasonable times upon twenty-four (24) hours prior notice to Licensee to perform necessary or required repairs and to inspect the same and/or in connection with the performance of repairs, alterations or improvements to the Park or the Kiosk. Licensee shall provide Licensor with a complete set of all keys for the Kiosk and shall furnish new keys as needed to assure that Licensor always has access. In the event that a keyless device or combination is required for entry, Licensee shall furnish any such needed device or combination as well.

Licensee shall allow any government employees to inspect the Kiosk at any time, including, without limitation, any employees of Parks or the City. In addition, during the last six months of the Term, or during the pendency of an RFP issued by Licensor for a succeeding license for the Kiosk, Licensee shall grant Licensor access to the Kiosk from time to time during or outside business hours, upon reasonable notice, to enable inspections by subsequent licensees or prospective occupants of the Kiosk.

20. **AGREEMENT SUBJECT TO APPROVAL.** Licensee acknowledges and agrees that this Agreement is subject to the Commissioner’s approval. In the event such approval has not been granted within sixty (60) days following the execution and delivery hereof, either party may thereafter terminate this Agreement at any time before such approval has been granted.

21. **NO LIABILITY.** Neither Licensor nor the City shall be liable to Licensee for any injury or damage to Licensee or any other person or for any damages to or loss (by theft or otherwise) of any property of Licensee or of any other person,

irrespective of the cause of such injury or damage, nor shall the City, Licensor or their affiliates have any liability or obligation to Licensee of any nature whatsoever, except as required by law or expressly provided in this Agreement. In no event shall Licensor's liability hereunder exceed amounts actually paid by Licensee to Licensor hereunder.

22. **INDEMNITY.** To the fullest extent permitted by law, Licensee shall indemnify and save harmless Licensor, The City and their officers, agents and employees (collectively, the "**Indemnified Parties**") from and against (a) any and all claims, liens, demands, judgments, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature (including, without being limited to, attorneys' fees and disbursements) (i) arising from or related to (x) the use and occupancy of or conduct within the Kiosk and the Park by Licensee, or (y) any work or thing done, or any condition created in or about the Kiosk during the term of this Agreement by Licensee, (ii) arising from any act or omission by Licensee or its agents, invitees, or contractors, (iii) arising from Licensee's failure to comply with any of the terms, covenants or conditions of this Agreement or any requirement of law, or (iv) arising out of any delay by Licensee in surrendering vacant possession of the Kiosk upon the expiration or sooner termination of this Agreement, and (b) all losses, costs, expenses, claims; and liabilities incurred in connection with each such claim or action or proceeding brought thereon. In case any action or proceeding is brought against one or more of the Indemnified Parties by reason of any such claim, Licensee shall pay all costs of the Indemnified Parties (including, without limitation reasonable attorneys' fees and disbursements and amounts paid in settlement with Licensee's approval, which shall not be unreasonably withheld or denied) incurred in connection therewith. The foregoing indemnity shall include all losses suffered by Licensor as a result of its inability (or delay) in licensing the premises licensed herein after the expiration or termination of this Agreement due to damage to the Kiosk or any other part of the Park caused by Licensee. Licensee's obligations hereunder shall not be limited in any way by the provisions of any insurance policy required under this Agreement, nor by the failure of any of the Indemnified Parties to pursue any rights or claims thereunder. Without limiting the generality of the foregoing, Licensee shall be responsible for any claims made by an employee of Licensee or member of the public against Licensee, Licensor or the City arising from Licensee's operations under this Agreement.

23. **ESTOPPEL CERTIFICATES.** Licensee, at any time, and from time to time, upon at least ten (10) days' prior notice by Licensor, shall execute, acknowledge and deliver to and for the benefit of Licensor an original certificate in recordable form, certifying that (if such be the case) Licensee has accepted the Kiosk, that this Agreement is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), that there are no defenses or offsets to Licensee's obligations hereunder (or stating those offsets and defenses claimed by Licensee), that no notice of assignment of Licensor's interest has been given to Licensee, the dates to which the Base License Fee and the Percentage License Fee, if any, has been paid hereunder and such other information as Licensor may reasonably request.

24. **DEFAULT.**

(a) Non-monetary default. In the event of any non-monetary default by Licensee, Licensor may terminate this Agreement by delivering notice thereof to Licensee advising of the default and if said default is not cured within thirty (30) days thereafter, or, in the event the default involves the safety of persons or Park structures, such shorter period as is stated in the notice, this Agreement shall, at the option of Licensor, terminate.

(b) Failure to make payments. In the event that Licensee does not make timely payment of any installment of the Base License Fee or the Percentage License Fee, or any other sums due under this Agreement, within ten (10) days after the due date thereof, Licensor shall have the right to terminate this Agreement upon not less than ten days' notice to Licensee; Licensee shall have the right to cure such default at any time up to the termination date set forth in such notice.

(c) Licensee's insolvency. If Licensee makes an assignment for the benefit of its creditors, or if a trustee, receiver, or similar officer of any court is appointed for Licensee or for a substantial part of its property or assets, whether with or without its consent, or if an action for bankruptcy, composition, reorganization, insolvency, or liquidation proceedings is or are instituted by or against Licensee and such action or proceedings are not dismissed within sixty (60) days from the date of the institution thereof, then such event shall constitute a default hereunder and Licensor may terminate this Agreement.

(d) Licensor's Rights. No termination hereunder shall be deemed to truncate or diminish Licensee's remaining obligations or Licensor's rights hereunder, and Licensor shall retain its rights and remedies in accordance with Section 36(e) below.

25. **WAIVERS.** Both parties hereto hereby waive trial by jury in any action or proceeding brought against the other relating to this Agreement. Licensee agrees not to claim any set-off or offset or interpose any counterclaim of whatever nature or description, except compulsory counterclaims, in a proceeding or action commenced by Licensor.

26. **BROKER.** Licensee represents to Licensor that Licensee has had no conversations or negotiations with any broker or finder with respect to this Agreement, other than those who may be acting as Licensor's consultants. Licensee agrees to indemnify, defend, and hold Licensor harmless from and against any and all claims for fees and commissions and against any liability (including reasonable attorneys' fees and disbursements) arising out of any conversations or negotiations had by Licensee with any broker or finder with respect to this Agreement.

27. **INSURANCE.**

(a) Licensee shall obtain and keep in full force and effect throughout the entire Term a policy of comprehensive commercial liability insurance and property damage insurance including broad form property damage, products/completed operations liability, contractual liability, independent contractors, fire/legal liability, property insurance and

automobile liability covering both owned and hired vehicles, which policy or policies shall name Bryant Park Corporation, the City of New York, their respective officials, agents and employees as additional insureds, thereunder. If the use of the Kiosk includes any activity or matter that is or may be excluded from coverage under a general liability policy, Licensee shall obtain such endorsements to the general liability policy or otherwise obtain coverage to insure all liability arising from such activity or matter in such amounts as Licensor may reasonably require. In addition, Licensee shall obtain and keep in full force and effect throughout the entire Term a policy of worker's compensation insurance covering all persons employed by Licensee as required by applicable law. Before the commencement of the Term, and at all times during the Term, Licensee shall furnish to Licensor duplicate original policies or certificates of commercial liability insurance, worker's compensation insurance and such other insurance as is required by this Section, in such form as Licensor may reasonably require, evidencing the coverage required by this Section. The commercial liability insurance policy shall (i) be non-cancelable unless thirty (30) days' written notice shall have been given to Licensor, (ii) contain a provision that no act or omission by Licensee shall affect or limit the obligation of the insurer to pay the amount of any loss previously sustained, (iii) have a minimum limit of liability in a combined single limit with respect to each occurrence in an amount of not less than Five Million Dollars (\$5,000,000.00) for injury (or death) to persons and/or damage to property in the aggregate, (iv) insure the acts and/or omissions of Licensee, its employees, agents and representatives as well as acts or omissions which occur in the Park and (v) have coverage at least as broad as that provided by the most recently issued Insurance Services Office Form CG0001, shall contain no exclusions other than as required by law or as may be approved by Licensor based on commercial availability, and shall be "occurrence" based to cover the entire period of the Term. Notwithstanding the above required limits of coverage, Licensor reserves the right to increase such requirements in the event that Licensor's own carrier or Parks requires such higher limits, and in such case, Licensee shall increase its coverage as required within thirty days after receiving notice of such increased requirements. Licensee shall be responsible for obtaining and maintaining insurance covering Licensee's property, equipment and inventory at the Kiosk.

(b) Damage and Destruction. In case of damage to or destruction of any of the Kiosk by fire or any other cause Licensee shall notify Licensor promptly and restore, repair, and replace or rebuild the Kiosk as nearly as may be possible to the condition, quality and class the same was in immediately prior to such damage or destruction, or with such changes or alterations as Licensee shall elect to make in conformity with Section 9. Such restoration, repairs, replacement or rebuilding shall be commenced with reasonable promptness and prosecuted with reasonable diligence. Licensee shall not be in default of the preceding sentence if Licensee is delayed in commencing such restoration, repairs, replacement or rebuilding because of delays in adjusting the loss with the insurance companies. Licensee shall have the right to terminate this Agreement, by giving Licensor notice of its election to do so within thirty (30) days after the date of such damage or destruction, and upon the giving of such notice this Agreement, except that Licensee shall assign all insurance proceeds, or the right to receive the same, to Licensor.

The term of this Agreement shall be extended for the period of time the Kiosk is closed due to such restoration, repairs, replacement or rebuilding.

The basic License Fee payable hereunder shall be abated from the date of the casualty until the completion of the restoration, repairs, replacement or rebuilding, but only to the extent of the net amount actually received by Licensor for application to the basic License Fee becoming due and payable during said period.

Each party hereby releases the other from any liability which it might otherwise have to the other party for any damage to the Kiosk by fire or other casualty to the extent that such damage shall be insured under a policy or policies of insurance permitting such release by a party. Each party shall cause each policy for property damage insurance to include a provision permitting such a release of liability, provided that if an insurer will not include such a provision in such policy or if the inclusion of such provision would involve an additional premium the party carrying the policy shall so advise the other party within a reasonable time. If the other party notifies the party carrying the policy that it desires such a provision to be included in the policy, the party carrying the policy shall use its best efforts to cause such a provision to be so included provided the other party shall promptly pay any additional premium therefor.

(c) Excluded Activities. If Licensee's use of the Kiosk or Designated Area includes the sale, service or consumption of alcoholic beverages, or any other activity or matter that is or may be excluded from coverage under a general liability policy, Licensee shall obtain such endorsements to the general liability policy or otherwise obtain coverage to insure all liability arising from such activity or matter in such amounts as Licensor may reasonably require.

28. **MARKETING**. Licensee shall use commercially reasonable efforts to advertise, market and promote the Kiosk in form and manner consistent with the character and dignity of the Park. Licensee agrees to keep Licensor informed of the marketing and promotional activities which Licensee is intending to engage in. The use of Licensor's name and logos, and references to the Kiosk and Bryant Park, shall be subject to Licensor's and the City's approval. Subject to the prior written approval of Licensor and the availability of space in the Park, Licensee may display its promotional materials in the brochure holders located in the Park. All uses of any sponsor's name, logo and other intellectual property shall be subject to the control of such sponsor.

29. **RENEWAL OPTION**.

(a) Provided this Agreement is in full force and effect and, Licensee is not in default hereunder beyond any applicable grace period, Licensee shall have the option to renew the term of this Agreement for an additional five years (the "**Renewal Term**") commencing on April 1, 2035 and expiring on March 31, 2040, unless this Agreement or such Renewal Term is earlier terminated in accordance with this Agreement. The renewal option shall be exercised by written notice to Licensor delivered no earlier than January 1, 2034 and no later than April 1, 2034. Licensor shall have 60 days after the giving of such notice to accept or reject the extension for the Renewal Term. In the event

that Licensor does not give notice to Licensee of its acceptance, the license granted hereunder shall expire as of the original expiration date of March 31, 2035, unless this license shall be terminated earlier. Failure to exercise within these dates shall be deemed a waiver of Licensee's right to the renewal option. Time shall be of the essence in connection with the exercise of such notice by Licensee. In considering Licensee's request for a renewal term, Licensor may consider Licensee's history of operation, including level of service and sales and contribution to the amenity of the Park, as well as payment history, and such other factors as Licensor may deem relevant, but Licensor's decision shall be at its sole discretion.

Notwithstanding any other provision of the Section, the initial term of the City-BPC License Agreement expires on July 18, 2028. Licensor currently intends to exercise its options to renew such agreement for two further terms of five years, expiring in 2038, and to extend such agreement beyond such date, but the renewal of such agreement will depend on the assent of the City, which cannot be guaranteed. In the event the City-BPC License Agreement is not extended, then upon the expiration or termination of the City-BPC License Agreement all of Licensee's rights granted under this Agreement shall terminate as well. However, if upon expiration or termination of the City-BPC License Agreement a replacement agreement takes effect, and such replacement agreement grants BPC the right to continue the license granted by this Agreement, then such replacement agreement shall be deemed to be an extension of the City-BPC License Agreement for purposes of this Agreement.

(b) Except as provided in subsection (a) above, this Agreement, as so extended during the Renewal Term, shall be upon the same terms and conditions as contained in this Agreement, except that the License Fee shall be the amount set forth in Section 3 above for the Renewal Term.

30. **LICENSOR'S OPTION TO TERMINATE.** (a) Licensor, its successors and assigns, shall have the absolute right, option and privilege to terminate this Agreement, the Term and Licensee's rights hereunder by giving written notice to Licensee by personal delivery, certified mail or nationally recognized overnight delivery service (the "**Termination Notice**"). The Termination Notice shall specify the date upon which the Term shall expire pursuant to this Section 30 (the "**Termination Date**"); provided, however, that Licensor may not terminate this Agreement on a date which is less than twenty-five (25) days from the date the Termination Notice is given, which shall be deemed to be have been given upon the date of mailing, delivery or refusal to accept delivery, as the case may be.

(b) Upon the Termination Date, this License and the Term shall cease, come to an end and expire as fully and as completely as if the Termination Date were the date originally fixed herein as the end and expiration of Term and the license granted hereunder. On or before the Termination Date, Licensee shall (i) vacate the Kiosk in accordance with all of its obligations pursuant to Section 17 of this Agreement and (ii) deliver to Licensor, an original acknowledgment letter executed by Licensee in the form

acceptable to Licensor acknowledging that the Term has been terminated in accordance with this Section.

31. **MECHANICS' LIENS.** Licensee shall not suffer or permit any mechanics' liens to be filed against the Kiosk or the Park, or part thereof, or any structure in the Park, by reason of work, labor, services or materials supplied or claimed to have been supplied to or anyone holding any interest in the Kiosk, or any part thereof through or under Licensee. If any such mechanics' lien shall at any time be filed, Licensee shall, within 30 days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Licensee shall fail to cause such lien to be discharged within the period aforesaid, then Licensor may discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding, and in any such event Licensee shall be required, if Licensor so elects, to take any and all steps necessary to prevent the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowance. Nothing in this License contained shall be deemed or construed in any way as constituting the consent or request of Licensor, express or implied by inference or otherwise, to any contractor, subcontractor, laborer, or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration or repair of the Kiosk, or any part thereof nor as giving Licensee a right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanics' lien against Licensor's or the City's interest in the Kiosk or the Park or any appurtenant structures or areas.

32. **NO DISCRIMINATION.** Licensee shall not unlawfully discriminate against any employee or applicant for employment or patron because of race, creed, sex, color, age, handicap, marital status, sexual preference or orientation, or national origin, or any other group with respect to whom such discrimination is now or hereafter prohibited under federal, state or local law. Licensee will take affirmative action to ensure that employees and applicants for employment are treated without regard to their race, creed, sex, color, sexual preference, or orientation, national origin, age, handicap or marital status, or any other group with respect to whom such discrimination is now or hereafter prohibited to contractors for the City under federal, state or local law. As used herein, the term "treated" shall mean and include, without limitation, the following: recruited whether by advertising or other means, compensation, selected for training, including apprenticeship, promoted, upgraded, demoted, downgraded, transferred, laid-off and terminated. Any violation of this Section shall be deemed a material breach of this Agreement, as a result of which Licensor may terminate or suspend same without incurring any penalty or damage on account of such termination or suspension.

33. **NOTICES.** Except as otherwise expressly set forth herein, all notices, demands, consents, deliveries and requests (each, a "Notice"), which either party may desire or be required to give to the other party, shall be deemed to be sufficiently given or rendered if in writing, and delivered by certified mail, return receipt requested, by a nationally recognized overnight courier service or by personal delivery, addressed to

Licensor or Licensee, as the case may be, at their respective address set forth above, and the time of giving of any such Notice shall be deemed to be the date upon which the same is delivered or the date of mailing, as the case may be. Either party may change the address to which Notices are to be sent by designating the new address in a Notice to the other party. In addition, Licensee shall furnish Licensor with a 24-hour emergency contact, and shall keep such emergency contact information updated so as to be current at all times throughout the Term.

34. **GOVERNING LAW; JURISDICTION AND VENUE.** (a) This Agreement shall be governed and construed in all respects by the laws of the State of New York.

(b) This License shall be deemed to be executed in the City of New York, State of New York, regardless of the domicile of the Licensee, and shall be governed by and construed in accordance with the laws of the State of New York.

(c) Any and all claims asserted by or against the City arising under this License or related thereto shall be heard and determined either in the courts of the United States located in New York City ("Federal Courts") or in the courts of the State of New York ("New York State Courts") located in the City and County of New York. To effect this License Agreement and intent, Licensee agrees:

(i) If the City initiates any action against the Licensee in Federal Court or in New York State Court, service of process may be made on the Licensee either in person, wherever such Licensee may be found, or by registered mail addressed to the Licensee at its address set forth in this License, or to such other address as the Licensee may provide to the City in writing; and

(ii) With respect to any action between the City and the Licensee in New York State Court, the Licensee hereby expressly waives and relinquishes any rights it might otherwise have (x) to move to dismiss on grounds of forum non conveniens, (y) to remove to Federal Court; and (iii) to move for a change of venue to a New York State Court outside New York County.

(d) With respect to any action between the City and the Licensee in Federal Court located in New York City, the Licensee expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a United States Court outside the City of New York.

(e) If the Licensee commences any action against the City in a court located other than in the City and State of New York, upon request of the City, the Licensee shall either consent to a transfer of the action to a court of competent jurisdiction located in the City and State of New York or, if the court where the action is initially brought will not or cannot transfer the action, the Licensee shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in New York City.

35. **MISCELLANEOUS.**

(a) **“Park.”** As used in this Agreement the term “Park” shall include the entirety of Bryant Park, together with abutting sidewalks.

(b) **Approvals and Consents.** Unless otherwise specifically stated in this Agreement, or otherwise required by law, whenever the approval or consent of Licensor is required hereunder, Licensee shall request such approval or consent in writing, and such approval or consent may be granted or withheld at the discretion of Licensor, with no further liability or obligation to Licensee with respect to such decision, but subject to the limitations set forth in this section. In all matters of design, appearance, style and color, Licensor will have full, unconditional right of approval.

(c) **Employee Discount.** All employees of Licensor, and Licensor for its internal catering needs, shall receive a discount from Licensee equal to 20 percent of the costs of the items offered for sale on Licensee’s price lists upon presentation of proper employee ID.

(d) **Validity.** A determination that any provision of this Agreement is void, unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Agreement to any person or under particular circumstances is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances.

(e) **Remedies.** The parties hereby expressly acknowledge and agree that their remedies are cumulative, and that mention of a particular remedy in this Agreement does not preclude either from exercising any and all other rights and remedies available to it, whether at law or in equity.

(f) **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and no earlier statement or prior written agreement between the parties with respect to the subject matter of this Agreement shall have any force or effect. Licensee agrees that it is not relying on any representations, warranties or agreements other than those expressly contained in this Agreement. This Agreement shall not be modified or cancelled except in a writing subscribed by all parties hereto. This Agreement shall bind the parties hereto and their successors and permitted assigns.

(g) **Survival.** Each and every obligation and liability of Licensee under this Agreement shall survive the expiration or sooner termination of this Agreement.

(h) **Headings.** The headings contained in this Agreement are inserted solely for reference and shall not constitute a part of this Agreement nor affect its meaning, construction or effect.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

LICENSOR:

BRYANT PARK CORPORATION

By: _____
Name: _____
Title: _____

LICENSEE:

[COMPANY NAME]

By: _____
Name: _____
Title: _____

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

On _____, 202_ before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature(s) on the instrument, the entity upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

On _____, 202_ before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature(s) on the instrument, the entity upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

EXHIBITS:

Exhibit A—Site Plan for the Kiosk and location plan for Bryant Park, including Trash Container Storage Area and Trash Container Pickup Location

Exhibit B—Photos of the four Kiosks

Exhibit C—Summary of Existing Utilities

Exhibit D— Final Design Renderings and Drawings, Menu Boards, and Other Signage; Initial Menu Items and Price List

Exhibit E—The City-BPC License Agreement

Special Provisions for Individual Kiosks

Note: The following provisions will be added to the licenses for the Kiosks indicated:

Kiosk 1:

WIRELESS EQUIPMENT AND SECURITY CAMERAS. Licensee acknowledges that Kiosk #1 contains wireless fidelity equipment (the “Wi-Fi Equipment”) and security cameras which services Park. Licensee shall have no right, title or interest in or to the Wi-Fi Equipment and security cameras. Licensee shall not remove, alter, tamper, obstruct or otherwise affect the Wi-Fi Equipment and security cameras. At all times during the Term, Licensor shall be always entitled to access to the Wi-Fi Equipment and security cameras and shall have the right to relocate the Wi-Fi Equipment and security cameras to another Kiosk, at Licensor’s sole cost and expense.

Kiosk 2: There are no provisions for this Kiosk

Kiosk 3:

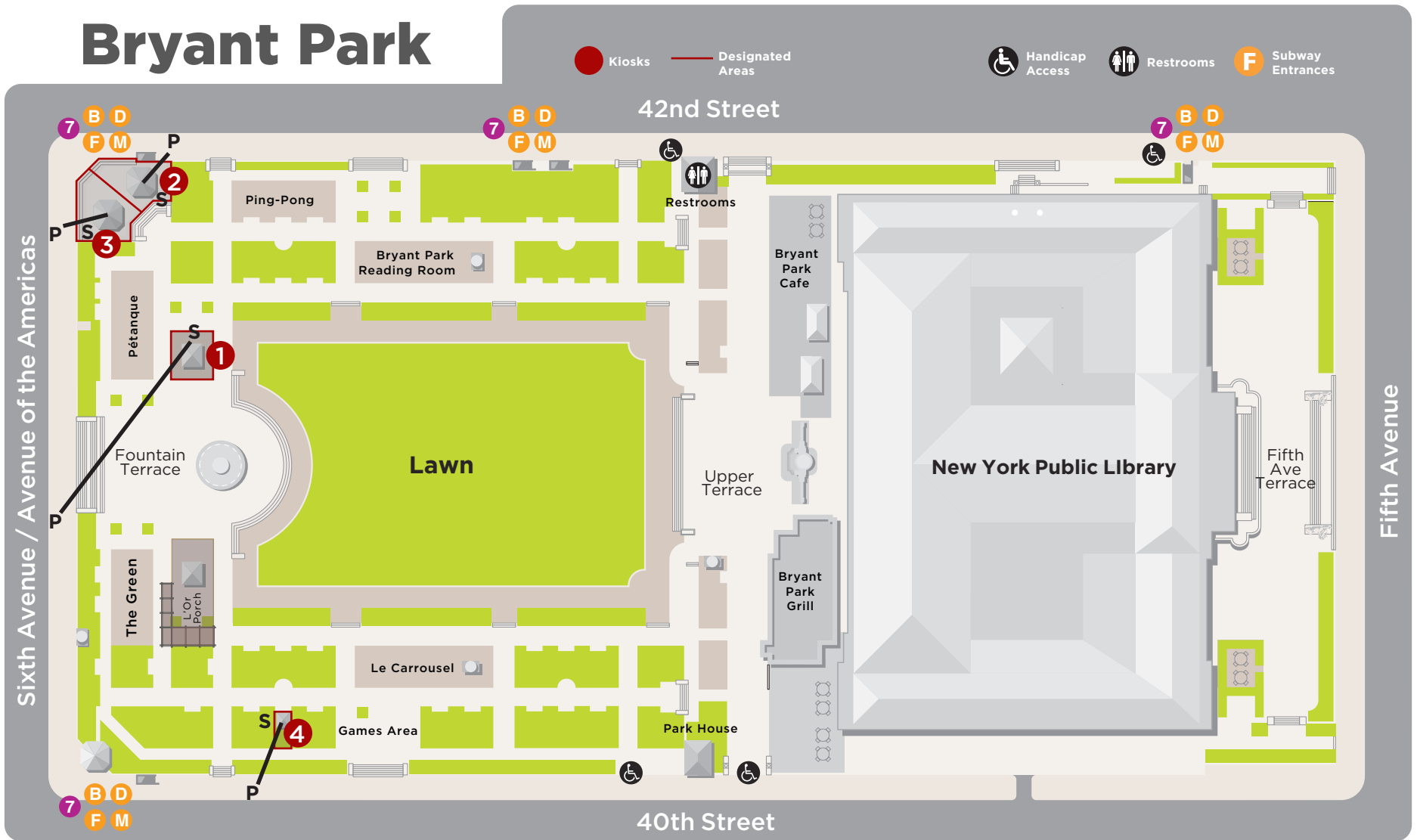
TELEPHONE EQUIPMENT. Licensee acknowledges that Kiosk 3 contains a phone terminal that is used by Licensor for special events. Licensee shall give Licensor access to such phone terminal upon 24 hours prior notice (except in the event of an emergency). Licensor agrees that it shall not remove, alter, tamper, obstruct or otherwise affect such phone terminal. At all times during the Term, Licensor shall be entitled to access to phone terminal.

Kiosk 4:

WIRELESS EQUIPMENT AND SECURITY CAMERAS. Licensee acknowledges that Kiosk 4 contains wireless fidelity equipment (the “Wi-Fi Equipment”) and security cameras which services the Park. Licensee shall have no right, title or interest in or to the Wi-Fi Equipment and security cameras. Licensee shall not remove, alter, tamper, obstruct or otherwise affect the Wi-Fi Equipment and security cameras. At all times during the Term, Licensor shall be entitled to access the Wi-Fi Equipment and security cameras and shall have the right to relocate the Wi-Fi Equipment and security cameras to another Kiosk, at Licensor’s sole cost and expense.

Exhibit A

Bryant Park



Bryant Park Kiosk Trash Locations

- P = Pickup Location
- S = Storage Location

February 26, 2024

EXHIBIT B



Kiosk 1
Currently Le Pain Quotidien



Kiosk 2
Currently Breads Bakery



Kiosk 3
Currently Wafels & Dinges



Kiosk 4
Currently Joe Coffee

Bryant Park Kiosks — Utility Summaries

Exhibit C

Utility / Infrastructure	Kiosk No. 1 Currently Le Pain Quotidien	Kiosk No. 2 Currently Breads Bakery	Kiosk No. 3 Currently Wafels & Dinges	Kiosk No. 4 Currently Joe Coffee
Kiosk Dimension / SF	13ft x 13ft. / 169 SF	12ft x 12ft (nom.) / 126SF	10ft x 10ft (nom.) / 125SF	12ft x 12ft (nom.) / 126SF
Electricity	100 Amp 3 Phase Sub meter to BPC Con Ed account	200 Amp 3 Phase Licensee Con Ed account	200 Amp 3 Phase Sub-metered by BP	100 Amp 3 Phase Licensee Con Ed account
Water (one DEP account)	1 inch incoming water service Licensee DEP account	1 inch water service; 2 inch park main. Licensee DEP account	1 inch water service; 2 inch park main. Licensee DEP account	1 inch water service; 2 inch park main. Licensee DEP account
Drainage	3 inch sanitary waste line; No grease trap	3 inch sanitary waste line; No grease trap	3 inch sanitary waste line; grease trap in floor	3 inch sanitary waste line; No grease trap
Gas (One Con Ed account)	3" gas main to kiosk. Gas HW Heater by Licensee; Gas ceiling heater by Licensee. Licensee Con Ed account	No Gas.	No Gas.	Gas line terminates at kiosk exterior wall.
Winter Use	Yes. Kiosk is heated.	Yes. Kiosk is heated.	Yes. Split AC / Heating unit.	Yes. Kiosk is heated.
Air Conditioning	Yes. Licensee AC Unit	Yes. Licensee AC Unit	Yes. Split AC / Heating unit.	Yes. Licensee AC Unit
FIOS / Telephone	Verizon FIOS connection Licensee Verizon account	Existing copper lines from Verizon. Licensee Verizon account.	Cat 5 line from Kiosk No. 2. Licensee Verizon account.	Verizon FIOS connection Licensee Verizon account

LICENSE AGREEMENT

BETWEEN

BRYANT PARK CORPORATION

AND

**CITY OF NEW YORK
DEPARTMENT OF
PARKS & RECREATION**

for

THE OPERATION AND MAINTENANCE OF BRYANT PARK

MANHATTAN, NEW YORK

M8-O

DATED: JUNE 8, 2018

2018-026816

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LICENSE AGREEMENT (this "License Agreement," "Agreement" or "License") made this 8 day of JUNE, 2018 between the City of New York (the "City") acting by and through the Department of Parks & Recreation ("Parks"), whose address is The Arsenal, Central Park, 830 Fifth Avenue, New York, New York 10065 (Fax No. 212-360-3434), and Bryant Park Corporation ("Licensee" or "BPC"), formerly the Bryant Park Restoration Corporation, a New York not-for-profit corporation, whose address is 1065 Avenue of the Americas, Suite 2400, New York, NY 10018 (Fax No. (212) 719-3499).

WHEREAS, Parks has jurisdiction over parklands of the City and facilities therein pursuant to Section 533(a) of the City Charter and is charged with the duty to manage, maintain and operate City parks facilities; and

WHEREAS, Bryant Park located between 40th and 42nd Streets and Fifth and Sixth Avenues, in Manhattan, New York is a property under the jurisdiction of Parks; and

WHEREAS, pursuant to its Certificate of Incorporation, as amended, Licensee was formed in 1980 for the purpose of aiding and supplementing the activities of the City and the New York Public Library Astor, Lenox and Tilden Foundations with respect to the restoration, maintenance and utilization of Bryant Park (also referred to herein as the "Park," "Licensed Premises" or "Premises" and are further denoted and described in Exhibit A attached hereto; the portion of the Park, Licensed Premises, or Premises enclosed by the broken red line on Exhibit A is referred to as the West Terrace; and

WHEREAS, the Bryant Park Management Corp. ("BPMC") manages the Bryant Park Business Improvement District ("BID"), an area that includes the Licensed Premises, and by that certain Contract with the City of New York, Department of Small Business Services, dated as of July 1, 2017 ("SBS Contract"), BPMC agrees to provide supplemental sanitation, security, public programming, as well as capital improvements and maintenance thereof for the BID and BPMC provides funds to Licensee to fulfill its obligations under the SBS Contract regarding the Licensed Premises; and

WHEREAS, the City desires to encourage the participation of interested not-for-profit organizations in providing supplemental services, including maintenance, recreational and educational programs, for the benefit of the public; and

WHEREAS, Licensee and Parks have developed an effective public/private partnership through which Licensee, under the review and approval of the Commissioner, has undertaken substantial responsibility for public programming, specific maintenance, and capital improvements at the Park pursuant to that certain agreement dated as of July 29, 1985 between Parks and Licensee pursuant to which Licensee has operated and maintained the Park since that date; and

WHEREAS, at the time of BPC's founding in 1980, the Park had suffered a severe decline in conditions and was substantially underused, caused by rampant crime and other social problems; and

WHEREAS, BPC was established to reverse the Park's decline and transform the Park into a urban amenity to realize its potential to enhance the quality of life in the City; and

WHEREAS, beginning in 1988, BPC, working with the City, implemented a master plan for the Park, under which the Park's infrastructure was overhauled, its monuments and landscaping were restored, and a restaurant pavilion, two newsstands (on the 42nd Street sidewalk bordering the Park) and four concessions kiosks were constructed; and

WHEREAS, with the reopening of the Park in April, 1992, BPC, in cooperation with the City, instituted a comprehensive program of activities in the Park, including high-level entertainment, educational and cultural events for people of all ages, to encourage use and enjoyment of the Park by the public while contributing to the cultural life of the City; and

WHEREAS, under BPC's stewardship, the Park has been transformed into a world-class public space; and

WHEREAS, Licensee has made in excess of \$19 million in capital improvements to the Park; and

WHEREAS, Licensee is party to a lease agreement dated July 29, 1985, as amended, amongst the City and the New York Public Library ("the Terrace Agreement") regarding the area depicted in Exhibit A as the West Terrace Demarcation; and

WHEREAS, the Terrace Agreement, as amended, provides that, pursuant to State alienation legislation as codified in the New York City Administrative Code Title 18, Section 18-128.2, Licensee be granted the right to enter into a lease to operate a restaurant or restaurants on the West Terrace and use the revenues from lease(s) for the benefit of the Park, which would include, but not be limited to, Licensee obligation under this License Agreement, Licensee's administrative expenses, and Licensee's Special Events and projects at the Park; and

WHEREAS, the Terrace Agreement is not a part of this Agreement, except that any revenues that Licensee receives pursuant to rights granted to Licensee from the Terrace Agreement, will be accounted for under this Agreement in order that all funds earned within the Licensed Premises are properly accounted for and used to benefit the Licensed Premises, and

WHEREAS, Parks desires to provide for the continued operation of food concessions, special events, a carousel, newsstands, seasonal markets, an ice-skating rink and other visitor services and events authorized by Parks at the Park and the maintenance of the Park for the accommodation of and use by the public; and

WHEREAS, Licensee has extensive experience operating food concessions and special events, providing amenities and performing maintenance activities in the Park; and

WHEREAS, Licensee is willing to continue to perform responsibilities associated with maintaining and repairing the parkland comprising the Park for the benefit of the public, including the provision of programs, amenities and activities that will increase public interest in and awareness of the parkland; and

WHEREAS, the Franchise and Concession Review Committee ("FCRC") authorized Parks to enter into a Sole Source License Agreement with Licensee for the operation of food concessions, special events, a carousel, newsstands, seasonal markets, an ice-skating rink and

other visitor services and events authorized by Parks at the Park and for the revenue therefrom to be used exclusively for the maintenance and operation of the Park as set forth herein for the accommodation of and use by the public; and

WHEREAS, Licensee desires to operate food concessions, special events, a carousel, newsstands, seasonal markets, an ice-skating rink and other visitor services and events authorized by Parks and maintain and operate the Park in accordance with the terms set forth herein; and

WHEREAS, Parks and Licensee desire to enter into this License Agreement specifying rights and obligations with respect to the operation of food concessions, special events, a carousel, newsstands, seasonal markets, an ice-skating rink and other visitor services and events authorized by Parks at the Park and the maintenance and operation of the Park;

NOW THEREFORE, in consideration of the promises and covenants contained herein, the parties do hereby agree as follows:

1. GRANT OF LICENSE

1.1 (a) Parks hereby grants to Licensee and Licensee hereby accepts from the Commissioner this License and the rights and obligations contained herein to operate and maintain the Licensed Premises for the use and enjoyment of the general public in accordance with the terms herein and to the reasonable satisfaction of the Commissioner.

(b) (1) Licensee is hereby authorized and agrees to provide food concessions approved by Parks ("Food Concessions"), from mobile food units, kiosks and/or booths, subject to the approval of Parks. Parks has heretofore approved five (5) food kiosks and three (3) mobile food carts in the Park. Subject to the approval of Parks, Licensee shall have the right to operate and maintain, or to grant sublicenses to third parties to operate and maintain Food Concessions in the Park.

(2) Licensee is hereby authorized to provide the following:

(i) Temporary or seasonal markets for food or other Parks appropriate items (e.g., holiday market, farmers' market and food kiosks) for sale approved by Parks ("Temporary Markets"). Subject to the approval of Parks, Licensee shall have the right to operate and maintain, or to grant sublicenses to third parties to operate and maintain, Temporary Markets in the Park. Food Concessions and Temporary Markets may take the form of mobile food units, kiosks and/or booths. The design and placement of all Food Concessions and Temporary Markets are subject to Parks' written approval;

(ii) Special Events (as defined in 56 RCNY Section 1-02) permitted by Parks at the Park. Subject to this Section 1 and Section 13, Licensee shall have the right to host its own Special Events, or contract with third parties to operate Special Events in the Park (together, "Licensee's Special Event(s)");

(iii) Licensee shall have the right to operate and maintain, or to grant sublicenses to third parties to operate and maintain newsstands located along the south side of West 42nd Street, west of Fifth Avenue, adjacent to the Park ("Newsstands").

(iv) Licensee shall have the right to operate and maintain, or to grant sublicense to a third party to operate and maintain a carousel in the Park ("Carousel");

(v) Licensee shall have the right to operate and maintain, or to grant sublicenses to third parties to operate and maintain a seasonal ice rink and related amenities in the Park ("Seasonal Rink");

(vi) Advertising (as set forth in this subdivision (vi) and as defined in Section 2): Licensee shall have the exclusive right to sell and display Advertising on the newsstands panels located along the south side of West 42nd Street, west of Fifth Avenue, adjacent to the Park ("the Newsstand Panels"), subject to the prohibitions contained in Section 10.12 (c), (d), and (e) and the following conditions: Advertising shall only be placed on the Newsstands Panels (or any replacement thereof) during the term of this License. No Advertising shall be placed on any fences, park furniture or free standing structures of any kind other than the Newsstands. In addition, notwithstanding the restriction that Advertising be contained in the Newsstands Panels and the prohibitions contained in Section 10.12 regarding signage, for Licensee's Special Events in which a product or service is being promoted, temporary promotional signage may be permitted in the Licensed Premises for the duration of the applicable Licensee's Special Event, subject to approval by Parks of such Licensee's Special Event and the relevant signage.

(c) (i) Licensee may sublicense portions of the Park (the "Sublicensed Premises") for the operation of Food Concessions or Temporary Markets, a carousel, newsstands, an ice-skating rink and other visitor services and events authorized by Parks to sublicensees approved in advance in writing by Parks (the "Sublicensees"). The terms and conditions of any such sublicense ("Sublicenses") shall be subject to the prior written approval of Parks. Any Sublicense which is authorized hereunder shall be subject and subordinate to the terms and conditions of this License and Licensee shall require the Sublicensee to acknowledge in writing that it received a copy of this License and that it is bound by same. All provisions of this License applicable to Licensee with respect to the operation of any Sublicense shall be equally applicable to any Sublicensee except as may be otherwise expressly noted in this Agreement. Licensee shall require any Sublicensee to agree in writing that it will comply with Parks' directives and the provisions of this License applicable to Licensee and shall be responsible for assuring such compliance. If any Sublicensee does not comply with this License insofar as applicable to it, such Sublicensee's operations shall be terminated by Licensee upon direction of Parks. No Sublicense may be assigned without the prior written consent of Parks.

(ii) In selecting a Sublicensee, Licensee shall comply with the written procedures, established by the Licensee and approved by Parks, for soliciting requests for proposals ("RFP") from qualified proposers and for selecting a qualified proposer with terms and conditions approved by Parks. The RFP shall be advertised in the City Record and other appropriate publication(s) approved by Parks. Parks shall require Licensee to conduct a background check of any proposed Sublicensee in accordance with Parks' usual procedures and

requirements and subject to Parks' approval. Parks' disapproval of the successful proposer shall be deemed reasonable if the successful proposer fails the background check.

(iii) Licensee has granted a sublicense to JAGR BRYANT PARK LLC d/b/a Joe Coffee, a New York limited liability company, to operate a Food Concession using the food kiosk at the Park under the name Joe Coffee pursuant to a License Agreement dated as of April 17, 2017. Parks hereby approves such Food Concession.

(iv) Licensee has granted a sublicense to BREAD OF BRYANT PARK, LLC, a New York limited liability company to operate a Food Concession using the food kiosk at the Park under the name Breads Bakery pursuant to a License Agreement dated as of March 26, 2015. Parks hereby approves such Food Concession.

(v) Licensee has granted a sublicense to Belgo BRO LLC, a New York limited liability corporation, to operate a Food Concession using the food kiosk at the Park under the name Wafels and Dinges pursuant to a License Agreement dated as of March 27, 2015. Parks hereby approves such Food Concession.

(vi) Licensee has granted a sublicense to Bryant Park Southwest LLC, a Delaware limited liability corporation, to operate a Food Concession using the food kiosk at the Park under the name Southwest Porch pursuant to a License Agreement dated as of March 27, 2015. Parks hereby approves such Food Concession.

(vii) Licensee has granted a sublicense to LPQ WEST 40TH ST., INC., a Delaware limited liability corporation, to operate a Food Concession using the food kiosk at the Park under the name Le Pain Quotidien pursuant to a License Agreement dated as of March 18, 2015. Parks hereby approves such Food Concession.

(viii) Licensee has granted a sublicense to MOVE SYSTEMS INTERNATIONAL, LLC, a Delaware limited liability corporation, to operate three (3) mobile food carts at the perimeter sidewalks adjacent to Park pursuant to a License Agreement dated as of June 19, 2017. Parks hereby approves such Food Concession.

(ix) Licensee has granted a sublicense to URBAN SPACE HOLDINGS, INC., to operate a Temporary Market at the Park under the name Holiday Shops pursuant to a License Agreement dated as of April 16, 2016. Parks hereby approves such Temporary Market concession.

(x) Licensee has granted a sublicense to RINK MANAGEMENT SERVICES CORPORATION, a Virginia Corporation, to operate a seasonal skating rink at the Park ("Park Rink") and to provide a concession for skate rentals and supplies, dated August 9, 2016. Parks hereby approves such concession

(xi) Licensee has granted a sublicense to HUDSON YARDS SPORTS & ENTERTAINMENT LLC., D/B/A Union Square Events, a New York limited liability company, to operate food, beverage, and event concessions as part of the seasonal Park Rink, dated May 31, 2016. Parks hereby approves such concession.

(xii) Licensee has granted a sublicense to Zashim Uddin, to operate two newsstands located along the south side of West 42nd Street, west of Fifth Avenue, adjacent to the Park, dated July 14, 2014. Parks hereby approves such concession.

(d) Licensee may operate the Licensed Premises for Licensee's Special Events. All Licensee's Special Events on any portion of the Licensed Premises must be approved in advance in writing by the Commissioner or the Commissioner's designee, which approval shall not be unreasonably withheld. Licensee shall give the Commissioner at least twenty-one (21) days (or such lesser period as approved by Parks) advance written notice of any tentatively scheduled Licensee's Special Event. Licensee's Special Events may not restrict public access to the Licensed Premises without Parks' prior written consent. Licensee's Special Events shall not require a sublicense, but the sponsor or host of the event must enter into an agreement with Licensee that is acceptable to Parks before the commencement of load-in for such Licensee's Special Event.

(e) Licensee shall be responsible for payment of any and all fees or royalties to ASCAP, BMI, or other entities as may be required for any music or music programming during its programming.

(f) All Gross Receipts (as hereinafter defined) received by Licensee from any Advertising, Sponsorships (as defined below), Restaurant Leases (as defined below) and from any of Licensee's Special Events, or the operation of, or the Sublicense of any Food Concessions, Temporary Markets, carousel, newsstands, ice-skating rink and other visitor services and events authorized by Parks shall be accounted for within the general ledger accounts of Licensee in a clearly identifiable manner and will be used by Licensee exclusively to pay Expenses (as hereinafter defined). Any Excess Revenues (as hereinafter defined in Section 2.1(f)) for any Fiscal Year and any disbursements therefrom shall be accounted for by Licensee in the general ledger accounts referenced above in a clearly identifiable manner, and any Excess Revenues shall be used exclusively to pay: i) accumulated Expenses incurred in the prior Fiscal Year that exceed Gross Receipts for that Fiscal Year; or ii) Expenses incurred in any subsequent Fiscal Year, subject to submission to Parks of the report described in Section 4.1(c).

(g) (i) Subject to the approval of the Commissioner, Licensee, as part of its mission and in connection with Licensee's Special Events, may provide free services and programming open to the public in the Licensed Premises, including, without limitation, horticulture, education, athletics, maintenance, tours, food, products, programs, and concerts. All the events and programs listed on Exhibit B are approved. Licensee may make non-substantive changes to the Exhibit B without seeking Parks approval, but Licensee must provide Parks with written notice within twenty (20) days of the non-substantive changes and Parks has twenty (20) days after receipt of such notice to review and, if Parks disagrees, Parks shall notify Licensee that it believes that the changes are substantive. In those instances, the changes shall immediately cease and the parties will enter into good faith negotiations to resolve the dispute; in addition, all substantive changes must be approved in advance in writing by Parks. To the extent Licensee has, prior to March 1 of any year of the Term, set the schedule of the Licensee's Special Events for the balance of that year, then Licensee agrees to provide Parks with any update or change to Exhibit B for that year no later than March 1 of that year. The foregoing shall not restrict Licensee's right to update or change Exhibit B after March 1.

(ii) All aspects of Licensee's Special Events shall comply with the Parks Department Rules and Regulations, including, but not limited to obtaining Parks permits where applicable. Licensee is responsible for securing any/all ancillary permits required as they pertain to outside agency regulations. These may include, but not be limited to NYPD Amplified Sound permits, Department of Buildings' structural or temporary place of assembly permits, Department of Health permits and Fire Department permits. Any sound or music equipment shall be operated in accordance with the Rules of the City of New York, Title 56 RCNY §1-05(d), the Administrative Code of the City of New York, §24-et seq., and only at times and at a sound level acceptable to the Commissioner. Licensee must make every effort to ensure that any and all sounds and/or music from its operation of the Licensed Premises is in such a manner so as to avoid or minimize disturbance or discomfort to the surrounding community. Amplified sound and music must not exceed the decibel level allowed by City noise regulations. A cabaret license will be strictly prohibited at the Licensed Premises.

(h) No Advertising is permitted in the Licensed Premises, except for the Advertising on the Newsstands Panels.

(i) All menus, merchandise, and other services (items and prices), which are attached hereto as Exhibit C are approved by Parks. Licensee may make non-substantive change to the Exhibit C without seeking Parks approval, but Licensee must provide Parks with written notice within twenty (20) days of the non-substantive changes and Parks has twenty (20) days after receipt of such notice to review and, if Parks disagrees, Parks shall notify Licensee it believes that the changes are substantive. In those instances, the changes shall immediately cease and the parties will enter into good faith negotiations to resolve the dispute; in addition, all substantive changes must be approved in advance in writing by Parks. Licensee may increase any previously approved price by up to 3% a year by submission of written notice to Parks. Unless Parks objects, within twenty (20) days after receipt of written notice from Licensee, the increase is approved. However, if Parks objects then the parties will negotiate in good faith to resolve the dispute during which time the increase will not go into effect. In addition, Licensee may increase any previously approved price by more than 3% per year subject to Parks' prior written approval. If any changes are made to Exhibit C, Licensee shall update Exhibit C accordingly and promptly provide a revised Exhibit C to Parks.

(j) All Sponsorships and acknowledgment of Sponsorships, which are attached hereto as Exhibit D are approved by Parks. Licensee may make non-substantive changes to the Exhibit D without seeking Parks approval, but Licensee must provide Parks with written notice within twenty (20) days of the non-substantive changes and Parks has twenty (20) days after receipt of such notice to review and, if Parks disagrees, Parks shall notify Licensee that it believes that the changes are substantive. In those instances, the changes shall immediately cease and the parties will enter into good faith negotiations to resolve the dispute; in addition, all substantive changes must be approved in writing by Parks. If any changes are made to Exhibit D, Licensee shall update Exhibit D accordingly and promptly provide a revised Exhibit D to Parks.

(k) All hours of operation of Licensee and any Sublicensee, which are attached hereto as Exhibit E are approved by Parks. Licensee may make non-substantive change to the Exhibit E without seeking Parks approval, but Licensee must provide Parks with written notice within twenty (20) days of the non-substantive changes and Parks has twenty (20) days

after receipt of such notice to review and, if Parks disagrees, Parks shall notify Licensee it believes that the changes are substantive. In those instances, the changes shall immediately cease and the parties will enter into good faith negotiations to resolve the dispute; in addition, all substantive changes must be approved in writing by Parks. If any changes are made to Exhibit E, Licensee shall update Exhibit E accordingly and promptly provide a revised Exhibit E to Parks.

(l) Parks must approve in writing all prices for goods or services, or activities authorized in this Section 1.1.

1.2 All menus, merchandise, and other services for Sublicenses or Licensee's operations must be approved in advance in writing by Parks, other than what has already been approved pursuant to Section 1.1 (i) and Exhibit C. Licensee, if it is selling food to the public, and any Sublicensee, shall obtain any and all approvals, permits, and other licenses required by Federal, State and City laws, rules, regulations and orders to sell food to the public. In furtherance of the foregoing, any staff assigned by Licensee or any Sublicensee, as applicable, to sell food and beverages to the public must possess all Federal, State, and City authorizations and possess, and at all times display, appropriate New York City Department of Health and Mental Hygiene ("DOHMH") permits. A person may operate a Food Concession only if it has obtained the permits and authorizations required by DOHMH. At all times that a Food Concession is operating, a staff person with a valid DOHMH food handler's license must be present. Any person selling food to the public without all necessary permits may be subject to fines and/or confiscation of goods.

1.3 The operation of a mobile food unit in the Park shall require a DOHMH Vendor License for each person designated as an operator of a mobile food unit and a DOHMH Mobile Food Vending Unit Permit for each mobile food unit. All persons designated as mobile food unit operators must have a valid DOHMH Vendor License in order to operate. All mobile food units must pass a DOHMH inspection in order to receive a DOHMH Mobile Food Vending Unit Permit. All mobile food units operating under this Agreement or a Sublicense must first pass a DOHMH inspection. Licensee or any Food Sublicensee, as applicable, must submit to Parks a valid DOHMH Vendor License and a DOHMH Mobile Food Vending Unit Permit before the operation of a mobile food unit can commence. Licensee or any Sublicensee, as applicable, must provide Parks with documentation that it has been issued a valid DOHMH Vendor License and DOHMH Mobile Food Vending Unit Permit for each mobile food unit. If Licensee or any Sublicensee operates a mobile food unit without a valid DOHMH Vendor License and a DOHMH Mobile Food Vending Unit Permit, Parks will instruct the operator thereof to cease operations and such operator will be subject to fines. When warranted, Officers of the Parks Enforcement Police, New York City Police Department, FDNY and DOHMH may confiscate the mobile food units, including goods. In the case of any third-party not operating under Licensee's auspices or as otherwise authorized to operate pursuant to Federal, State, or City law, Parks will take reasonable steps to instruct the operator thereof to cease operations and such operator will be subject to fines.

1.4 The design, dimensions, and placement of any mobile food unit operating in the Park is subject to Parks' prior written approval.

1.5 It is expressly understood that no land, building, space, or equipment is leased or otherwise conveyed to Licensee or to any Sublicensee pursuant to this License Agreement, but that, during the Term of this License, Licensee and any Sublicensee shall have the use of the Licensed Premises for the purposes herein provided. Notwithstanding the foregoing, the parties acknowledge and agree that the West Terrace and the improvements thereon are leased to Licensee pursuant to the Terrace Agreement and are not licensed to Licensee pursuant to this Agreement. However, the parties further agree that Licensee's operations and activities on the West Terrace are subject to the terms and provisions of this License Agreement for so long as this License Agreement is in full force and effect, but the operations and activities of Restaurant Lessee (as defined below) on the West Terrace and the improvements operated by Restaurant Lessee on the West Terrace are not subject to the terms and provisions of this License Agreement, notwithstanding anything to the contrary contained in this License Agreement, except Licensee shall comply with Section 4.1(b) as it relates to Restaurant Lessee for so long as this License Agreement is in full force and effect. Similarly, Restaurant Lessee is not a Sublicensee, the Restaurant Lease is not a Food Concession, and no other food or beverage operation conducted by Restaurant Lessee on the West Terrace shall constitute a Food Concession under this License Agreement.

1.6 Licensee shall, and shall cause any Sublicensee to, provide at all times full and free access to the Licensed Premises to the Commissioner or his representatives and to other City, State and Federal officials having jurisdiction for inspection purposes and to ensure Parks' satisfaction with Licensee's and any Sublicensee's compliance with the terms of this License or any sublicense.

1.7 (a) Licensee may enter into Sponsorships with a Sponsor, and may install Sponsorship Recognition for such Sponsor, all subject to the prior written approval of Parks, including, but not limited to, approval over the size, quantity and location of Sponsorship Recognition and other forms of recognition and subject to applicable laws, rules and regulations Licensee may submit to Parks for its approval proposed plans or mock-ups for Sponsorship Recognition, and if Parks approves any such proposed plans or mock-ups, then Licensee shall be entitled to use Sponsorship Recognition without any further approval of Parks so long as such Sponsorship Recognition is not materially different from the proposed plans or mock-ups theretofore approved by Parks, or from Exhibit D. In recognition of the commercial exigencies of product promotions, Licensee shall submit to Parks for its approval Sponsorship Recognition or related plans or mock-ups promptly after any of the foregoing is available, and Parks shall endeavor in good faith to review any submissions and respond with its approval or comments as expeditiously as practical, notwithstanding anything to the contrary contained in Section 12.3 or elsewhere in this Agreement.

(b) (i) Except as set forth in subparagraph (ii) below, all intellectual property rights in the Park name, signage, structures, historical location, monuments, or other items or material that depict, are sited in, or refer to the Park and any other names, trademarks, service marks, copyrights, patents, trade names, service names, logos, domain names, identifiers, images and other intellectual property (i) developed or designed by the City or its employees, contractors, or others on behalf of the City, or (ii) in the case of trademarks, used by the City in commerce, unless Licensee is a prior user of any trademark in commerce, are the property of the City ("City IP"). To the extent that Licensee uses any City IP in the course of performing its non-

profit activities, Licensee shall obtain the prior written permission and approval from Parks for such use. If Parks permits Licensee to use the City IP for non-commercial purposes, such use will be non-exclusive, royalty-free, world-wide, non-transferrable and non-sublicensable and any revenue generated by Licensee therefrom will be for not-for-profit purposes and will be used by Licensee only in support of the Park. To the extent that Licensee seeks to make commercial use of City IP (i.e. through merchandise sales, licensing or other use intended to or which does generate revenue), such use shall require the prior, written agreement of Parks, on terms to be agreed by the parties, and any revenue derived by Licensee shall be used exclusively to benefit the Park. Upon Parks' request, Licensee shall provide Parks with an accounting reasonably satisfactory to Parks of revenue derived from and expenditures made from any use of City IP. To the extent that prior permission and approval of Parks has already been obtained to use City IP (whether for non-commercial or commercial purposes, as the case may be), it is hereby continued as previously agreed upon, subject to the use and monetary restrictions contained in this subparagraph (i). Nothing in this subparagraph (i) prohibits Licensee, any Sublicensee or any other person claiming by or through Licensee or any Sublicensee from using the words "Bryant Park" as part of the business address thereof or in the ordinary course of business thereof, and nothing in this subparagraph (i) requires Licensee, any Sublicensee or any other person claiming by or through Licensee or any Sublicensee from obtaining permission from Parks to use the words "Bryant Park" as provided in this sentence; provided, however, that Licensee, any approved Sublicensee or any other person claiming by or through Licensee or any approved Sublicensee specifically acknowledge that the Bryant Park name or words as described in this subparagraph (i) are included within the definition of City IP and no permitted use by Licensee, any approved Sublicensee or any other person claiming by or through Licensee or any approved Sublicensee shall result in any ownership interest, title or other right on the part of Licensee, any approved Sublicensee or any other person claiming by or through Licensee or any approved Sublicensee in such words or name, and further provided that any permitted use of such City IP by Licensee, any approved Sublicensee or any other person claiming by or through Licensee or any approved Sublicensee shall immediately terminate when such person ceases to operate in the Park.

(ii) Any and all trademarks, service marks, copyrights, patents, trade names, service names, logos, domain names, identifiers, images and other intellectual property rights that Licensee has or acquires that meet the following requirements ("Licensee Specific IP") are the property of Licensee: such intellectual property (1) was created by or on behalf of Licensee, any Sublicensee, their respective employees, contractors, or others, other than at the specific direction of the City or Parks, and (2) includes no City IP (as defined in subparagraph (i) above) unless Parks grants prior written permission and approval for the use of City IP for use within Licensee Specific IP. The Licensee Specific IP shall be used exclusively in connection with Licensee's activities, as shall Licensee's ability to use any City IP that is incorporated into Licensee Specific IP with the City's permission. Any revenue that Licensee derives from the use, licensing, or other exploitation of Licensee Specific IP shall be used during the Term of this License Agreement exclusively in connection with Licensee's activities, but such restriction shall terminate on the expiration or termination of this License Agreement. Licensee hereby grants a non-exclusive, royalty-free, worldwide, non-transferrable and non-sublicensable license to the City and Parks to make use of, display and maintain Licensee Specific IP. Parks shall make no commercial use of Licensee Specific IP (e.g., merchandise

sales, licensing or other use intended to or which does generate revenue) without the prior written approval of Licensee.

(iii) All goodwill associated with the City IP or the Licensee Specific IP shall be the exclusive property of its respective owner and neither party shall take any actions inconsistent with such rights. Each party recognizes and acknowledges that the City IP and Licensee IP are the exclusive property of the other and they communicate in the public, worldwide, a reputation for high standards of quality and services, which reputation and goodwill have been and continue to be unique to the owner. Each party further recognizes and acknowledges that all trademarks, service marks, trade names, and service names included in the City IP and Licensee Specific IP have acquired secondary meaning in the mind of the public. Neither the City IP, nor the Licensee Specific IP shall be used in connection with any illegal, illicit, or immoral purpose or activity, or in any manner which could be inconsistent with or damaging to the owner's name and reputation. Either party shall have the right to terminate this Agreement, upon written notice, in the event that any part of the City IP or Licensee Specific IP is used by the other party in connection with any illegal, illicit, or immoral purpose or activity. In the event that any of the City IP or Licensee Specific IP is used by the other party in any way which, in the reasonable judgment of the owner, is inconsistent with or damaging to the owner's name or reputation, the owner shall notify the other party in writing and, prior to exercising the right of termination provided for in this paragraph, shall provide three (3) business days following receipt of such notice to the other party to immediately cease and halt all such uses.

(A) During the Term of this License Agreement, each party may make only the uses described in subparagraphs (i) and (ii) above. Each party acknowledges and agrees that all use of and goodwill in the City IP or Licensee Specific IP shall inure to the benefit of its owner. Neither the City, nor Licensee shall acquire any rights in the Licensee Specific IP or City IP, respectively, by virtue of any use it makes of it or any portion of it.

(B) The parties will not use the name or logos of the other party, its subsidiaries or affiliates in any sales or marketing publication or advertisement without prior full disclosure of such use and the written consent of the other party, such consent not to be unreasonably withheld, conditioned, or delayed.

(C) All provisions of this section will survive any expiration or termination of this License Agreement, except as otherwise set forth in this section.

1.8 In addition to the requirements of Sections 1.1(d) and (g) above concerning Licensee's Special Events, Licensee and any Sublicensee, as applicable, must obtain a Parks permit for any Special Event attended by over twenty (20) people or any Special Event pursuant to which Licensee derives or retains revenues through fees or other charges. The Licensee shall use reasonable effort to provide Parks with no less than thirty (30) days (or lesser period as shall be acceptable to Parks) prior written notice of any proposed Special Event.

2. DEFINITIONS

2.1 As used throughout this License, the following terms shall have the meanings set forth below:

(a) "Advertising" shall mean any words, pictures, photographs, symbols, graphics or visual images of any kind, or any combination thereof, promoting or soliciting the sale or the use of a product or service or providing other forms of textual or visual messages or information for the sale or the use of a product or service.

(b) "Alteration" shall mean (excepting ordinary repair and maintenance) (i) any restoration, rehabilitation, modification, renovation, or improvement to the Licensed Premises; (ii) any work or construction which would or might affect in any manner or have any impact whatsoever upon the character, appearance, or design of any portion of the Licensed Premises or its adjacent areas; (iii) any work affecting the plumbing, heating, electrical, mechanical, ventilating, or other systems of the Licensed Premises or any major component of such systems; (iv) affixing or installing any equipment to any area of the Licensed Premises; (v) any seasonal landscaping that constitutes a significant departure from landscaping previously done by Licensee. The following do not constitute an Alteration: (A) landscaping that does not involve the installation, replacement, modification or relocation of Fixed and Additional Fixed Equipment and that is similar to landscaping previously done by Licensee, including, without limitation, planting, maintaining and removing grass, trees, flowers, beds or shrubbery, (B) installation of Expendable Equipment, (C) repair and maintenance of Expendable Equipment or Fixed and Additional Fixed Equipment, including painting any such equipment, and (D) replacement of Fixed and Additional Equipment in kind.

(c) "City" shall mean the City of New York, its departments and political subdivisions.

(d) "Commissioner" shall mean the Commissioner of the New York City Department of Parks & Recreation or his designee.

(e) "Comptroller" shall mean the Comptroller of the City of New York.

(f) "Excess Revenues" means, for any Fiscal Year, the positive difference, if any, between Licensee's Gross Receipts for such Fiscal Year and Expenses for such Fiscal Year.

(g) "Expendable Equipment" or "Personal Equipment" shall mean all equipment and property, other than Fixed and Additional Fixed Equipment.

(h) "Expenses" means all costs incurred by Licensee in operating, repairing, maintaining and managing the Park and in performing Licensee obligations and providing services required or permitted by this Agreement, including sanitation, security, programming, Licensee's Special Events and horticulture, performing Alterations, Minor Alterations, installing Additional Fixed Equipment and Expendable Equipment, and performing other work that does not constitute an Alteration, as well as any overhead and administrative costs solely incurred in

providing those services. Such costs include, but are not limited to, personnel costs, third-party contract costs, cost of debt service related to Capital Improvement for the Licensed Premises financed by Licensee, insurance, costs of supplies and depreciation of Capital Improvements, Fixed and Additional Fixed Equipment and Expendable Equipment, if the foregoing have been installed by Licensee. The personnel whose cost is included as an Expense includes those persons performing services at the Licensed Premises, such as sanitation and security, horticultural, programming and Licensee's Special Events, as well as those persons responsible for the supervision of the Park and responsible for supervision of persons performing the aforementioned services. The categories and amount of expenses, including the salaries of administrators, managers and supervisors, for each Fiscal Year shall be consistent with the line items set forth in the Annual Operating Budget and Operating Plan for such Fiscal Year to be submitted by Licensee to the Commissioner for review and approval pursuant to clause (iv) of Section 4.1(f) and will only cover any salary related to work performed in or on behalf of the Premises. Expenses shall exclude the salary of the President of Licensee or any successor title and the costs and expenses attributable to Licensee's charitable fund-raising staff.

(i) "Fiscal Year" shall mean the period beginning each July 1 during the Term and ending June 30 of the following calendar year.

(j) "Fixed Equipment" shall mean any property affixed in any way to the Licensed Premises at the time notice to proceed is given, whether or not removal of said equipment would damage Licensed Premises. Fixed Equipment includes, without limitation, walls, structures, monuments, light poles, paving stones and concrete and similar ground surfaces, benches affixed to the ground, chairs affixed to the ground, fences and gates affixed to the ground, and the Public Restrooms, as defined below.

(i) "Additional Fixed Equipment" shall mean property affixed to the Licensed Premises subsequent to the date notice to proceed is given. Additional Fixed Equipment may include, without limitation, walls, structures, light poles, paving stones and concrete and similar ground surfaces, benches affixed to the ground, chairs affixed to the ground, and fences and gates affixed to the ground.

(ii) "Fixed and Additional Fixed Equipment" shall refer collectively to Fixed Equipment and Additional Fixed Equipment.

(k) (i) "Gross Receipts" shall include without limitation all funds or other consideration received by Licensee and any Sublicensee, without deduction or set-off of any kind, from Advertising, Sponsorship (as defined below), Restaurant Leases (as defined below) and from any of Licensee's Special Events, or from the sale of food and beverages, wares, merchandise or services of any kind from any Sublicensee, or operation by Licensee of any Food Concessions, Temporary Markets, carousel, newsstands, ice-skating rink and other visitor services and events authorized by Parks, provided that Gross Receipts shall exclude the amount of any Federal, State or City sales taxes which may now or hereafter be imposed upon or be required to be collected and paid by Licensee or any Sublicensee. Gross Receipts shall include any orders placed or made at the Licensed Premises, although delivery of merchandise or services may be made outside, or away from the Licensed Premises, and shall include all receipts of Licensee or any Sublicensee for services to be rendered or orders taken at the Licensed

Premises for services to be rendered by Licensee or any Sublicensee outside thereof. For example, if Licensee or any Sublicensee receives a \$1,000 deposit for services to be provided at a later date, the deposit must be reported at the time of payment, regardless of when the service is provided. All sales made or services rendered from the Licensed Premises shall be construed as made and completed therein even though payment therefor may be made at some other place and although delivery of merchandise sold or services rendered upon the Licensed Premises may be made other than at the Licensed Premises.

(ii) Gross Receipts shall also include receipts from all Sponsors, whether in cash or as discounts against the purchase price of materials, equipment or commodities. Gross Receipts shall also include all sales made by any other operator or operators using the Licensed Premises under a properly authorized Sublicense or subcontract agreement, as provided in Section 1.1(c), provided that Gross Receipts shall also include Licensee's income from rental and sublicense or subcontracting fees and commissions received by Licensee in connection with all services provided by Licensee's subcontractors or Sublicensees. Gross Receipts shall also include all fees and other consideration received by Licensee in connection with Licensee's Special Events.

(iii) Gross Receipts shall include sales made for cash or credit (credit sales shall be included in Gross Receipts as of the date of the sale) regardless of whether the sales are paid or uncollected, it being the distinct intention and agreement of the parties that all sums received by Licensee or any Sublicensee from all sources from the operation of the Food Concessions, Temporary Markets, Licensee's Special Events, the carousel, newsstands (including any funds received from Advertising on the Newsstands), the ice-skating rink, and other visitor services and events authorized by Parks shall be included in Gross Receipts, provided however that any gratuities transmitted by Licensee or any Sublicensee directly or indirectly to employees and staff shall not be included within Gross Receipts. For purposes of this subsection (iii):

(A) With respect to non-catered food and beverage service, a "Gratuity" shall mean a charge that: (i) is separately stated on the bill or invoice given to Licensee's or any Food Sublicensee's customer, or otherwise proffered by the customer, (ii) is specifically designated as a gratuity, or purports to be a gratuity, and (iii) Licensee or any Food Sublicensee receives and pays over in total to its employees (other than management) who are primarily engaged in the serving of food or beverages to guests, patrons or customers, including but not limited to, wait staff, bartenders, captains, bussing personnel and similar staff who are paid a cash wage as a "food service worker" pursuant to NY Labor Law §652(4). Licensee and any Food Sublicensee shall provide documentation reasonably satisfactory to Parks to prove that Gratuities were paid to employees in addition to their regular salaries, and were otherwise in accordance with the foregoing provisions. Such documentation shall be signed and verified by an officer of Licensee or any Food Sublicensee, as applicable. "Regular Salary" for purposes of this subsection shall mean the set hourly wage for the applicable employee.

(B) With respect to catered events, a "Gratuity" shall be an amount no greater than 20% of the catering food and beverage sales for the event, provided that such Gratuity is a charge that: (i) is separately stated on the bill or invoice given to Licensee's or any Food Sublicensee's customer, (ii) is specifically designated as a gratuity, or

purports to be a gratuity, and (iii) is paid over by Licensee or any Food Sublicensee in total to its employees (other than management) who actually provide services at the event, and who are primarily engaged in the serving of food or beverages to guests, patrons or customers, including, but not limited to, wait staff, bartenders, captains, bussing personnel, and similar staff. Licensee or any Food Sublicensee (as applicable) shall provide documentation reasonably satisfactory to Parks to prove that Gratuities were paid to employees in addition to their regular salaries, and were otherwise in accordance with the foregoing provisions. Such documentation shall be signed and verified by an officer of Licensee or any Food Sublicensee (as applicable). "Regular Salary" for purposes of this subsection shall mean the set hourly wage for the applicable employee.

(C) Gross Receipts shall include without limitation all funds or other consideration received by Licensee from any lessee under (i) the lease granted to ARK BRYANT PARK CORP., a New York Corporation ("Restaurant Lessee"), dated August 1, 1993, as amended ("Grill Lease"), or (ii) the lease granted to Restaurant Lessee, as authorized in the Grill Lease, dated February 18, 2005, as amended ("Café Lease")¹ or any successor leases to the Grill Lease or the Café Lease, without deduction or set-off of any kind, from the sale of food and beverages, wares, merchandise or services of any kind from the Grill Lease and the Café Lease, provided that Gross Receipts shall exclude the amount of any Federal, State or City sales taxes which may now or hereafter be imposed upon or be required to be collected and paid by Licensee regarding the Grill Lease or the Café Lease (collectively, and as may be amended, extended, supplemented or restated from time to time, the "Restaurant Leases;" the term "Restaurant Leases" also includes any other lease for a restaurant on any portion of the West Terrace entered into by Licensee after the date hereof and authorized by the Terrace Agreement; and the term "Restaurant Lessee" also includes any lessee under any such other Restaurant Lease).

(l) "Licensed Premises" or "Premises" shall have the meaning as ascribed to them in the preamble to this Agreement and shall include the structures, as well as any improvements constructed thereon, including the Public Restroom, all walkways, curbs, trees, and landscaping.

(m) "Licensee's Gross Receipts" shall mean the Gross Receipts received by Licensee, but expressly excluding Gross Receipts received only by any Sublicensee

(n) "Minor Alterations" shall mean the following, provided the work does not have an estimated cost of two hundred fifty thousand dollars (\$250,000), or greater,:

(i) Below ground modifications, alterations, or maintenance of utility lines servicing the Premises as may reasonably be necessary for the operations thereof (provided that there is no permanent, or longer than six (6) month change to any above ground feature at Premises, and the work does not last more than six (6) months).

¹ Both the Grill Lease and Café Lease are authorized by the Terrace Agreement.

- (ii) In-kind improvements to exterior of any kiosks in the Premises, or interior improvements to such kiosks, including, but not limited to heating, air conditioning, ventilation, electrical service, water service, or utility relocation.
 - (iii) In-kind improvements to the interior of the Public Restroom, including, but not limited to the ceiling, appliances and fixtures, lighting and in-kind improvements to the waiting area outside of the Public Restroom.
 - (iv) Painting and general refurbishment of the perimeter fence of the Premises and any other metal elements within the Premises, but excluding any monuments or works of art.
 - (v) Cleaning, pointing, in-kind stone replacement and other related work associated with the perimeter wall for the Premises upon which the iron fence is situated.
 - (vi) Maintenance of bronze torchieres at the stairs of the perimeter of the Premises.
 - (vii) On-going maintenance of bluestone, granite, and brick pavers throughout the Premises.
 - (viii) Maintenance and in-kind repair of stone elements, including, but not limited to the balustrades, stone benches, and inscribed commemorative pavers.
 - (ix) Maintenance and in-kind repair of two (2) newsstands on south side of 42nd Street at the perimeter of the Premises, including the Advertising panels attached to the newsstands.
 - (x) Maintenance and in-kind repair of drinking fountains and maintenance of Lowell architectural fountain.
 - (xi) Maintenance and repair of wayfinding signs and plaques within the Premises.
 - (xii) Painting, staining, and other similar methods of preservation of wood elements within the Premises, including, but not limited to trellises, pergolas, doors, and gates.
- (o) "Public Restrooms" shall mean the restroom indicated on Exhibit A.

(p) "Sponsor" shall mean a person contributing money to Licensee in exchange for acknowledgment of its contribution.

(q) "Sponsorship or "Sponsorships" shall mean an arrangement pursuant to which, in connection with a payment or payments that will be used to help defray the costs of operating and maintaining the Park, a Licensee's Special Event or other program within the Park, the person contributing such payment or payments is acknowledged by Licensee for such contribution.

(r) "Sponsorship Recognition" shall mean a sign, graphic or other display that recognizes the financial contribution of the Sponsor identified therein to Licensee, the Park, a Licensee's Special Event or other program at the Park.

(s) "Sublicensee's Gross Receipts" shall mean the Gross Receipts received only by any Sublicensee, but not received by Licensee.

3. TERM OF LICENSE

3.1 This License shall become effective upon Parks giving written notice to proceed to Licensee ("Commencement Date") and, unless terminated sooner in accordance with this License Agreement, shall terminate ten years from the Commencement Date or on the last day of any subsequent renewal periods that are exercised pursuant to this License ("Termination Date" or "Expiration Date"). The period between the Commencement Date and the Expiration Date, including any exercised renewal periods, shall be referred to as the "Term." The parties hereto, by mutual agreement, shall have the option to renew this License for up to two (2) additional five-year periods. Each such option must be exercised by either party at least 12 months before what would otherwise be the Termination Date. If either party timely exercises a renewal option, the other party shall use best efforts to respond to such exercise by written notice given within thirty (30) days of such exercise, which notice shall state whether the other party accepts or rejects such exercise or requests additional time to make a decision.

3.2 Notwithstanding any language contained herein, this License is terminable at will by the Commissioner at any time; however, such termination shall not be arbitrary and capricious. Such termination shall be effective after twenty-five (25) days written notice is sent to Licensee. The Commissioner, the City, its employees and agents shall not be liable for damages to Licensee or any Sublicensee in the event that this License is terminated by the Commissioner as provided for in this Section 3.2.

3.3 Parks may terminate this License for cause as follows:

(a) Should Licensee or any Sublicensee breach or fail to comply with any of the provisions of this License or any Federal, State or local law, rule, regulation or order affecting this License, such Sublicensee or the Licensed Premises, the Commissioner shall in writing order Licensee to remedy such breach or failure. If Licensee fails to remedy such breach or failure within thirty (30) days following the mailing or other transmission of such written order, then the Commissioner shall have the right to terminate this Agreement. Notwithstanding the foregoing, if such breach or failure cannot be remedied within such thirty (30) day period

given the nature and scope of such breach or failure or due to reasons beyond Licensee's control, as reasonably determined by Commissioner, the cure period shall be extended for such period as may be reasonably necessary in the Commissioner's reasonable judgment to cure such breach. If such breach or failure arises from the acts or omissions of a Sublicensee, as reasonably determined by Commissioner, the cure period shall be reasonably extended by Commissioner beyond such thirty (30) days (not to exceed an additional 30 days) to give Licensee time to induce such Sublicensee to comply with such breach or failure or, if such Sublicensee fails to remedy such breach or failure in a timely manner, for Licensee to terminate the applicable Sublicense and regain possession of the Sublicensed Premises. If a breach or failure to comply is corrected, and a repeated violation of the same provision, law, rule, regulation or order follows thereafter, Commissioner, by notice in writing, may revoke and terminate this License, such revocation and termination to be immediately effective on the mailing or other transmission thereof.

(b) The following shall constitute events of default for which this License may be terminated on one day's notice: the appointment of any receiver of Licensee's assets; the making of a general assignment for the benefit of creditors by Licensee; the occurrence of any act which operates to deprive Licensee permanently of the rights, powers and privileges necessary for the proper conduct and operation of this License; and the levy of any attachment or execution which substantially interferes with Licensee's operations under this License and which attachment or execution is not vacated, dismissed, stayed or set aside within a period of sixty days.

3.4 Upon the expiration or sooner termination of this License by the Commissioner, all rights of Licensee and any Sublicensee shall be forfeited without claim for loss, damages, refund of investment or any other payment whatsoever against the Commissioner, Parks or the City.

3.5 Licensee agrees that upon the expiration or sooner termination of this License, it shall immediately cease operations and cause any Sublicensee to cease all operations pursuant to this License and shall vacate and cause any Sublicensee to vacate the Licensed Premises without any further notice by the City and without resort to any judicial proceeding by the City. Upon the expiration or sooner termination of this License, the City reserves the right to take immediate possession of the Licensed Premises.

3.6 Licensee shall, on or prior to the date that is fifteen (15) days following the expiration or sooner termination of this License (the fifteen (15) day period beginning on the expiration or sooner termination of this License being the "Removal Period," and the last day of the Removal Period being the "Removal Deadline"), remove from the Licensed Premises and shall cause any Sublicensee to remove, all Personal Equipment, all Capital Improvements and Alterations or Minor Alterations that are not Additional Fixed Equipment, and Additional Fixed Equipment to which the City has not taken title pursuant to Section 7.2(a) and Section 8.3 (such equipment being "Removal Equipment"). Licensee acknowledges that any Removal Equipment remaining on the Licensed Premises after the Removal Deadline shall be deemed to be abandoned. Licensee shall remain liable to the City for the cost of removal or disposal of Removal Equipment, should Licensee fail to remove all Removal Equipment from the Licensed Premises by the Removal Deadline. During the

Removal Period, Licensee shall have the right to enter the Licensed Premises to remove any Removal Equipment, provided that Licensee shall maintain the insurance required by Article 20 hereof during the Removal Period and shall indemnify, defend and hold the City and its officials harmless against and all claims and demands of third parties for injury, including death, or property damage, arising out of any such entry and removal, and all liens, judgments, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature (including, without limitation, reasonable attorneys' fees and disbursements), arising from any such claims and demands. In addition, if the removal of Removal Equipment results in damage to the Park and Licensee or such Sublicensee fails to repair such damage to the Commissioner's reasonable satisfaction and upon such deadline as reasonably determined by the Commissioner, then Licensee shall be responsible for the cost of such repair which shall be promptly paid to Parks upon Parks' written demand to Licensee (the cost of such removal and the cost of such repair being collectively, "Removal Costs").

3.7 In addition to Removal Costs, Licensee shall be liable to Parks for the following damages if Parks terminates this Agreement pursuant to Section 3.3: (i) if Parks terminates this Agreement pursuant to Section 3.3 on account of the failure of Licensee to comply with Licensee's maintenance obligations under this Agreement, the reasonable costs borne by Parks to perform the specific maintenance obligations that Licensee failed to perform in accordance with this Agreement, and (ii) if at the time of any such termination, Licensee commenced an Alteration or Minor Alteration and fails to complete such Alteration or Minor Alteration, Licensee shall be liable for the cost to complete such Alteration or Minor Alteration which shall be promptly paid to Parks upon Parks' written demand to Licensee; provided, however, that unless the performance by Licensee of such Alteration or Minor Alteration was the basis for Parks terminating this Agreement pursuant to Section 3.3, at the parties' mutual election Licensee shall have the right to complete such Alteration or Minor Alteration at Licensee's expense and the termination of this Agreement on account thereof shall be suspended until such Alteration or Minor Alteration is completed to the extent necessary for the purposes of completing such Alteration or Minor Alteration. During such time, the Insurance and Indemnification requirements of this Agreement shall remain in force. Except for Removal Costs and such other damages and other sums as are set forth in Sections 3.6 and 3.7, Licensee shall not be liable to Parks for any damages if Parks terminates this Agreement pursuant to Section 3.3. Except for Removal Costs, Licensee shall not be liable to Parks for any damages if Parks terminates this Agreement pursuant to Section 3.2.

3.8 If this License is terminated as provided in Section 3.2 or 3.3 hereof, and/or upon the expiration of the License, Parks may, without notice, re-enter and repossess the Licensed Premises without being liable to indictment, prosecution or damages therefor and may dispossess Licensee and any Sublicensee by summary proceedings or other legal means.

3.9 Except as otherwise provided in Section 3.7, if this License is terminated as provided in Section 3.3 hereof, Parks may complete all repair, maintenance and construction work required to be performed by Licensee or any Sublicensee hereunder and may repair and alter any portion(s) of the Licensed Premises in such manner as Parks may deem necessary or advisable, which will not be at Licensee's expense, and Parks may relicense the Licensed Premises or any portion thereof for the whole or any part of the remainder of the Term or for

a longer period. Parks shall in no way be responsible or liable for any failure to relicense any portion(s) of the Licensed Premises or for any failure to collect any fees due on any such relicensing, and no such failure to relicense or to collect fees shall operate to relieve Licensee of any liability under this Agreement or to otherwise affect any such liability.

3.10 No receipt of moneys by Parks from Licensee or any Sublicensee after the termination of this License Agreement, or after the giving of any notice of the termination of this License Agreement, shall reinstate, continue or extend the Term or affect any notice theretofore given to Licensee or any Sublicensee, or operate as a waiver of the right of Parks to recover possession of the Licensed Premises by proper remedy.

3.11 In the event this License Agreement is terminated, Parks will not reimburse Licensee's or any Sublicensee's unamortized capital improvement cost.

4. FINANCIAL RECORDS AND REPORTS

4.1 (a) On or before the one hundred twentieth (120) day following the end of each Fiscal Year, Licensee shall submit to Parks, in a form satisfactory to Parks, a statement of Licensee's Gross Receipts, signed and verified by an officer of Licensee, reporting any Licensee's Gross Receipts generated from operations under this License Agreement during the preceding Fiscal Year. The obligation to submit a final report of Licensee's Gross Receipts shall survive the termination of this License. Licensee shall indicate on its statement of Licensee's Gross Receipts whether or not these amounts are inclusive of sales tax collected.

(b) On or before the one hundred twentieth (120) day following the end of each Fiscal Year, Licensee shall submit to Parks, in a form satisfactory to Parks, a statement, from each Sublicensee and each Restaurant Lessee, of such Sublicensee's or Restaurant Lessee's Gross Receipts, signed and verified by an officer of such Sublicensee, or Restaurant Lessee, reporting such Sublicensee's or Restaurant Lessee's Gross Receipts generated from operations under this License Agreement during the preceding Fiscal Year. The obligation to submit a final report of Sublicensee's or Restaurant Lessee's Gross Receipts shall survive the termination of this License. Each such Sublicensee or Restaurant Lessee shall indicate on its statement of Sublicensee's or Restaurant Lessee's Gross Receipts whether or not such Sublicensee's or Restaurant Lessee's Gross Receipts are inclusive of sales tax collected. Notwithstanding anything to the contrary in the foregoing, the statement of Gross Receipt for any Sublicensee or Restaurant Lessee may be for its fiscal or operating year rather than the Fiscal Year.

(c) Within one hundred twenty (120) days after the end of each Fiscal Year, Licensee shall submit detailed income and expense statements for itself for operating the Park during the preceding Fiscal Year. Such statements shall be in sufficient detail to show that Licensee is in full compliance with Section 1.1(f) hereof. Such report must contain a certification from Licensee's Chief Financial Officer certifying that all of Licensee's Gross Receipts, including any Excess Revenues, to the extent expended, were applied solely to pay Expenses, or remain available to pay for future Expenses.

(d) Pursuant to New York City Administrative Code Section 18-134, Licensee shall provide to Parks, in a form that complies with the report attached as Exhibit F to this License Agreement or other form acceptable to Parks, data concerning any funds that Licensee has expended at the Licensed Premises for the preceding period of July 1st to June 30th no later than October 31st each year. All information to be furnished to Parks shall be accurate and correct in all material respects and sufficient to give Parks a true and accurate picture of the funds expended by Licensee at the Licensed Premises.

(e) Licensee is, and shall cause any Sublicensee to be, solely responsible for the payment of all Federal, State and local taxes applicable to the operation of the Licensed Premises. With the exception of Federal, State and City sales tax, no such applicable taxes, including but not limited to the New York City Commercial Rent Tax, may be deducted from Gross Receipts.

(f) In addition to the foregoing reports, Licensee shall furnish Parks with the following reports:

(i) **Financial Statement:** Licensee shall furnish to the Commissioner a detailed financial statement prepared in accordance with GAAP for each Fiscal Year during the Term and any renewal thereof, which shall include the aggregate amount of all salaries of all paid staff whose personnel costs are included in Expenses and shall be audited by an independent Certified Public Accountant retained at the cost and expense of Licensee. Such annual statement shall be submitted to the Commissioner no later than one hundred twenty (120) days after the close of each Fiscal Year of the Term of this Agreement together with a supplemental unaudited statement setting forth an itemization of such salaries.

(ii) **Form 990.** Licensee shall make Licensee's form 990 filing for each year during the Term of this Agreement available to the Commissioner after such form has been filed with the Internal Revenue Service.

(iii) **Monthly Operations Report:** Licensee shall furnish to Parks a monthly report to be submitted within fifteen (15) days of the previous month's end that shall include, but not be limited to, operations activities (repairs, maintenance, etc.), capital projects and Alterations, Minor Alterations, tree inspection reports and tree pruning reports, upcoming public programs and events, future/ongoing initiatives, personnel, incidents/unusual activity, inquiries or publications from press or media, major accidents or unusual incidents occurring on the Licensed Premises.

(iv) **Annual Operating Budget and Operating Plan:** Prior to the start of each Fiscal Year, Licensee will submit to the Commissioner for review and approval (which shall not be unreasonably withheld) Licensee's Park operations budget and capital budget for the Licensed Premises, which shall include all costs associated with the maintenance and operations of the Licensed Premises. The Licensee shall set forth in reasonable detail the amounts proposed to be allocated, but not limited, to general maintenance, public art, public programs, concessions, and communications, including salaries and benefits of any employee primarily engaged in those activities.

(v) Licensee shall promptly notify Parks, in writing, of any claim for injury, death, property damage or theft which shall be asserted against Licensee or any Sublicensee, or of any unusual conditions that may develop in the course of the operation of this License such as, but not limited to, fire, flood, casualty and substantial damage of any character.

(vi) Board Meetings. Licensee will provide notice to the Commissioner of all meetings, hearings, and proceedings of Licensee's Board of Directors, and will make available for consultation any of its officers and employees whose work relates to the performance of this Agreement. Licensee shall invite Commissioner and his designee to all of Licensee's Board of Directors' meetings.

(vii) Other Reports: Licensee shall prepare and provide to Parks other reports as reasonably requested by the Commissioner and/or pursuant to this Agreement.

(viii) Account and Use of Excess Revenues: If Licensee derives Excess Revenues in a particular Fiscal Year, Licensee shall expend such Excess Revenue consistent with the requirements of Section 1.1 (f) and shall report such expenditures consistent with the requirements of 4.1(c). If Licensee is unable to make such a report, Licensee must immediately remit such Excess Revenues to the City. In addition, if there are any unexpended Excess Revenues at the end of the Term, or any renewal thereof, or upon the earlier termination of this License, Licensee may apply such Excess Revenues to any Expenses arising under this License provided that Licensee provides a certification from Licensee's Chief Financial Officer identifying the specific Expenses to which such Excess Revenues were applied and certifying that such Excess Revenues were applied solely to pay such Expenses and Licensee shall remit the remaining balance of such Excess Revenues to the City within six (6) months from the end of the Term, or any renewal thereof, or upon the earlier termination of this License. However, if Licensee provides the Commissioner with a certification from Licensee's Chief Financial Officer identifying the specific Expenses that cannot reasonably be determined within six (6) months of the termination of the License and the Commissioner reasonably agrees with such certification, Licensee can retain such Excess Revenues only so long as is reasonably necessary to determine the specific Expenses in question and must remit remaining balance of such Excess Revenues to the City immediately.

4.2 (a) During the Term, Licensee shall maintain, and shall cause each Sublicensee to maintain, a revenue control system to ensure the accurate and complete recording of all revenues of Licensee, in a form and manner reasonably acceptable to the City. If Licensee's operations include the sale of food or other items by Licensee, this revenue control system shall maintain detailed sales information from each sales transaction. Specifically, sales information must be recorded electronically, via a computerized point-of-sale system, and must include, but is not limited to, the item(s) sold, time, date of sale and price of the item sold. All accounting and internal control related records of Licensee shall be maintained for a minimum of ten (10) years from the date of creation of the record. Additionally, all books and records maintained pursuant to this License Agreement shall be conveniently segregated from other business matters of Licensee and shall include, but not be limited to: all federal, state and local tax returns and schedules of the Licensee; records of daily bank deposits of the entire receipts from transactions in, at, on or from the Licensed

Premises; sales slips, daily dated cash register receipts, and sales books; and duplicate bank deposit slips and bank statements.

(b) Licensee shall, and shall cause any Sublicensee to, use such accounting and internal control methods and procedures and keep such additional books and records as may be reasonably prescribed by Parks and/or the Comptroller, and Parks and/or the Comptroller shall have the right to examine the recordkeeping procedures of the Licensee and any Sublicensee prior to the commencement of the Term of this License, and at any time thereafter, in order to assure that the procedures are adequate to reveal the true, correct and entire business conducted by the Licensee and any Sublicensee. Licensee shall, and shall cause any Sublicensee to, maintain each year's records, books of account and data for a minimum of ten (10) years from the date of creation of the record.

5. RIGHT TO AUDIT

5.1 Parks, the Comptroller and other duly authorized representatives of the City shall have the right to examine or audit the records, books of account and data of the Licensee and any Sublicensee for the purpose of examination, audit, review or any purpose they deem necessary. Licensee shall, and shall cause any Sublicensee to, also permit the inspection by Parks, Comptroller or other duly authorized representatives of the City of any equipment used by Licensee and any Sublicensee, including, but not limited to, cash registers and recording machines, and all reports or data generated from or by the equipment. Licensee shall cooperate fully with and assist Parks, the Comptroller or any other duly authorized representative of the City in any examination or audit thereof. In the event that the Licensee's or any Sublicensee's books and records, including supporting documentation, are situated at a location 50 miles or more from the City, the records must be brought to the City for examination and audit or Licensee or such Sublicensee, as applicable, must pay the food, board and travel costs incidental to two auditors conducting such examination or audit at said location.

5.2 Notwithstanding the foregoing, the parties acknowledge and agree that the powers, duties, and obligations of the Comptroller pursuant to the provisions of the New York City Charter shall not be diminished, compromised or abridged in any way.

6. CAPITAL IMPROVEMENTS

6.1 The City has final authority over all capital projects and capital programs ("Capital Improvements") undertaken at the Licensed Premises, and the Licensee has final authority over deciding the Capital Improvements for which it will raise money from private sources and/or expend its own funds. Parks shall consult with the Licensee on all Capital Improvements at the Licensed Premises.

6.2 Licensee will regularly update Parks on any potential Capital Improvements the Licensee is contemplating advancing, including but not limited to any Capital Improvement stemming from any master plan.

6.3 In addition, subject to all legal requirements, including, but not limited to, compliance with all applicable prevailing wage requirements, and subject to Parks'

approval, the Licensee may enter into contracts for approved Parks Capital Improvements and may supplement Parks and/or other public capital funds with the Licensee funds for the development of such approved Parks projects.

6.4 Capital Improvements shall become property of the City, at its option, upon their attachment, installation or affixing.

7. ALTERATIONS AND MINOR ALTERATIONS

7.1 Licensee and any Sublicensee may perform Alterations to Licensed Premises only in accordance with the requirements of Section 7.2. Licensee and any Sublicensee may perform Minor Alterations to Licensed Premises only in accordance with the requirements of Section 7.6. Alterations and Minor Alterations shall become property of the City, at its option, upon their attachment, installation or affixing.

7.2 To perform an Alteration to the Licensed Premises, Licensee must:

(a) Obtain the Commissioner's written approval, which shall not be unreasonably withheld, for any designs, plans and specifications of the proposed Alteration. At the time the Commissioner issues its written approval of the plans and specifications for any Additional Fixed Equipment, the Commissioner shall notify Licensee whether the City shall accept title to such Additional Fixed Equipment upon substantial completion of the installation or affixing of such Additional Fixed Equipment;

(b) Insure that Alterations are undertaken and completed in accordance with submissions approved pursuant to Section 7.2(a), in a good and workmanlike manner, and within a reasonable time; and,

(c) Notify the Commissioner of the completion of and the date of final payment for such Alteration within ten (10) days after the occurrence of said completion and final payment.

(d) Licensee shall comply with the existing City and Parks procedures, as may be amended from time to time during the Term, for review of any proposed Alteration constituting a landscape redesign, renovation, and rehabilitation project in the Licensed Premises.

7.3 All Alterations to the Licenses Premises undertaken by the Licensee, its agents, employees, Sublicensees or contractors shall be at the Licensee's (or its Sublicensee's) sole cost and expense (other than any agreed contribution from the City or Parks, and contributions from other public or private sector partners or donors) and such work shall not commence until the Licensee obtains written approval from the Commissioner, or his designee as well as any City or other governmental authorizations and approvals that may be necessary.

7.4 To guarantee prompt payment of moneys due to a contractor or such contractor's subcontractors and to all persons furnishing labor and materials to the contractor or such subcontractor in the prosecution of any Alteration with an estimated cost exceeding

two hundred fifty thousand dollars (\$250,000), Licensee will be required to post a payment bond or other form of undertaking approved by Parks in the amount of one hundred percent (100%) of the cost of such Alteration. Notwithstanding the above, to the extent than an Alteration is funded in whole or in part through a separate contract with the State or City, Licensee will comply with the terms of such contract regarding payment bonds for the work to be performed under such contract, including any requirements to obtain a payment bond pursuant to State Finance Law 137 or Section 5 of the Lien Law, as applicable.

7.5 For any work performed by or on behalf of Licensee at the Licensed Premises, Licensee shall obtain all necessary permits, approvals, and authorizations from all City, State, and Federal agencies having jurisdiction over the Licensed Premises before such work is performed, and the quality of such work shall meet Parks' standards.

7.6 Licensee may perform Minor Alterations without advanced written approval by Parks. However, Licensee must:

(a) Insure that Minor Alterations are undertaken and completed, in a good and workmanlike manner, and within a reasonable time; and,

(b) Notify the Commissioner of the completion of and the date of final payment for such Minor Alteration within ten (10) days after the occurrence of said completion and final payment. At the time the Commissioner receives notice of the completion of Minor Alterations, the Commissioner shall notify Licensee whether the City shall accept title to such Minor Alterations if they constitute Additional Fixed Equipment;

(c) For any Minor Alterations performed by or on behalf of Licensee at the Licensed Premises, Licensee shall obtain all necessary permits, approvals, and authorizations from all City, State, and Federal agencies having jurisdiction over the Licensed Premises before such work is performed, and the quality of such work shall meet Parks' standards. In addition, Licensee shall comply with the existing City and Parks procedures, as may be amended from time to time during the Term, for any Minor Alteration in the Licensed Premises.

7.7 Commissioner may, in his discretion, make repairs, alterations, decorations, additions or improvements to Licensed Premises at the City's expense, but nothing herein shall be deemed to obligate or require Commissioner to make any repairs, alterations, decorations, additions, or improvements, nor shall this provision in any way affect or impair Licensee's or any Sublicensee's obligation herein in any respect.

8. FIXED AND EXPENDABLE EQUIPMENT

8.1 Licensee shall, to the reasonable satisfaction of the Commissioner and either at its sole cost and expense or through any Sublicensee, provide and replace, if necessary, all equipment and materials necessary for the successful operation of this License. Licensee shall, and shall cause any Sublicensee to, put, keep, repair, preserve and maintain in good order all equipment found on, placed in, installed in or affixed to the Licensed Premises.

8.2 Licensee shall be responsible for the regular maintenance and repair of Fixed and Additional Fixed Equipment on the Licensed Premises and for keeping such Fixed and

Additional Fixed Equipment in good operating condition, normal wear and tear excepted. Notwithstanding the foregoing, Licensee is not responsible for damage or destruction of the Excluded Monuments (as defined in Section 20.5) from risks that are typically insured against under a comprehensive broad-form property insurance policy, but Licensee shall be responsible for damage to the Excluded Monuments caused by its acts or omissions (where there is a duty to act). The City hereby accepts title to all Fixed Equipment heretofore installed by Licensee in the Park.

8.3 The City retains title to all Fixed Equipment on the Licensed Premises as of the Commencement Date. As set forth in Section 7.2(a), at the time the City approves the plans and specifications for any Additional Fixed Equipment, the City shall notify Licensee whether the City shall accept title to such Additional Fixed Equipment. If the City determines to accept title to such Additional Fixed Equipment, then title to such Additional Fixed Equipment shall vest in and belong to the City upon the substantial completion of the installation or affixing of such Additional Fixed Equipment. If at the time the City approves the installation of Additional Fixed Equipment it determines not to accept title thereto, then Licensee shall be responsible to remove such Additional Fixed Equipment and restore the Licensed Premises to its condition prior to the installation of such Additional Fixed Equipment or otherwise to the satisfaction of Commissioner at the sole cost and expense of Licensee prior to the Removal Deadline.

8.4 Licensee shall supply and replace, or cause any Sublicensee to supply and replace, at its own cost and expense, all Expendable Equipment, materials and supplies required for the proper operation of this License.

8.5 Licensee shall, and shall cause any Sublicensee to, acquire, replace or repair, install or affix, at their sole cost and expense, any equipment, materials and supplies required for the proper operation of the Licensed Premises as described herein.

8.6 Title to all Expendable Equipment obtained by Licensee or any Sublicensee shall remain in Licensee or such Sublicensee, as applicable, and such equipment shall be removed by Licensee at the termination or expiration of this License.

8.7 Licensee acknowledges that it is acquiring this License to use the Licensed Premises and Fixed Equipment thereon solely in reliance on its own investigation, that no representations, warranties or statements have been made by the City concerning the fitness thereof, and that by taking possession of the Licensed Premises and Fixed Equipment, Licensee accepts them in their present condition "as is."

8.8 The Expendable Equipment to be removed by Licensee shall be removed from the Licensed Premises in such a way as shall cause no damage to the Licensed Premises. Licensee shall remain liable to the City for any damage to the Licensed Premises caused by the removal of Expendable Equipment from the Licensed Premises.

9. UTILITIES

9.1 Parks makes no representations regarding the adequacy of utilities currently in place at the Licensed Premises.

9.2 Licensee has installed new valves and water meters in the park operations office that separately control and meter irrigation water versus potable water. Licensee shall be responsible for the continued maintenance and repair of said meters and the overall park plumbing and water distribution system.

9.3 Consistent with the operations of other public parks in the City, the Licensee shall not be charged for water consumption used specifically for the public use within the Premises, including drinking fountains, operation of the Lowell Fountain, lawn and horticultural irrigation, and operation of any temporary ice skating rink (but excluding any skate rental, event, food and/or beverage services operated in conjunction with, or as part of the ice skating rink), and the Public Restrooms that are situated within the Premises.

9.4 Licensee and any Sublicensee shall at its sole cost and expenses directly pay for all utility costs associated with any concession operations at the Licensed Premises, including but not limited to all DEP water and sewer charges and all charges for electricity.

9.5 Licensee shall, and shall cause any Sublicensee to, at their sole cost and expense, connect to and/or, if necessary, upgrade any existing utility service or create a new utility system, and obtain the appropriate permits and approvals, and/or install or cause to be installed, and maintained, all gas, electric, sewer and telephone utilities, service lines, conduits, pipes, meters and supplies of power necessary for the proper operation of this License. This includes establishing a dedicated meter and/or submeter that captures utility usage on the Licensed Premises and an account with the appropriate service providers. Utilities, as described in this License Agreement, may include, but shall not be limited to, electricity, gas, heat, coolant, telephone, data (Wi-Fi), and water and sewer charges.

9.6 Licensee shall, and shall cause any Sublicensee to, not undertake the installation of any new utility lines without first having obtained all necessary permits and approvals from Parks and such other federal, state or City agencies or entities as have jurisdiction over the construction and operation of the Licensed Premises.

9.7 Licensee shall, and shall cause any Sublicensee to, remove any unsuitable existing materials as required. Licensee shall, and shall cause any Sublicensee to, adhere to all DEP directives and restrictions regarding drought and water conservation issues during the Term.

10. OPERATIONS

10.1 Licensee, at its sole cost and expense, shall operate and maintain the Licensed Premises for the use and enjoyment of the general public and in such manner as Commissioner shall prescribe and in compliance with this Agreement and all applicable laws, rules, regulations and orders of government agencies having jurisdiction over the Licensed Premises.

10.2 The hours of operation of the Park and any Sublicensee shall be subject to the approval of Parks. In approving the hours of operation, the Commissioner may consider the hours of operation of other similar Parks facilities, the nature of the community and the environs of the concession, Parks Rules and Regulations of operations, the public health and safety, and other similar considerations. At its sole discretion, but based upon written request from Licensee, Parks may allow changes to Licensee's approved operating hours/schedule. If the Commissioner grants the request, Licensee shall continue to be responsible for all other obligations under the License Agreement.

10.3 Licensee shall or shall cause any Sublicensees to provide a public access seating area at the Licensed Premises approved by Parks and, if alcoholic beverages are served, they may only be served by Licensee in restricted areas designated by Parks. The design and color of all tables, chairs, and umbrellas are subject to Parks' prior written approval, which shall not be unreasonably withheld. The placement of all tables, chairs and umbrellas is subject to Licensee's discretion, but shall be changed if Parks objects. Alcoholic beverages may be served to complement the food service, provided that Licensee obtains the appropriate license(s) from the State Liquor Authority and all other agencies having jurisdiction. All efforts must be made to keep alcohol consumption discrete. Licensee must keep in mind that this is a public park and the consumption of alcohol should be encouraged only as an accompaniment to the cuisine.

10.4 (a) Licensee shall not and shall cause any Sublicensee not to advertise, sell or cause to be sold on or about the Licensed Premises cigarettes, cigars, or other tobacco products, or electronic cigarettes.

(b) Smoking anywhere on the Licensed Premises is strictly prohibited.

(c) Additionally, Licensee shall not, and shall cause any Sublicensee not to, use in their operations any polystyrene packaging or food containers.

(d) Licensee shall not, and shall cause any Sublicensee not to, sell any beverages in glass bottles. All beverages must be in non-glass, shatter-proof containers, except that Sublicensees may decant beverages into glassware, provided that such beverages are consumed in the restricted areas provided for in Section 10.3.

(e) Licensee shall, and shall cause any Sublicensee to, adhere to and strictly enforce the provisions of this Section 10.4.

10.5 Licensee shall, and shall cause any Sublicensee to, at their sole cost and expense, obtain, possess and display prominently at the Licensed Premises all approvals, permits, licenses, and certificates (including, without limitation, certificates of occupancy, if applicable) from all Federal, State, and City agencies having jurisdiction that may be required for the operation, management and maintenance of all activities conducted or authorized by Licensee at the Licensed Premises and the maintenance of the Park in accordance with all applicable Federal, State and City laws, rules and regulations.

10.6 Licensee shall, and shall cause any Sublicensee to, obtain the prior written approval of Parks prior to entering into any marketing or Sponsorship agreement with respect

to operations at the Licensed Premises. In the event Licensee or any Sublicensee breaches this provision, Licensee shall or shall cause its Sublicensee, as applicable, to take any action that the City may deem necessary to protect the City's interest.

10.7 An officer of the Licensee shall personally operate this License or employ an operations manager who shall have supervisory authority over the Licensed Premises. The manager of the Licensed Premises for Licensee will meet with Parks' reasonable approval. All supervisory personnel at the Licensed Premises will meet with Parks' reasonable approval. During the Term, Licensee will designate an employee (the "Manager"), who will be charged with the duty to manage and administer the maintenance and operation of the Licensed Premises. The Manager or its designee must be available by telephone during all hours of operation, and Licensee shall continuously notify the Commissioner and the Parks Enforcement Patrol Communications Division of a 24-hour pager or cellular telephone number through which Parks may contact the Manager or its designee in the event of an emergency. The Manager shall maintain close liaison with the Parks Enforcement Patrol and New York City Police Department. The Manager shall cooperate with all efforts to enforce Parks Rules and Regulations at the Licensed Premises and adjacent areas. Licensee shall use its best efforts to prevent illegal activity on the Licensed Premises.

10.8 Licensee shall, and shall cause any Sublicensee to, provide equipment which will provide security for all monies received. Licensee shall, and shall cause any Sublicensee to, provide for the transfer of all monies collected to the banking institution of Licensee or any Sublicensee, as applicable. Licensee shall and shall cause any Sublicensee to, as applicable, bear the loss of any lost, stolen, misappropriated or counterfeit monies derived from operations under this License.

10.9 Licensee shall, and shall cause any Sublicensee to, at its sole cost and expense, provide, hire, train, supervise and be responsible for the acts of all personnel necessary for the proper operation of this License, including but not limited to: (a) collecting and safeguarding all monies generated under this License; (b) maintaining the Licensed Premises; and (c) conducting and supervising all activities to be engaged in upon the Licensed Premises.

10.10 Licensee shall, and shall require Sublicensees to, include in their Advertising and promotion programs, described in Section 10.11 below, a plan which describes how it intends to make facilities and services available at the Licensed Premises readily accessible and useable by individuals with disabilities. Such plan shall provide for compliance with the applicable provisions of the ADA and any other similarly applicable legislation.

10.11 Licensee and any Sublicensee may establish an Advertising and promotion program. Licensee and any Sublicensee shall have the right to print or to arrange for the printing of programs or brochures containing any Advertising matter except Advertising which contains tobacco, electronic cigarette or alcoholic beverage Advertising, which is false or misleading, which promotes unlawful or illegal goods, services or activities, or which is otherwise unlawful, including but not limited to Advertising that constitutes the public display of offensive sexual material in violation of Penal Law Section 245.11. Licensee and any Sublicensee may release news items to the media as they sees fit. If the Commissioner in

his or her discretion, however, determines any Advertising or other releases to be unacceptable, then Licensee shall, and shall cause such Sublicensee (as applicable) to, cease or alter such advertisements or releases as directed by the Commissioner. Notwithstanding anything to the contrary contained in this Agreement, the Commissioner shall have prior approval as to all Advertising and promotional materials, subject to the rights granted to Licensee regarding the Newsstands Panels.

10.12 (a) Licensee shall, and shall cause any Sublicensee to, prominently display signage at the Licensed Premises listing all prices and hours of days of operation. The placement, design and contents of all signage, including signage which includes the Licensee's or any Sublicensee's name, trade name(s) and/or logo(s), are subject to Parks' prior written approval. Signage shall also comply with Americans with Disabilities Act ("ADA") requirements. Licensee shall display such signs as may be needed to guide and inform the public as to the location, hours of operation, and related fees of the Licensed Premises. Such signs shall be maintained in good condition and repair. The signs shall include the Parks logo, only if specifically requested by Parks, consistent with Parks-approved design guidelines and may indicate that the Licensed Premises are maintained by the Licensee in cooperation with Parks through this License Agreement. Such signs shall be subject to the approval of Parks.

(b) Licensee shall not permit and shall cause any Sublicensee not to permit Advertising in the Park except for Advertising in the Newsstands Panels. In addition, the following is permitted: words, pictures, photographs, symbols, graphics or visual images of any kind, or any combination thereof, that present a Sublicensee's brand or products on the kiosk, booth or mobile unit operated by such Sublicensee for those brands and products that are sold at such kiosk, booth or mobile unit ("Brand Presentation"). Except as set forth in the preceding two sentences, Licensee shall not permit and shall cause any Sublicensee not to permit the placing of Advertising or Brand Presentation on the exterior of the concession area or on any building or structure on the Licensed Premises. All Advertising or Brand Presentations located at the Licensed Premises is subject to Parks' prior written approval. Licensee shall not, and shall cause any Sublicensee not to advertise any product brands without Parks' prior written approval. Licensee shall not and shall cause any Sublicensee not to display, place or permit the display or placement of Advertising in the Licensed Premises without the prior written approval of Parks.

(c) The display or placement of tobacco or electronic cigarette Advertising shall not be permitted. For the purpose of this section "tobacco advertising" shall mean Advertising, which bears a health warning required by federal statute, the purpose or effect of which is to identify a brand of a tobacco product (any substance which contains tobacco, including, but not limited to, cigarettes; cigars, pipe tobacco and chewing tobacco), a trademark of a tobacco product or a trade name associated exclusively with a tobacco product, or to promote the use or sale of a tobacco product. "Electronic cigarette advertising" shall mean Advertising of an electronic device that delivers vapor for inhalation. For the purpose of this section "electronic cigarette" shall include any refill, cartridge, and any other component of an electronic cigarette. Electronic cigarette shall not include any product approved by the food and drug administration for sale as a drug or medical device. Similarly, the display or placement of Advertising of alcoholic beverages shall not be permitted, but Licensee or any Sublicensee may display signage approved by Parks setting forth its offerings of alcoholic beverages. For the purpose of this section "alcohol advertising" shall

mean Advertising, the purpose or effect of which is to identify a brand of an alcohol product, a trademark of an alcohol product or a trade name associated exclusively with an alcohol product, or to promote the use or sale of an alcohol product.

(d) In the event Advertising is allowed, the following standards will apply: Any type of Advertising which is false or misleading, which promotes unlawful or illegal goods, services or activities, or which is otherwise unlawful, including but not limited to advertising that constitutes the public display of offensive sexual material in violation of Penal Law Section 245.11, shall also be prohibited. Licensee shall, and shall cause its Sublicensees to, immediately remove any such prohibited material displayed or placed upon notice from Parks at Licensee's sole cost and expense.

(e) Electronic media will be permitted in connection with Advertising on a case by case basis subject to applicable City laws, rules, and regulations and subject to the sole discretion of the Commissioner. Audio Advertising will not be permitted on the Premises.

(f) Parks further agrees that any Advertising, Sponsorship Recognition, Brand Presentations, or promotional material approved by Parks under this Agreement shall constitute any required approval or permit within the meaning of clause 13 of Section 18-146 of the New York City Administrative Code or Title 56 of the Rules of the City of New York Section 1-04(s) for such Advertising, Sponsorship Recognition, Brand Presentations, or promotional material.

10.13 Should Commissioner, in Commissioner's sole judgment, determine that an unsafe or emergency condition exists on the Licensed Premises, after written notification, Licensee shall have 24 hours to correct such unsafe or emergency condition. During any period where the Commissioner determines that an unsafe or emergency condition exists on the Licensed Premises then the Commissioner may require a partial or complete suspension of operation in the area affected by the unsafe or emergency condition. If Licensee believes that such unsafe or emergency condition cannot be corrected within said period of time, the Licensee shall notify the Commissioner in writing and indicate the period within which such condition shall be corrected. Commissioner, in Commissioner's sole discretion, may then extend such period of time in order to permit Licensee to cure, under such terms and conditions as appropriate.

10.14 Licensee shall not, and shall cause any Sublicensee not to, block any sidewalk, pathway, park entrance or other pedestrian walkway with Licensee's equipment or supplies. Licensee shall, and shall cause any Sublicensee to, place their equipment and supplies in such manner that at least a six (6) foot walkway is available to pedestrians at all times, unless a lesser width is approved in writing by Parks. However, all walkways must meet the applicable accessibility requirements.

10.15 Parks makes no representations that there is adequate storage space at the Licensed Premises. Licensee shall, and shall cause any Sublicensee to, be responsible for, at their sole cost and expense, obtaining any additional storage space required for the operation of the concession. Licensee shall, and shall cause any Sublicensee to, store all outdoor equipment on a nightly basis and anytime the concession is closed.

10.16 Licensee shall comply with the Earned Sick Time Act, also known as the Paid Sick Leave Law, as a concessionaire of the City of New York as set forth in the Paid Sick Leave Law Concession Rider annexed hereto as Exhibit G.

10.17 Licensee shall, and shall cause any Sublicensee to, comply with all national safety guidelines and Federal, State and City laws, rules and regulations related to the management and operation of the Licensed Premises.

10.18 Inspectors from Parks will visit the Licensed Premises unannounced to inspect operations and ensure proper maintenance of the Licensed Premises. Based on their inspections, Parks may issue directives regarding deficiencies Licensee will be obligated to rectify in a timely fashion.

10.19 (a) Licensee recognizes that this License Agreement does not grant it or any Sublicensee the exclusive rights to sell in the park in which the Licensed Premises are located. Parks does not guarantee that illegal vendors, persons unauthorized by Parks or disabled veteran vendors will not compete with Licensee or any Sublicensee or operate near the Licensed Premises.

(b) Notwithstanding the foregoing, Parks agrees that while this License Agreement is in effect, Parks will not authorize another person to operate Food Concessions in the Premises, including the perimeter sidewalk, except as required by Federal, State, or City Law.

11. MAINTENANCE, SANITATION AND REPAIRS

11.1 (a) Licensee, at its sole cost and expense, will maintain and operate the Licensed Premises in a good and safe condition consistent with the Licensee obligations set forth in this Article. To ensure Parks' satisfaction with Licensee's compliance with the standards set forth in this Article 11 Licensee shall provide Parks with full and free access to the Licensed Premises. All such maintenance and repair shall be performed in a good and worker-like manner and in accordance with the following standards:

(i) Dirt, waste, garbage, refuse, rubbish, litter and obstructions shall be removed as needed, and trash and leaves collected and removed as needed, so as to maintain the Licensed Premises in a clean, neat and good condition.

(ii) All walkways, sidewalks and all other improvements and facilities in the Licensed Premises shall be routinely cleaned so as to keep such improvements and facilities in a clean, neat and good condition.

(iii) Graffiti shall be regularly painted over or removed, as appropriate to the nature of the surface.

(iv) Drains, sewers and catch basins shall be cleaned regularly to prevent clogging.

(v) Power washing, as needed.

(vi) Snow and ice shall be removed within a reasonable period of time after each snowfall or accumulation of ice to the extent necessary to provide a walkway for safe passage. Sand and/or salt shall be spread as needed for such walkway.

(vii) Maintenance of all turf, trees, plants, flower beds and landscaped areas shall include, but not be limited to, watering, seeding, pruning, sodding and fertilizing.

(viii) Licensee shall maintain and repair all Park furniture and equipment, including work that is required as a result of vandalism, provided, however, that with respect to any statuary located in the Park, Licensee's routine maintenance responsibilities shall include non-chemical cleaning only, unless otherwise approved in writing by Parks. Licensee shall make reasonable accommodation for any Parks' program for the restoration of such statuary.

(ix) The Public Restrooms shall be cleaned, maintained and stocked on a daily basis.

(x) The maintenance and upkeep of the two marble lions known as Patience and Virtue, and the sculptures of Truth and Beauty in the lower New York Public Library façade fountains, shall not be the responsibility of Licensee.

(xi) All façade elements, bronze park lampposts, flagstaffs, and limestone balustrades, with the exception of 11.1(a)(x), shall be maintained in accordance with direction from Parks' Art and Antiquities division. Licensee shall perform annual care of all decorative bronzes and marble bases for the John Purroy Mitchel Memorial Flagstaffs.

(xii) With respect to the José Bonifacio de Andrada e Silva monument, the sculpture and pedestal shall be cleaned periodically of soiling and environmental particulates. The monument shall be monitored and undergo annual maintenance which includes a condition assessment, an over-all washing with an anionic detergent, necessary repairs to the existing Infracalac lacquer coating, and a cold wax application for the bronze. The inscription shall be renewed as necessary. Stone repairs to the pedestal or repairs to the bronze casting shall be conducted as necessary. Documentation with digital photos shall be kept and shared with Parks Art & Antiquities Division to track ongoing conditions. In performing this maintenance, subject to the mutual agreement of the parties, Licensee may either (i) make arrangements to utilize the Parks' Art and Antiquities Division and provide reimbursement to Parks for the costs and expenses relating to such maintenance including staff time and equipment or (ii) retain the services of an outside qualified firm selected by Licensee but subject to Parks Art & Antiquities Division's written approval. In the latter instance, Licensee shall advise Parks prior to the occurrence of remedial care and shall submit visual and written documentation of the maintenance in keeping with Parks' standards.

(xiii) With respect to the William Cullen Bryant Memorial, the sculpture and pedestal shall be cleaned periodically of soiling and environmental particulates. Annual maintenance shall include a condition assessment, an over-all washing with an anionic

detergent of the lower portions of the monument and bronze sculpture, necessary repairs to the existing hot wax coating, and a cold wax application on the bronze. Every third year, or as necessary, a lift will be procured to fully examine and treat the upper portions of the monument. The inscription shall be highlighted for legibility following mutually agreed methods between Licensee and Parks. Documentation with digital photos shall be kept and shared with Parks Art & Antiquities Division to track ongoing conditions. The pedestal and canopy's masonry shall be pointed as necessary. In performing this maintenance, subject to the mutual agreement of the parties, Licensee may either (i) make arrangements to utilize the Parks' Arts and Antiquities Division and provide reimbursement to Parks for the costs and expenses relating to such maintenance including staff time and equipment or (ii) retain the services of an outside qualified firm selected by Licensee but subject to Parks Arts & Antiquities Division's written approval. In the latter instance, Licensee shall advise Parks prior to the occurrence of remedial care and shall submit visual and written documentation of the maintenance in keeping with Parks' standards. In 2017 the monument underwent an in depth restoration which included cleaning, installation of lead weather caps, selective repatination, and re-mortaring all compromised joints. This work was performed pursuant to the Parks Citywide Monuments Conservation Program and supported by the Licensee. Under no circumstances shall any equipment or supplies or park furniture used by the Licensee or its Sublicensees be stored in such a way as to make contact with the monument or impede public access and appreciation.

(xiv) With respect to the William Earl Dodge Monument, the sculpture and pedestal shall be cleaned periodically of soiling and environmental particulates. The monument shall be monitored and undergo annual maintenance which includes a condition assessment, an over-all washing with an anionic detergent, necessary repairs to the existing Incalac coating, and a cold wax application for the bronze. The inscription shall be renewed as necessary (the E at the end of Earl is ungilded on purpose to account for a spelling error in the carving). Documentation with digital photos shall be kept and shared with Parks Art & Antiquities Division to track ongoing conditions. In performing this maintenance, subject to the mutual agreement of the parties, Licensee may either (i) make arrangements to utilize the Parks' Art and Antiquities Division and provide reimbursement to Parks for the costs and expenses relating to such maintenance including staff time and equipment or (ii) retain the services of an outside qualified firm selected by Licensee but subject to Parks Art & Antiquities Division's written approval. In the latter instance, Licensee shall advise Parks prior to the occurrence of remedial care and shall submit visual and written documentation of the maintenance in keeping with Parks' standards.

(xv) With respect to the Johann Wolfgang von Goethe Monument, the bust and pedestal shall be cleaned periodically of soiling. The monument shall be monitored and undergo annual maintenance which includes a condition assessment, an over-all washing with an anionic detergent, necessary repairs to the existing Incalac coating, and a cold wax application for the bronze. The inscription shall be renewed as necessary. Additional work may be required to remove graffiti and selectively re-polish the granite pedestal. Documentation with digital photos shall be kept and shared with Parks Art & Antiquities Division to track ongoing conditions. In performing this maintenance, subject to the mutual agreement of the parties, Licensee may either (i) make arrangements to utilize the Parks' Art and Antiquities Division and provide reimbursement to Parks for the costs and expenses relating to such maintenance including staff time and equipment or (ii) retain the services of an outside qualified

firm selected by Licensee but subject to Parks Art & Antiquities Division's written approval. In the latter instance, Licensee shall advise Parks prior to the occurrence of remedial care and shall submit visual and written documentation of the maintenance in keeping with Parks' standards.

(xvi) With respect to the Gertrude Stein Monument, the sculpture and pedestal shall be monitored and undergo annual maintenance which includes a condition assessment, an over-all washing with an anionic detergent, necessary repairs to the existing hot wax coating, and a cold wax application for the bronze. The inscription shall be renewed as necessary. Documentation with digital photos shall be kept and shared with Parks Art & Antiquities Division to track ongoing conditions. In performing this maintenance, subject to the mutual agreement of the parties, Licensee may either (i) make arrangements to utilize the Parks' Art and Antiquities Monuments Division and provide reimbursement to Parks for the costs and expenses relating to such maintenance including staff time and equipment or (ii) retain the services of an outside qualified firm selected by Licensee but subject to Parks Art & Antiquities Division's approval. In the latter instance, Licensee shall advise Parks prior to the occurrence of remedial care and shall submit visual and written documentation of the maintenance in keeping with Parks' standards.

(xvii) The maintenance and upkeep of the Benito Juarez Monument, shall not be the responsibility of Licensee.

(xviii) Licensee shall provide necessary protections for all monuments from obstructions, park furniture and appurtenances, tree pruning, and any other obstructions or impediments caused by park activities.

(b) Licensee shall comply with the rating standards for all applicable enumerated categories set forth in the Parks Inspection Program ("PIP") to the extent such standards and categories apply to the Licensed Premises. Notwithstanding this provision, Licensee shall maintain the Licensed Premises in accordance with Parks' standards, including, but not limited to, the applicable categories as set forth in the, PIP Manual and/or any other standards that Parks may require in the future. Licensee acknowledges receipt of the PIP Manual.

11.2 Trees. Licensee shall water all trees, shrubs, plantings and grass-covered areas as necessary to maintain such vegetation in a healthy condition. Licensee shall provide additional seasonal plantings to supplement Parks' plantings at the Licensed Premises. Certain major landscaping work constituting Alterations shall require the approval of Parks as set forth in Article 7. Licensee shall also comply with the following with respect to trees in the Licensed Premises:

(a) Branches or trees damaged or felled by excessive winds, ice, vandalism, or by any other reasons whatsoever shall be promptly removed.

(b) Licensee may not cut down, replant or remove any tree from the Park without prior written approval from the Commissioner, except that Licensee may replace potted trees as needed without prior approval. Any plans developed by Licensee for gardens or other

horticultural installations in the Park shall be submitted for the Commissioner's approval in advance of any planting.

(c) Within the first year of the Term, Licensee shall engage the services of a certified arborist to conduct an initial aerial inspection of the trees in the Park, i.e. by climbing or use of a bucket/lift, (also known as a Level 3 Inspection as defined by the International Society of Arboriculture) and to generate a report of the findings. A copy of the inspection report shall be provided to Parks.

(d) On an annual basis, Licensee shall engage the services of a certified arborist to conduct a diagnostic inspection (also known as a Level 2 Inspection as defined by the International Society of Arboriculture) of the trees in the Park for potential defects and to generate a report of the findings. A copy of the report shall be provided to Parks. In the event there are any conditions warranting further inspection, Licensee shall conduct a Level 3 Inspection.

(e) Licensee shall conduct visual inspections of the trees in the Park on a monthly basis to identify any potential defects (also known as a Level 1 Inspection as defined by the International Society of Arboriculture). Any such potential defects shall be promptly reported to the Director of Manhattan Forestry.

11.3 This paragraph describes Licensee's current security services for the Park. These security services are intended to supplement any services provided by the City, including services provided by the New York City Police Department and Emergency Medical Services provided by the New York City Fire Department, it being agreed, however, that nothing in this Agreement obligates the City to provide any such services. Nine security officers of the Licensee provide twenty-four-hour security within the park. The post are as follows: Bryant Park East, Bryant Park West, and Special Post, which patrols the exterior of the park and the New York Public Library Terrace. There is a dedicated park supervisor scheduled from 7:30 a.m. to 2:30 p.m., Monday through Friday. Rotating security supervisors cover the park from 3:00 p.m. to 11:00 p.m., seven days per week and on weekends from 7:00 a.m. to 3:00 p.m. Security coverage for any Special Events is determined by the executive staff and the park supervisor. The needs for coverage can be provided by overtime assignments (full tour and extended tour), the hiring of contract security services, and utilizing the NYPD Paid Detail Unit. The Paid Detail Unit supplies an off-duty uniformed police officer for high visibility and police presence. Each security officer of Licensee possesses a New York State security license and has received annual training certified by New York State. In addition, each officer receives daily "roll call" instructions, during which the officers are given instructions for the day, particularly if the area will be the location of a Special Event (such as a parade or protest). Security officers are unarmed and have no authority to arrest persons. Security officers are equipped with two-way radios, which allows them to notify Licensee's security operations center of unusual events, for which a response from New York Police Department or Emergency Medical Service is recommended. Security officers are expected to enforce rules of the Park (e.g., patrons are forbidden to remove alcohol from the Park or to sit on the monuments), interact with people and intervene to prevent or de-escalate disputes, patrol the toilet facilities to reduce illegal behavior inside the toilet facilities, and observe the conduct of people who may be

emotionally disturbed or whose conduct may be influenced by the consumption of alcohol or illegal drugs to intervene in the event their conduct interferes with the enjoyment of the Park by others. Licensee shall continue to provide security services generally consistent with the foregoing during the Term.

11.4 At the expiration or sooner termination of this License, consistent with the maintenance responsibility required of Licensee by this License, Licensee shall turn over the Licensed Premises to Parks in a well maintained state, in good repair, ordinary wear and tear excepted.

11.5 Licensee will be responsible for regular pest control inspections and extermination as needed. To the extent that Licensee applies pesticides to the Licensed Premises or any portion thereof, Licensee or any subcontractor hired by Licensee shall comply with applicable laws, including Chapter 12 of Title 17 of the New York City Administrative Code and limit the environmental impact of its pesticide use.

11.6 For any vehicle fuel dispensing tanks or underground heating oil storage tanks over 1,100 gallon capacity, Licensee shall maintain up-to-date Petroleum Bulk Storage ("PBS") registrations with New York State Department of Environmental Conservation and register such tanks with the DEP. Licensee will assume all registration and update costs. Licensee must keep a copy of the PBS Certificate on site and provide copies to Parks' 5-Boro Office on Randall's Island, New York. Licensee shall perform or have performed a tightness test conducted at least once every five years, to comply with Parks monitoring leak detection checklists for the tank(s) and all other legal requirements. Any changes, removals or additions of tanks must be pre-approved by Parks.

11.7 Licensee shall have no responsibility for maintaining the two 5th Avenue bus shelters, nor any LinksNYC kiosks should they be installed on the Licensed Premises.

12. APPROVALS

12.1 Licensee is solely responsible for obtaining all approvals, permits and licenses required by Federal, State and City laws, regulations, rules and orders for the lawful operation, management and maintenance of the concession granted by this License.

12.2 Whenever any act, consent, approval or permission is required of the City, Parks or the Commissioner under this License (a "Parks Approval"), the same shall be valid only if it is, in each instance, in writing and signed by the Commissioner or his or her duly authorized representative. No variance, alteration, amendment, or modification of this instrument shall be valid or binding upon the City, Parks, the Commissioner or their agents, unless the same is, in each instance, in writing and duly signed by the Commissioner or his duly authorized representative.

12.3 Parks shall use reasonable efforts to respond to Licensee's request for a Parks Approval within 21 days following Parks' receipt of such request. For those matters as to which Parks has agreed in this Agreement not to unreasonably withhold its approval, if Parks rejects Licensee's request for a Parks Approval, Parks shall use reasonable efforts to provide specific reasons for such rejection, and if following a rejection by Parks, Licensee revises its

submission to address the specific reasons for such rejection and resubmits such request to Parks, Parks shall use reasonable efforts to respond to Licensee's resubmitted request for a Parks Approval within ten (10) days following receipt of such resubmission. Issuance by Parks of a permit for an event, including Special Events permit for a Licensee's Special Event shall constitute approval by Parks of such Licensee's Special Event. Licensee's submission of an application for a Special Events permit for a Licensee's Special Event, with all relevant back-up information, shall constitute notice by Licensee to Parks of Licensee's Special Event for purposes of this Agreement. Notwithstanding the review period prescribed above or elsewhere in this Agreement, the parties acknowledge there will be occasions in which Licensee requires a significantly shorter response period than the period prescribed herein (e.g., a proposal for a promotional Licensee's Special Event is made to Licensee three (3) days prior to the proposed date of the promotional Licensee's Special Event). Parks shall use reasonable efforts to accommodate Licensee's shorter approval requests. Further, notwithstanding the foregoing, the Commissioner in his sole discretion may entertain an appeal of a denial submitted by Licensee within five (5) days of such denial.

12.4 Kate Spellman (kate.spellman@parks.nyc.gov) or her designee is the Parks representative who has, as of the date hereof, authority to issue an approval by Parks for the various types of approvals that are contemplated by this License Agreement. Reasonably promptly after any personnel change results in a change in the Parks representatives, Parks shall update the name and email address of the new Parks representative.

13. PARKS' SPECIAL EVENTS

13.1 For the purposes of this Section 13 the term "Parks' Special Event(s)" shall mean any Special Event at the Licensed Premises sponsored by Parks. The Commissioner represents to Licensee that the Commissioner has not, as of the date hereof, granted to any other person or entity any license, permit, or right of possession or use of the Licensed Premises or any portion thereof. For each Parks Special Event, Parks shall comply with the following conditions: (a) Parks shall give Licensee not less than thirty (30) days (or such lesser period as agreed by the parties) advance notice of any Parks' Special Event, and any annual event will be on a date mutually agreed to by Parks and Licensee, (b) Parks shall not sponsor or permit a Parks' Special Event on a date that will conflict with a Licensee's Special Event for which Licensee has submitted to Parks an application for a Special Event Permit and such Special Event Permit has been approved by Parks, (c) Parks shall be responsible for maintenance and clean-up associated with any such Parks' Special Event and may delegate such maintenance and clean-up obligation to a third-party, but such delegation shall not relieve Parks of primary responsibility to Licensee for such maintenance and clean-up, and (d) each Sublicensee, in its own discretion, may elect to operate or not to operate during any Parks' Special Event. Subject to the foregoing conditions, Licensee shall, and shall require that each Sublicensee, cooperate with Parks in connection with Parks' Special Events. Such events shall not, without the prior written consent of Licensee, prohibit the Licensee or any Sublicensee from reasonable access to the Licensed Premises. Furthermore, Parks reserves the right to grant permits for "Demonstrations" as defined in Section 1-02 of Parks' Rules and Regulations at the Licensed Premises where appropriate under Parks' Rules and Regulations and where such Demonstrations do not unreasonably interfere with previously scheduled and Parks-approved Licensee's Special Events as reasonably determined by Parks.

14. PROHIBITION AGAINST TRANSFER; ASSIGNMENTS AND SUBLICENSES

14.1 Except for Sublicenses approved by Parks, Licensee shall not sell, transfer, assign, sublicense or encumber in any way this License, ten percent or more of the shares of or interest in Licensee (unless it is agreed to, in writing, by Parks and signed by the Commissioner or Commissioner's designee), or any equipment furnished as provided herein, or any interest therein, or consent, allow or permit any other person or party to use any part of the Licensed Premises, buildings, space or facilities covered by this License, nor shall this License be transferred by operation of law, it being the purpose of this License Agreement to grant this License solely to Licensee herein named.

Should Licensee choose to assign or sublicense the management and operation of any element of the Licensed Premises to another party, Licensee shall seek the approval of the Commissioner (which shall not be unreasonably withheld) by submitting a written request including proposed assignment documents as provided herein. The Commissioner may request any additional information Commissioner deems necessary and Licensee shall promptly comply with such requests.

The term "assignment" shall be deemed to include any direct or indirect assignment, sublet, sale, pledge, mortgage, transfer of or change in more than ten percent in stock or voting control of or interest in Licensee, including any transfer by operation of law. No sale or transfer of the stock of or interest in Licensee may be made under any circumstance if such sale will result in a change of control of Licensee violative of the intent of this Section 14, without the prior written consent of Commissioner.

14.2 No assignment or other transfer of any interest in this License Agreement shall be permitted which, alone or in combination with other prior or simultaneous transfers or assignments, would have the effect of changing the ownership or control, whether direct or indirect, of ten percent (10%) or more of the stock or voting control of Licensee in the Licensed Premises without the prior written consent of Commissioner. Licensee shall present to Commissioner the assignment or sublicense agreement for approval, together with any and all information as may be required by the City for such approval, including a statement prepared by a certified public accountant indicating that the proposed assignee or sublicensee has a financial net worth acceptable to the Commissioner together with a certification that it shall provide management control acceptable to the Commissioner for the management and operation of the Licensed Premises. The constraints contained herein are intended to assure the City that the Licensed Premises are operated by persons, firms and corporations which are experienced and reputable operators and are not intended to diminish Licensee's interest in the Licensed Premises.

14.3 No consent to or approval of any assignment or sublicensee granted pursuant to this Article 14 shall constitute consent to or approval of any subsequent assignment or sublicense. Failure to comply with this provision shall cause the immediate termination of this License.

14.4 In addition to the foregoing requirements, Licensee shall immediately report to Parks any proposed change of five percent or more of the shares of or interest in Licensee when such change takes place.

15. PARKS CONSTRUCTION

15.1 Parks reserves the right to make repairs, alterations, decorations, additions or improvements to Licensed Premises ("Parks Construction") at Parks' expense as Parks deems necessary in its discretion at any time during the Term, subject to the following conditions: (a) except for Parks Construction in response to an emergency, as determined by Parks, Parks shall give Licensee not less than sixty (60) days' notice of any Parks Construction, which notice shall set forth the scope and schedule of the Parks Construction, (b) Parks shall consult with Licensee about the proposed schedule for any Parks Construction if such Parks Construction will interfere with any Parks-approved Licensee's Special Events, (c) Parks shall use reasonable efforts to minimize interference with the operations of any Sublicensee and with the operations of Licensee, (d) if any Parks Construction results in the temporary removal of any improvements in the Licensed Premises, Parks shall restore such improvements to their condition prior to such temporary removal promptly following completion of such Parks Construction, (e) Parks Construction shall be performed in a good and worker-like manner, (f) Parks shall contain all equipment and supplies for any Parks Construction in a reasonably confined area, and Parks shall not store overnight in the Licensed Premises any debris (except in response to an emergency), and (g) Parks shall take reasonable steps to minimize construction dust and residue, and Parks shall be responsible for cleaning such dust and residue on a daily basis. Licensee shall, and shall cause any Sublicensee to, reasonably cooperate with Parks to accommodate any Parks Construction and provide public and construction access through the Licensed Premises as deemed necessary by the Commissioner. Parks may temporarily close a part or all of the Licensed Premises for a Parks Construction as determined by the Commissioner. In the event that Parks does temporarily close a part of or all of the Licensed Premises for a Parks Construction, then Licensee may propose and submit for the Commissioner's approval a plan to equitably address the impact of the closure. Licensee shall, and cause any Sublicensee to, be responsible for the security of all Licensee's property or Sublicensee's property, as applicable on the Licensed Premises at all times, but Parks shall be responsible for any damage to any such property to the extent arising from the performance of any Parks Construction, and Parks shall be solely responsible for claims, damages, or injury resulting from Parks Construction, except to the extent such claims, damages and injury are caused by the negligence or willful misconduct of Licensee or any Sublicensee.

16. COMPLIANCE WITH LAWS

16.1 Licensee shall faithfully perform and carry out the provisions of this License and cause its agents, employees, and Sublicensees to conform to all rules, regulations, and orders prescribed as of the date hereof or which may hereafter be reasonably prescribed by the Commissioner, provided the Commissioner shall use reasonable efforts to give Licensee notice of any rules, regulations, or orders hereafter prescribed by Parks, and shall comply with all laws, regulations, rules, and orders of any kind whatsoever and of any agency or entity of government whatsoever applicable to the Licensed Premises and the Licensee's use

and occupation thereof. This provision includes, but is not limited to, the Parks' Rules and Regulations as set forth in 56 RCNY §1-01 et seq., New York City Administrative Code §18-137, the New York State Not-for-Profit Corporation Law, applicable tax and labor laws relating to non-discrimination in employment, and laws protecting youths from child abuse and maltreatment.

16.2 Licensee shall use the Licensed Premises in compliance with, and shall not cause or permit the Licensed Premises to be used in violation of, any and all federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of the courts, permits or permit conditions, currently existing or as amended or adapted in the future which are or become applicable to Licensee or the Licensed Premises (collectively "Environmental Laws"). Licensee shall not cause or permit, or allow any of Licensee's personnel to cause or permit, any Hazardous Materials to be brought upon, stored, used generated, treated or disposed of on the Licensed Premises. As used herein, "Hazardous Materials" means any chemical, substance or material which is now or becomes in the future listed, defined or regulated in any manner by any Environmental Law based upon, directly or indirectly, its properties or effects.

16.3 Licensee shall not use or allow the Licensed Premises, or any portion thereof, to be used or occupied for any unlawful purpose or in any manner that violates a certificate pertaining to occupancy or use during the Term.

17. NON-DISCRIMINATION

17.1 No Licensee or Sublicensee shall unlawfully discriminate against any employee, applicant for employment or patron because of race, creed, color, national origin, age, sex, handicap, marital status, or sexual orientation.

17.2 All advertising for employment for Licensee or any Sublicensee shall indicate that Licensee or such Sublicensee, as applicable, is an Equal Opportunity Employer.

18. NO WAIVER OF RIGHTS

18.1 No acceptance by the Commissioner of any compensation, fees, penalty, sums, charges or other payments in whole or in part for any periods after a default of any terms and conditions herein shall be deemed a waiver of any right on the part of the Commissioner to terminate this License. No waiver by the Commissioner of any default on the part of Licensee in performance of any of the terms and conditions herein shall be construed to be a waiver of any other or subsequent default in the performance of any of the said terms and conditions.

19. RESPONSIBILITY FOR SAFETY, INJURIES OR DAMAGE, AND INDEMNIFICATION

19.1 (a) Licensee shall take all reasonable precautions to protect the safety of its employees, agents, servants, invitees, Sublicensees, contractors, and subcontractors while they are on the Licensed Premises involved in the operations under this License.

(b) Licensee shall take all reasonable precautions to protect the persons and property of the City or others from damage, loss or injury resulting from any and all operations under this License.

19.2 (a) To the fullest extent permitted by law, subject to Section 19.2(c), Licensee shall indemnify, defend and hold the City and its officials and employees (an "Indemnified Party") harmless against any and all claims and demands of third parties for injury, including death, or property damage arising out of operations under this License Agreement ("Claims"), and all liens, judgments, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature (including, without limitation, reasonable attorneys' fees and disbursements) arising from any Claims (together with Claims, "Liabilities"), arising out of the (i) the condition of the Park, (ii) the acts or omissions (where there is a duty to act) of Licensee or any Sublicensee or any of their respective employees, servants, contractors, subcontractors or agents, in any operations under this License, or (iii) Licensee's or any Sublicensee's or any of their respective employees', servants', contractors', subcontractors' or agents' failure to comply with applicable law or any of the requirements of this License, regardless of whether any of the foregoing have been negligent. Insofar as the facts or law relating to any of the foregoing would preclude the Indemnified Party from being completely indemnified, the Indemnified Party shall be partially indemnified by Licensee to the fullest extent permitted by law.

(b) Licensee shall include the following indemnification (or a substantially comparable provision) in each Sublicense entered into during the Term of this Agreement:

To the fullest extent permitted by law, Sublicensee shall indemnify, defend and hold the City and its officials and employees (an "Indemnified Party") harmless against any and all claims and demands of third parties for injury (including death) or property damage arising out of operations under this Sublicense ("Claims"), and all liens, judgments, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature (including, without limitation, reasonable attorneys' fees and disbursements) arising from any Claims (together with Claims, "Liabilities"), arising out of (i) the condition of the Sublicensed Premises, (ii) the acts or omissions (where there is a duty to act) of Sublicensee or any of its employees, servants, contractors, subcontractors or agents, in any operations under this Sublicense, or (iii) Sublicensee's or any of its employees', servants', contractors', subcontractors' or agents' failure to comply with applicable law or any of the requirements of its Sublicense, regardless of whether any of the foregoing have been negligent. To the extent Liabilities arise from the following, they shall be excluded from Sublicensee's indemnification and defense obligations under this paragraph: (i) any construction performed by Parks or Parks' contractors, (ii) any Parks' Special Event, or (iii) the negligence or willful misconduct of the City or any of its officials, employees, contractors or agents (except for any negligence imputed to the City or any of its officials, employees, contractors, or agents arising from the negligence by Licensee or any Sublicensee in the performance of its maintenance obligations under this Agreement). Insofar as the facts or law relating to any of the foregoing would preclude the Indemnified Party from being completely indemnified, the

Indemnified Party shall be partially indemnified by Sublicensee to the fullest extent permitted by law.

(c) To the extent Liabilities arise from the following, they shall be excluded from Licensee's indemnification and defense obligations under Section 19.2(a): (i) any construction performed by Parks or Parks' contractors, (ii) any Parks' Special Event, or (iii) the negligence or willful misconduct of the City or any of its officials, employees, contractors or agents (except for any negligence imputed to the City or any of its officials, employees, contractors, or agents arising from the negligence by Licensee or any Sublicensee in the performance of its maintenance obligations under this Agreement).

(d) To the fullest extent permitted by law, the Licensee shall defend, indemnify, and hold harmless the Indemnified Parties against any and all Claims and Liabilities that the Indemnified Parties may be subject to or which they may suffer or incur allegedly arising out of any infringement, violation, or unauthorized use of any copyright, trade secret, trademark or patent or any other property or personal right of any third party by the Licensee, any Sublicensee or any of their respective employees, agents, servants, contractors or subcontractors in the operations under this License including any such infringement, violation, or unauthorized use arising while Licensee is in compliance with the License. Insofar as the facts or law relating to any of the foregoing would preclude an Indemnified Party from being completely indemnified by the Licensee, the Indemnified Party shall be partially indemnified by the Licensee to the fullest extent permitted by law.

(e) Upon receipt by any Indemnified Party of actual notice of a Claim to which such Indemnified Party is entitled to indemnification in accordance with Sections 19.2 (a) or (d), Parks shall give prompt notice of such Claim to Licensee. Licensee shall assume and prosecute the defense of such Claim at the sole cost and expense of Licensee. Licensee may settle any such Claim in its discretion so long as such settlement includes an unconditional release of the Indemnified Party.

19.3 Licensee's obligation to defend, indemnify and hold the Indemnified Parties harmless shall not be (i) limited in any way by Licensee's obligations to obtain and maintain insurance under this Licensee, nor (ii) adversely affected by any failure on the part of an Indemnified Party to avail themselves of the benefits of such insurance.

20. INSURANCE

20.1 (a) Throughout the Term, Licensee shall ensure that the types of insurance indicated in this Article are obtained and remain in force, and that such insurance adheres to all requirements herein. The City may require other types of insurance and/or higher liability limits and other terms if, in the opinion of the Commissioner, any change in Licensee's operations after the date hereof warrant the foregoing.

(b) Licensee is authorized to undertake or maintain operations under this License only during the effective period of all required coverage.

20.2 (a) Licensee shall maintain Commercial General Liability insurance in the amount of at least Two Million Dollars (\$2,000,000) per occurrence for bodily injury

(including death) and property damage and Two Million Dollars (\$2,000,000) for personal and advertising injury and not less than Five Million Dollars (\$5,000,000) in the aggregate on a per location basis, and Five Million Dollars products completed operations coverage, which amounts may be obtained by a combination of primary and umbrella coverage carried by Licensee. This insurance shall protect the insureds from claims for property damage and/or bodily injury, including death, and personal and advertising injury that may arise from any of the operations under this License. Coverage shall be at least as broad as that provided by the most recently issued Insurance Services Office ("ISO") Form CG 0001, shall contain no exclusions other than as required by law or as approved by the Commissioner, and shall be "occurrence" based rather than "claims-made."

(b) Licensee shall require that each Sublicensee and each of its construction contractors maintain Commercial General Liability insurance in the amount of at least One Million Dollars (\$1,000,000) per occurrence for bodily injury (including death), One Million Dollars (\$1,000,000) for personal and advertising injury, One Million Dollars (\$1,000,000) in the aggregate, and One Million Dollars (\$1,000,000) products completed operations coverage. This insurance shall protect the insureds from claims for property damage and/or bodily injury, including death, and personal and advertising injury that may arise from any of the operations under this License. Coverage shall be at least as broad as that provided by the most recently issued Insurance Services Office ("ISO") Form CG 0001, shall contain no exclusions other than as required by law or as approved by the Commissioner, and shall be "occurrence" based rather than "claims-made."

(c) Such Commercial General Liability insurance maintained by Licensee and each Sublicensee and construction contractor shall list the City, together with its officials and employees, as an Additional Insured for claims arising out of any of the operations under this License. Coverage shall be at least as broad as the most recent edition of ISO Form CG 20 26 and CG 20 37. "Blanket" or other forms are also acceptable if they provide the City, together with its officials and employees, with coverage at least as broad as ISO Forms CG 20 26 and CG 20 37.

(d) If Licensee or a Sublicensee of Licensee or a contractor of either serves alcoholic beverages anywhere on the Licensed Premises, Licensee and its Sublicensee and contractor shall carry or cause to be carried liquor law liability coverage in an amount not less than Two Million Dollars (\$2,000,000) per occurrence and list the City, together with its officials and employees, as an additional insured. Such insurance shall be effective prior to the commencement of any operations in which alcoholic beverages are sold and continue for the duration of such operations. The Commissioner may increase or decrease the limit(s) if the Commissioner reasonably believes that the nature of such operations merits an increase or decrease.

20.3 Licensee shall maintain Workers' Compensation insurance, Employers Liability insurance, and Disability Benefits insurance on behalf of, or with regard to, all employees involved in the Licensee's operations under this License, and such insurance shall comply with the laws of the State of New York.

20.4 (a) With regard to all operations under this License, Licensee shall maintain or cause to be maintained Commercial Automobile Liability insurance in the amount of at least One Million Dollars (\$1,000,000) each accident (combined single limit) for liability arising out of the ownership, maintenance or use of any owned, non-owned or hired vehicles. Coverage shall be at least as broad as the latest edition of ISO Form CA0001.

(b) If vehicles are used for transporting hazardous materials, such Commercial Automobile Liability insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

20.5 (a) Licensee shall maintain commercial property insurance on a special causes of loss form covering all buildings, structures, equipment and fixtures on the Licensed Premises ("Concession Structures"), whether existing at the Commencement Date or built at any time before the Termination Date. Licensee's property insurance requirements expressly exclude the sculptures and pedestals at Bryant Park (collectively, the "Excluded Monuments"). Such insurance shall provide full Replacement Cost coverage for the Concession Structures (without depreciation or obsolescence clause) and include, without limitation, coverage for loss or damage by acts of terrorism, water (other than flood-related), wind, subsidence and earthquake. Such insurance shall be "occurrence" (rather than "claims-made") based and shall designate the Licensee as Named Insured and the City as Loss Payee as their interests may appear. If the Excluded Monuments are damaged by any event that would be covered by commercial property insurance on a special causes of loss form of the type that Licensee is required to carry for the Concession Structures, then Parks shall be responsible for the repair and restoration of the Excluded Monuments, if Parks chooses to repair or restore the Excluded Monuments.

(b) This section does not require coverage for damage caused by flooding.

(c) The limit of such property insurance shall be no less than the full Replacement Cost of all Concession Structures, including, without limitation, the costs of post-casualty debris removal and soft costs, to the extent that such costs can be covered by a commercial property insurance policy on a special causes of loss form. If such insurance contains an aggregate limit, it shall apply separately to the Concession Structures.

(d) In the event of any loss to any of the Concession Structures, Licensee shall provide the insurance company that issued such property insurance with prompt, complete and timely notice, and simultaneously provide the Commissioner with a copy of such notice. With regard to any Concession Structure that the City owns or in which the City has an interest, Licensee shall also (i) take all appropriate actions in a timely manner to adjust such claim on terms that provide the City with the maximum possible payment for the loss, and (ii) either provide the City with the opportunity to participate in any negotiations with the insurer regarding adjustments for claims or, at the Commissioner's discretion, allow the City itself to adjust such claim.

20.6 Licensee represents and warrants that its operations at the Licensed Premises will not involve asbestos, lead, PCB's or any other hazardous materials.

20.7 (a) Policies of insurance required under this Article shall be provided by companies that may lawfully issue such policy and have an A.M. Best rating of at least A- / "VII", a Standard and Poor's rating of at least A, a Moody's Investor Service rating of at least A3, a Fitch Ratings' rating of at least A- or a similar rating by any other nationally recognized statistical rating organization acceptable to the New York City Law Department unless prior written approval is obtained from the New York City Law Department.

(b) Except with respect to Workers' Compensation, Employers' Liability, and Disability Benefits Insurance, policies of insurance required under this Article shall be primary and non-contributing to any insurance or self-insurance maintained by the City.

(c) Wherever this Article requires that insurance coverage be "at least as broad" as a specified form (including all ISO forms), there is no obligation that the form itself be used, provided that Licensee can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as the specified form.

(d) There shall be no self-insurance program or self-insured retention with regard to any insurance required under this Article unless approved in writing by the Commissioner. Under no circumstances shall the City be responsible for the payment of any self-insured retention (or any other aspect of a self-insurance program). Further, Licensee shall ensure that any such self-insurance program provides the City with all rights that would be provided by traditional insurance under this Article, including but not limited to the defense and indemnification obligations that insurers are required to undertake in liability policies.

(e) The City's limits of coverage for all types of insurance required under this Article shall be the greater of (i) the minimum limits set forth in this Article or (ii) the limits provided to Licensee under all primary, excess and umbrella policies covering operations under this License Agreement.

(f) All required policies, except Workers' Compensation, Employers Liability, and Disability Benefits, shall include a waiver of the right of subrogation with respect to all insureds and loss payees named therein.

20.8 (a) Certificates of Insurance for all insurance required in this Article must be submitted to and accepted by the Commissioner prior to execution of this License Agreement.

(b) For Workers' Compensation, Employer's Liability Insurance, and Disability Benefits insurance policies, Licensee shall submit one of the following:

- (i) C-105.2 Certificate of Worker's Compensation Insurance;
- (ii) U-26.3 -- State Insurance Fund Certificate of Workers' Compensation Insurance;
- (iii) Request for WC/DB Exemption (Form CE-200);

(iv) Equivalent or successor forms used by the New York State Workers' Compensation Board; or

(v) Other proof of insurance in a form acceptable to the City. ACORD forms are not acceptable proof of workers' compensation coverage.

(c) For all insurance required under this Article other than Workers Compensation, Employer's Liability, and Disability Benefits insurance, Licensee shall submit one or more Certificates of Insurance in a form acceptable to the Commissioner. All such Certificates of Insurance shall (a) certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits; and (b) be accompanied by the provision(s) or endorsement(s) in the Licensee's policy/ies (including its general liability policy) by which the City has been made an additional insured or loss payee, as required herein. All such Certificates of Insurance shall be accompanied by either a duly executed "Certification by Insurance Broker or Agent" in the form annexed hereto as Exhibit H or as otherwise required by the Commissioner or certified copies of all policies referenced in such Certificate of Insurance.

(d) Certificates of Insurance confirming renewals of insurance shall be submitted to the Commissioner prior to the expiration date of coverage of all policies required under this Concession. Such Certificates of Insurance shall comply with subsections (b) and (c) directly above.

(e) Acceptance or approval by the Commissioner of a Certificate of Insurance or any other matter does not waive Concessionaire's obligation to ensure that insurance fully consistent with the requirements of this Article is secured and maintained, nor does it waive Licensee's liability for its failure to do so.

(f) Licensee shall be obligated to provide the City with a copy of any policy of insurance required under this Article upon request by the Commissioner or the New York City Law Department.

20.9 (a) Licensee may satisfy its insurance obligations under this Article through primary policies or a combination of primary and excess/umbrella policies, so long as all policies provide the scope of coverage required herein.

(b) In the event Licensee requires any contractor to procure insurance with regard to any operations under this License and to list Licensee as an Additional Insured thereunder, Licensee shall ensure that such contractor also list the City, including its officials and employees, as an Additional Insured. For commercial general liability insurance, such coverage must be at least as broad as the most recent edition of ISO Form CG 20 26.

(c) Licensee shall be solely responsible for the payment of all premiums for all policies and all deductibles or self-insured retentions to which they are subject, whether or not the City is an insured under the policy.

(d) Where notice of loss, damage, occurrence, accident, claim or suit is required under a policy maintained in accordance with this Article, Licensee shall, and/or shall cause its Sublicensees and construction contractors, as applicable, to, notify in writing all

insurance carriers that issued potentially responsive policies of any such event relating to any operations under this License Agreement (including notice to Commercial General Liability insurance carriers for events relating to Licensee's own employees) no later than 20 days after such event or sooner if required by the insurance policy. For any policy where the City is an Additional Insured, such notice shall expressly specify that "this notice is being given on behalf of the City of New York as Insured, including its officials and employees, as well as the Named Insured." For any policy where the City is a Loss Payee, such notice shall expressly specify that "this notice is being given on behalf of the City of New York as Loss Payee as its interests may appear." Such notice shall also contain the following information: the number of the insurance policy, the name of the named insured, the date and location of the damage, occurrence, or accident, and the identity of the persons or things injured, damaged or lost. Licensee shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007.

(e) Licensee's failure to secure and maintain insurance in complete conformity with this Article, or to give the insurance carrier timely notice on behalf of the City, or to do anything else required by this Article shall constitute a material breach of this License Agreement. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

(f) Insurance coverage in the minimum amounts provided for in this Article shall not relieve the Licensee of any liability under this License Agreement, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this License Agreement or the law.

(g) In the event of any loss, accident, claim, action, or other event that does or can give rise to a claim under any insurance policy required under this Article, Licensee shall at all times fully cooperate with the City with regard to such potential or actual claim.

(h) In the event Licensee receives notice, from an insurance company or other person, that any insurance policy required under this Article shall expire or be cancelled or terminated (or has expired or been cancelled or terminated) for any reason, Licensee shall immediately forward a copy of such notice to both the Commissioner, the City of New York Department of Parks and Recreation, Arsenal, 830 Fifth Avenue, New York, NY 10065 and the New York City Comptroller, attn: Office of Contract Administration, Municipal Building, One Centre Street, room 1005, New York, New York 10007. Notwithstanding the foregoing, Licensee shall ensure that there is no interruption in any of the insurance coverage required under this Article.

21. WAIVER OF COMPENSATION

21.1 Licensee hereby expressly waives any and all claims for compensation from the Commissioner, his or her agents, and the City for any and all loss or damage sustained by reason of any defects, including but not limited to, deficiency or impairment of the water supply system, gas mains, electrical apparatus or wires furnished for the Licensed Premises, or by reason of any loss of any gas supply, water supply, heat or electric current which may

occur from time to time, or for any loss resulting from fire, water, windstorm, tornado, explosion, civil commotion, strike or riot, and Licensee hereby expressly releases and discharges the Commissioner, his or her agents, and the City from any and all demands, claims, actions, and causes of action arising from any of the causes aforesaid, except to the extent any of the foregoing arise from the gross negligence or willful misconduct of the City or any officer, official, employee or contractor thereof.

21.2 Licensee further expressly waives any and all claims for compensation, loss of profit, or refund of its investment, if any, or any other payment whatsoever, in the event this License is terminated by the Commissioner sooner than the fixed term because the Licensed Premises are required for any park or other public purpose, or because the License was terminated or revoked for any reason as provided herein.

22. INVESTIGATIONS

22.1 (a) The parties to this license shall cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (hereinafter "State") or a City governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

(b) (i) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York; or

(ii) If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then

(A) The Commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five days written notice to the parties involved to determine if any penalties should attach for the failure of any person to testify.

(B) If any non-governmental party to the hearing requests an adjournment, the Commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to Section 22 (d) below without the City incurring any penalty or damages for delay or otherwise.

(c) The penalties which may attach after a final determination by the Commissioner or agency head may include but shall not exceed:

(i) The disqualification for a period not to exceed five years from the date of an adverse determination of any person or entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

(ii) The cancellation or termination of any and all existing City contracts, leases, permits, or licenses that the refusal to testify concerns and that have not been assigned as permitted under this license, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

(d) The Commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in Section 22(d) (i) and (ii) below. He or she may also consider, if relevant and appropriate, the criteria established in Sections 22(d) (iii) and (iv) below in addition to any other information which may be relevant and appropriate.

(i) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

(ii) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

(iii) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.

(iv) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under (c) above, provided that the party or entity has given actual notice to the Commissioner or agency head upon the acquisition of the interest, or at the hearing called for in (b) (ii)(A) above gives notice and proves that such interest was previously acquired. Under either circumstance the

party or entity must present evidence at the hearing demonstrating the potentially adverse impact a penalty will have on such person or entity.

(e) (i) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

(ii) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

(iii) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.

(iv) The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

(f) In addition to and notwithstanding any other provision of this License the Commissioner or agency head may in his or her sole discretion terminate this agreement upon not less than three days written notice in the event Licensee fails to promptly report in writing to the Commissioner of Investigation of the City of New York any solicitation of money goods requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City of other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this agreement by the Licensee, or affecting the performance or this License Agreement.

23. CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE

23.1 This License Agreement shall be deemed to be executed in the City of New York, State of New York, regardless of the domicile of the Licensee, and shall be governed by and construed in accordance with the laws of the State of New York.

23.2 (a) Any and all claims asserted by or against the City arising under this License or related thereto shall be heard and determined either in the courts of the United States located in New York City ("Federal Courts") or in the courts of the State of New York ("New York State Courts") located in the City and County of New York. To effect this License Agreement and its intent, Licensee agrees:

(b) If the City initiates any action against the Licensee in Federal Court or in New York State Court, service of process may be made on the Licensee either in person, wherever such Licensee may be found, or by registered mail addressed to the Licensee at its address set forth in this License, or to such other address as the Licensee may provide to the City in writing; and

(c) With respect to any action between the City and the Licensee in New York State Court, the Licensee hereby expressly waives and relinquishes any rights it might otherwise

have (i) to move to dismiss on grounds of forum non conveniens, (ii) to remove to Federal Court; and (iii) to move for a change of venue to a New York State Court outside New York County.

23.3 With respect to any action between the City and the Licensee in Federal Court located in New York City, the Licensee expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a United States Court outside the City of New York.

23.4 If the Licensee commences any action against the City in a court located other than in the City and State of New York, upon request of the City, the Licensee shall either consent to a transfer of the action to a court of competent jurisdiction located in the City and State of New York or, if the court where the action is initially brought will not or cannot transfer the action, the Licensee shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in New York City.

24. WAIVER OF TRIAL BY JURY

24.1 (a) Licensee hereby waives trial by jury in any action, proceeding, or counterclaim brought by the City against Licensee in any matter related to this License.

(b) In the event any claim is made or any action brought in any way relating to this License Agreement herein other than an action or proceeding in which Licensee and City are adverse parties, Licensee and the City shall reasonably cooperate with each other without additional compensation to the extent that either party may reasonably require of the other.

25. CUMULATIVE REMEDIES - NO WAIVER

25.1 The specific remedies to which the City may resort under the terms of this License are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any other default hereunder. The failure of the City to insist in any one or more cases upon the strict performance of any of the covenants of this License, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of such covenants or option.

26. EMPLOYEES

26.1 All experts, consultants and employees of Licensee who are employed by Licensee to perform work under this License are neither employees of the City nor under contract to the City, and Licensee alone is responsible for their work, direction, compensation and personal conduct while engaged under this License. Nothing in this License shall impose any liability or duty on the City for acts, omissions, liabilities or obligations of Licensee or any person, firm, company, agency, association, corporation or organization engaged by Licensee as expert, consultant, independent contractor, specialist, trainee, employee, servant, or agent or for taxes of any nature including but not limited to unemployment insurance, workers' compensation, disability benefits and social security.

27. INDEPENDENT STATUS OF LICENSEE

27.1 Licensee is not an employee of the City and in accordance with such independent status neither Licensee nor its employees or agents will hold themselves out as, nor claim to be officers, employees, or agents of the City, or of any department, agency, or unit thereof, and they will not make any claim, demand, or application to or for any right or privilege applicable to an officer of, or employee of, the City, including but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage or employee retirement membership or credit.

28. CONFLICT OF INTEREST

28.1 Licensee represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the performance or rendering of the services herein provided. Licensee further represents and warrants that in the performance of this License no person having such interest or possible interest shall be employed by it. No elected official or other officer or employee of the City, nor any person whose salary is payable, in whole or part, from the City treasury, shall participate in any decision relating to this License which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly, interested nor shall any such person have any interest, direct or indirect, in this License or in the proceeds thereof.

29. PROCUREMENT OF AGREEMENT

29.1 Licensee represents and warrants that no person or selling agency has been employed or retained to solicit or secure this License upon an agreement or understanding for a commission, percentage, brokerage fee, contingent fee or any other compensation. Licensee further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. Licensee makes such representations and warranties to induce the City to enter into this License and the City relies upon such representations and warranties in the execution hereof.

29.2 For a breach or violation of such representations or warranties, the Commissioner shall have the right to annul this License without liability, entitling the City to recover all monies paid hereunder, if any, and the Licensee shall not make any claim for, or be entitled to recover, any sum or sums due under this License. This remedy, if effected, shall not constitute the sole remedy afforded the City for the falsity or breach, nor shall it constitute a waiver of the City's right to claim damages or refuse payment or to take any other action provided by law or pursuant to this License.

30. NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES

30.1 No claim whatsoever shall be made by the Licensee against any officer, agent or employee of the City for, or on account of, anything done or omitted in connection with this License.

31. ALL LEGAL PROVISIONS DEEMED INCLUDED

31.1 Each and every provision of law required to be inserted in this License shall be inserted herein. If, through mistake or otherwise, any such provision is not inserted, or is not inserted in correct form, then this License shall, forthwith upon the application of either party, be expressly amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party hereunder.

32. SEVERABILITY: INVALIDITY OF PARTICULAR PROVISIONS

32.1 If any term or provision of this License or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this License, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this License shall be valid and enforceable to the fullest extent permitted by law.

33. JUDICIAL INTERPRETATION

33.1 Should any provision of this License require judicial interpretation, it is agreed that the court interpreting or considering same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule of construction that a document should be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that all parties hereto have participated in the preparation of this License and that legal counsel was consulted by each responsible party before the execution of this License.

34. MODIFICATION OF AGREEMENT

34.1 This License Agreement constitutes the whole of the agreement between the parties hereto, and no other representation made heretofore shall be binding upon the parties hereto. This License Agreement may only be modified by an agreement in writing and duly executed by the party or parties affected by said modification.

35. NOTICES

35.1 Where provision is made herein for notice or other communication to be given in writing, the same shall be given by hand delivery or by mailing a copy of such notice or other communication by certified mail, return receipt requested, addressed to the Commissioner or to the attention of Licensee at their respective addresses provided at the beginning of this License Agreement, or to any other address that Licensee shall have filed with the Commissioner. Notices may also be given by facsimile transmission to the fax numbers for each party provided at the beginning of this License Agreement. Notices to Licensee shall also be given to Licensee at the following address: Bryant Park Corporation, 1065 Avenue of the Americas, Suite 2400, New York, New York 10018, Attention: Dan Pisark (Fax No. (212) 719-3499). Notwithstanding the foregoing, notices seeking or relating to a Parks Approval may be sent by email to the applicable Parks representative set forth in Section 12.4, as updated from time to time.

36. LICENSEE ORGANIZATION, POWER AND AUTHORITY

36.1 Licensee and the individual executing this License Agreement on behalf of Licensee each represents and warrants that Licensee is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of the State of New York and has the power and authority to enter into this License Agreement and perform its obligations hereunder. This is a continuing representation and warranty.

37. MISCELLANEOUS

37.1 The headings of sections and paragraphs are inserted for convenience only and shall not be deemed to constitute part of this License Agreement or to affect the construction thereof. The use in this License Agreement of singular, plural, masculine, feminine and neuter pronouns shall include the others as the context may require.

IN WITNESS WHEREOF, the parties hereto have caused this License Agreement to be signed and sealed on the day and year first above written.

CITY OF NEW YORK DEPARTMENT OF
PARKS & RECREATION

BRYANT PARK CORPORATION

By: [Signature]

By: [Signature]

Dated: 6/8/18

Dated: 5/30/18

APPROVED AS TO FORM AND
CERTIFIED AS TO LEGAL AUTHORITY

[Signature]
Acting Corporation Counsel 5/29/18

City of New York
Department of Parks & Recreation
Bryant Park Corporation

STATE OF NEW YORK

SS:

COUNTY OF NEW YORK

On this 8th day of June, 2018 before me personally came Mitchell J. Silver to me known, and known to be the Commissioner of the Department of Parks and Recreation of the City of New York, and the said person described in and who executed the foregoing instrument and (s)he acknowledged that (s)he executed the same in her/his official capacity and for the purpose mentioned therein.

MISSA
Notary Public
No.
Qualified
Comm. Expires
1/26/2022

[Signature]
Notary Public

1/26/2022

STATE OF NEW YORK

SS:

COUNTY OF

On this 3rd day of May, 2018 before me personally came Daniel A. Biederman to me known and who, being duly sworn by me, did depose and say that (s)he is the Executive Director of Bryant Park Corporation and that (s)he was authorized to execute the foregoing instrument on behalf of that company and acknowledged that (s)he executed the same on behalf of that company for the purposes mentioned therein.

CLAIRE AUSTIN
Notary Public, State of New York
No. 01AU8228821
Qualified in Queens County
Commission Expires September 27, 2018

Claire Austin
Notary Public

EXHIBIT A
SITE PLAN OF BRYANT PARK

Exhibit A

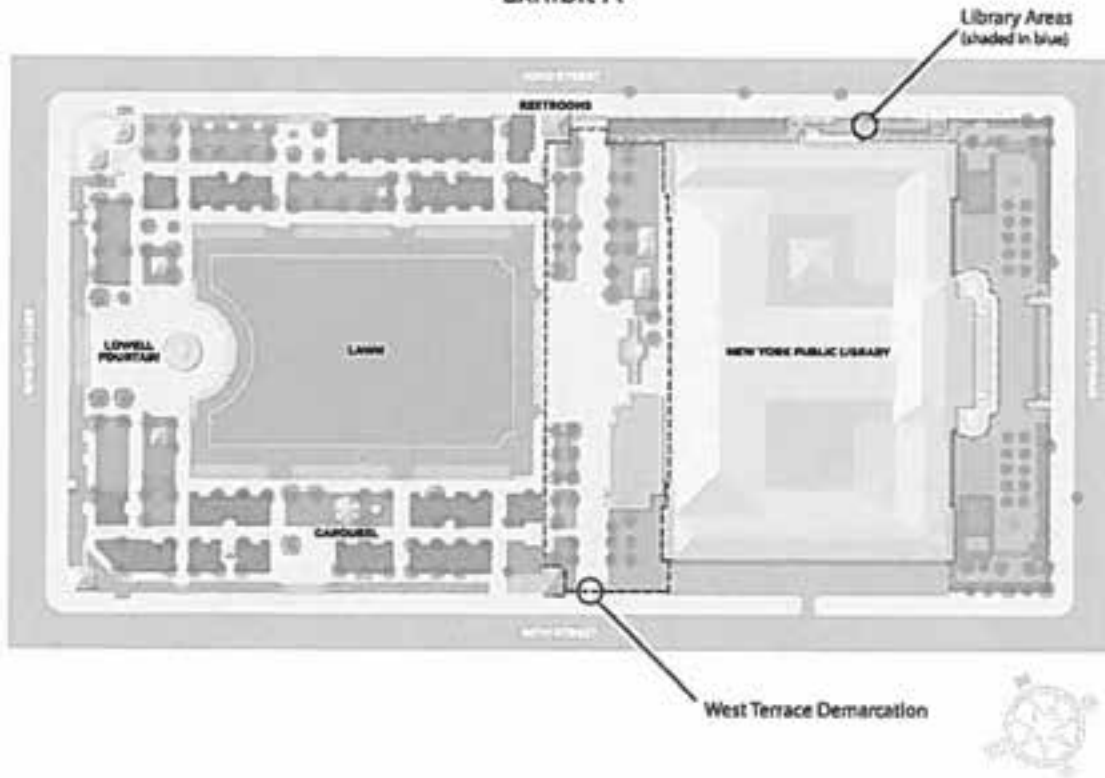


EXHIBIT B

APPROVED PROGRAMS AND EVENTS

Daily Activities	Location in Park	Frequency	Approximate Timing
Art Cart	5th Avenue Terrace	Daily	April – October
Chess	Games Area	Daily	April – October
Games	Games Area	Daily	April – October
Juggling	Various	Daily	Year Round
Le Carrousel	Le Carrousel	Daily	Year Round
Petanque	Petanque Courts	Daily	April – October
Piano	Upper Terrace	Daily	May - September
Ping Pong	The Tables	Daily	April – December
Putting Green/Kubb	The Green	Daily	April – October

Kids Programs	Location in Park	Frequency	Approximate Timing
Le Carrousel Magique	Le Carrousel	Sundays	June – August
Le Carrousel Storytime	Le Carrousel	Saturdays	July – August
Puppet Shows	Le Carrousel	Saturdays	June

Reading Room Programs	Location in Park	Frequency	Approximate Timing
Author Events	Reading Room	Weekly	May – August
Lectures & Discussions	Reading Room	Weekly	June - August
Poetry	Reading Room	Weekly	May - September
Spelling Bee	Reading Room	Single Event	June
StoryTime	Reading Room	Weekly	June - August
Writers Workshops	Reading Room	Weekly	July - August

Classes + Programs	Location in Park	General Timing	Approximate Timing
Beekeeping	Fountain Terrace	Monthly	May - September
Birding Tours	Throughout Park	Twice Weekly	April – May; September – October
Boot Camp	Fountain Terrace	Weekly	Year Round
Fencing	5th Avenue Terrace	Weekly	May - August
Fly Fishing	5th Avenue Terrace	Weekly	Late April – July
Knitting	Upper Terrace Gravel	Weekly	June – August
Language Classes	Upper Terrace Gravel	Weekly	May – August
Expressive Dance	Lawn	Weekly	June – September
Public Tours	Throughout Park	Weekly	Year Round
Tai Chi	Fountain Terrace	Twice Weekly	May – September
Pilates	Fountain Terrace	Weekly	May – September
Yoga	Lawn + Upper Terrace	Twice Weekly	May – September

Arts + Culture Programs	Location in Park	General Timing	Approximate Timing
Accordion Festival	Lawn	Single Event	August
Accordions	Lawn	Series/Weekly	August - September
Bingo	Fountain Terrace	Series of 3 Events	June
Broadway in Bryant Park	Lawn	Series/Weekly	June - August
Contemporary Dance	Stage + Lawn	Series/Weekly	June - July
Dance Party	Fountain Terrace	Series/Weekly	May - June
Emerging Music Festival	Lawn	Two-Day Event	August
Intersect: Classical + Jazz	Lawn	Two Day Event	July/August
Latin Festival	Fountain Terrace	Single Event	June
Musical Chairs	Lawn	Single Event	June
New York City Opera	Lawn	Series	June - August
Painters in Residence	Throughout Park	Daily	June - August
Shakespeare	Lawn	Series	May - September
Barefoot Ball	Lawn	Single Event	July
Sing-a-Long Thursdays	Upper Terrace	Weekly	July - August
Bryant Park Picnics	Lawn	Fridays	May - October
Square Dance	Lawn	Single Event	September
Summer Film Festival	Lawn	Mondays	June - August

Winter	Location in Park	General Timing	Approximate Timing
Winter Village	Whole Park	Daily	Late October - Early March
Tree Lighting	Ice Rink	Single Event	Late November/Early December
Winter Carnival	Whole Park	Weeklong Event	Late January/Early February

EXHIBIT C
APPROVED PRICES

Beverages

Hot: \$2.25 - \$6

Cold: \$2 - \$7.95

Alcoholic: \$8 - \$50

Food

Pastries/Breakfast: \$2 – \$14.95

Sandwich: \$3.50 - \$14.95

Salad: \$7.25 - \$13.95

Soup: \$6.95 - \$10.50

Dessert: \$1 - \$18.37

Skating

Skate rental: \$20

Express and Reserve Skate: \$30 - \$45

Skate aids, helmets, bag check, locks and sox: \$6 - \$22

Skate sharpening: \$20

Skate lessons: \$40 - \$120

Le Carousel

Single ride admission: \$3

EXHIBIT D

APPROVED SPONSORSHIPS

No elements in the following Exhibit D shall apply to use of the Parks logo. Any use of the Parks logo shall require prior written approval from Parks. "Co-branded" shall mean Bryant Park Corporation and the individual sponsor.

SUMMER FILM FESTIVAL ASSETS

- Supporting Sponsorship*
 - Brand/logo included on the following co-branded materials:
 - Promotional materials
 - Back of screen banner
 - Front/under screen banner
 - Side screen banners
 - Barricade covers
 - Directional event signage at lawn entrances
 - Website
 - Activation space at events – approximately 10'x10'
 - One :30 promotional spot shown before the feature film each week
 - Social media integrations/tags
 - Mention in press releases, media alerts and PR materials where possible
- Presenting Sponsorship
 - All elements from the Supporting level
 - Brand inclusion on front of screen banner and back of screen banner
 - Activation space at events – approximately 20'x10'
 - Brand/logo included on co-branded umbrellas
- Title Sponsorship
 - All elements from Supporting level
 - Brand integrated into title of the event
 - Brand inclusion on front of screen banner and back of screen banner
 - Activation space at events – approximately 20'x10'
 - Brand/logo included on co-branded umbrellas

*Alcohol brands are only accepted as Supporting Sponsors, and recognition will be limited to displays of the company's name and/or logo in enclosed areas. Any other alcohol brand recognition will require prior written approval by Parks.

WINTER VILLAGE SPONSORSHIP

- Season Supporting Sponsorship
 - Dedicated ice rink dasher board (1)
 - Brand/logo included on the following co-branded elements:
 - Wayfinding signage located at park entrances and on rink deck
 - Maps
 - Brochures
 - Website

- Social media integrations/tags
- Activation at limited number of skating sessions
- Pavilion interior informational displays
- Mention in press releases, media alerts and PR materials where possible
- Naming Rights Sponsorship
 - Brand integrated into title and identity of the event
 - Co-branded identity incorporated into the following elements:
 - Ice rink dasher board design
 - Wayfinding and entrance signage
 - Pavilion identification signage
 - Maps, brochures and website
 - Graphic murals
 - Umbrellas
 - Skate rental tickets
 - Staff uniforms and credentials
 - Barricade Covers
 - Social media integrations/tags
 - Activation at limited number of skating sessions (e.g. photo booth, product sampling, promotional giveaway, etc.)
 - Mention in press releases, media alerts and PR materials where possible
 - Pavilion interior informational displays
 - Logo on center ice and roof of pavilion structure*
- Tree Lighting Event
 - Temporary dedicated ice rink dasher board
 - Brand/logo included on the following co-branded elements:
 - Wayfinding signage
 - Maps, brochures, website
 - Credentials
 - Social media integrations/tags
 - Pavilion interior informational displays
 - Inclusion in event promotional opportunities (advertising, etc.)
 - Activation space during event – approximately 10'x10'
 - Mention in press releases, media alerts and PR materials where possible

*Sponsor logos may be displayed on center ice and pavilion roof for existing agreements, and any renewals or extensions thereof that already contain these elements. For future agreements, the logos displayed at these two locations shall be limited to Parks, BPC, or co-branded logos approved by Parks. Use of the Parks logo shall require prior written approval by Parks.

THE PORCH

- Naming Rights Sponsorship
 - Brand integrated into title of amenity (i.e. Southwest Porch)
 - Brand/logo included on the following co-branded elements:
 - Umbrellas
 - Awning valances
 - Furnishings (i.e. hostess stand, cushions, blankets, planters)*

- Informational and event signage
- Menu
- Maps, brochures, website
- Social media integrations/tags
- Mention in press releases, media alerts and PR materials where possible
- Activation opportunities throughout term (e.g. live music, trivia, panel discussions)

*Sponsor logos may be displayed on furnishings pursuant to existing agreements, and any renewals or extensions thereof that already contain these elements. For future agreements, use of logos on furnishing elements will require prior written approval by Parks.

BRYANT PARK PROGRAMS

These include fitness classes and arts and cultural programming and performances

- Supporting Sponsorship*
 - Brand/logo included on the following:
 - Promotional materials
 - On-site event signage
 - Co-branded equipment
 - Activation at limited number of events (e.g. photo booth, product sampling, promotional giveaway, etc.)
 - Social media integrations/tags
 - Website
- Presenting Sponsorship
 - All elements from the above
 - Brand name incorporated into program title (e.g. – Bryant Park Yoga presented by BRAND)
 - Activation space at events (e.g. – product sampling at 10'x10' space or photo booth)

*Alcohol brands are only accepted as Supporting Sponsors, and recognition will be limited to displays of the company's name and/or logo in enclosed areas. Any other alcohol brand recognition will require prior written approval by Parks.

BRYANT PARK AMENITIES

These include daily or seasonal services that exist in the park for an extended time.

- Supporting Sponsorship
 - Brand/logo included on the following:
 - Informational and event signage (5-10 signs, depending on needs of amenity)
 - Maps, brochures, website
 - Co-branded equipment
 - Co-branded furnishings (tables, chairs, umbrellas)
 - Opportunity for product giveaways
 - Social media integrations/tags
- Presenting Sponsorship
 - All elements from Supporting Level

- Brand name incorporated into amenity title (e.g. – Bryant Park WiFi presented by BRAND)
- Staff uniforms
- Activation space at events (e.g. – product sampling at 10'x10' space or photo booth)

EXHIBIT E

APPROVED HOURS OF OPERATION

Bryant Park Hours

January – February

Daily, 7am-10pm.

March

While Winter Village is operating Daily, 7am-10pm

After Winter Village closes for the season Daily, 7am-8pm

*If Winter Village closes before Daylight Savings Time, park closes at 7pm until DST.

April

Daily, 7am-10pm

May

Daily, 7am-11pm

June – September

Monday – Friday: 7am-midnight

Saturday and Sunday: 7am-11pm

October – December Daily, 7am-10pm.

BPC may close sections of the park when conditions are considered unsafe for patrons as a result of weather or necessary maintenance. Licensee will notify Parks of any such closure in the Monthly Operations Report. Closure of the park, or any section of the park, for any reason other than safety concerns, shall require prior written approval from Parks. Should the entire park need to be closed for safety related reasons, Licensee must immediately contact the Parks Commissioner and obtain the Commissioner's approval for the continued closure of the park.

Food Kiosk Hours

Wafels & Dinges

Sunday – Thursday: 8am – 11pm

Friday - Saturday: 8am – Midnight

Year-round

Breads Bakery

January – February:

Monday – Sunday: 8am – 8pm

March – December:

Monday – Friday: 7am – 9pm

Saturday – Sunday: 8am – 9pm

Joe Coffee

January – February:

Monday – Friday: 7am – 6:30pm

Saturday – Sunday: 7am – 6:30pm

March – December:

Monday – Sunday: 8am – 10pm

Le Pain Quotidien

Monday – Friday: 7am – 9pm

Saturday – Sunday: 8am – 9pm

Year-round

Southwest Porch

11am – park close

March – December*

*food/drink service is suspended in March but may operate during nice-weather days as they occur. Seating area remains open to the public even while food/drink service is closed.

EXHIBIT F

**FORM OF REPORT UNDER NEW YORK CITY ADMINISTRATIVE CODE SECTION
18-134**

Local Law 28 of 2008 Partnership Reporting Form						
Reporting Period: July 1 - June 30 Fiscal Year: XXXX						
Partner	Park Location	Borough	Fiscal Year- end	Total Spending - Maintenance and Operations	Total Spending - Program- ming	Total Spending - Capital
BPC	Bryant Park	Manhattan	30-Jun			

EXHIBIT G

PAID SICK LEAVE LAW CONCESSION AGREEMENT RIDER

Introduction and General Provisions

The Earned Sick Time Act, also known as the Paid Sick Leave Law (“PSLL”), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time.¹ Concessionaires of the City of New York or of other governmental entities may be required to provide sick time pursuant to the PSLL.

The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the New York City Administrative Code. It is administered by the City’s Department of Consumer Affairs (“DCA”); DCA’s rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York (“Rules”).

The Concessionaire agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this agreement. The Concessionaire further acknowledges that such compliance is a material term of this agreement and that failure to comply with the PSLL in performance of this agreement may result in its termination.

The Concessionaire must notify the Concession Manager in writing within ten (10) days of receipt of a complaint (whether oral or written) regarding the PSLL involving the performance of this agreement. Additionally, the Concessionaire must cooperate with DCA’s education efforts and must comply with DCA’s subpoenas and other document demands as set forth in the PSLL and Rules.

The PSLL is summarized below for the convenience of the Concessionaire.

The Concessionaire is advised to review the PSLL and Rules in their entirety. On the website www.nyc.gov/PaidSickLeave there are links to the PSLL and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which the Concessionaire can get more information about how to comply with the PSLL. The Concessionaire acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

Pursuant to the PSLL and the Rules:

Applicability, Accrual, and Use

An employee who works within the City of New York for more than eighty hours in any consecutive 12-month period designated by the employer as its “calendar year” pursuant to the

¹ Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant to New York City Administrative Code §20-912(g), such employer has the option of providing such employees uncompensated sick time.

PSLL ("Year") must be provided sick time. Employers must provide a minimum of one hour of sick time for every 30 hours worked by an employee and compensation for such sick time must be provided at the greater of the employee's regular hourly rate or the minimum wage. Employers are not required to provide more than forty hours of sick time to an employee in any Year.

An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per day. In addition, an employee may carry over up to forty hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than forty hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first day of such Year.

An employee entitled to sick time pursuant to the PSLL may use sick time for any of the following:

- such employee's mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee's need for medical diagnosis or preventive medical care;
- such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of an employee's spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;
- closure of such employee's place of business by order of a public official due to a public health emergency; or
- such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency.

An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use of sick time was needed for a reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSLL. However, an employer may not require documentation specifying the nature of a medical condition or otherwise require disclosure of the details of a medical condition as a condition of providing sick time and health information obtained solely due to an employee's use of sick time pursuant to the PSLL must be treated by the employer as confidential.

If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.

Exemptions and Exceptions

Notwithstanding the above, the PSLL does not apply to any of the following:

- an independent contractor who does not meet the definition of employee under section 190(2) of the New York State Labor Law;
- an employee covered by a valid collective bargaining agreement in effect on April 1, 2014 until the termination of such agreement;
- an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSLL are expressly waived in such collective bargaining agreement;
- an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSLL for such employee;
- an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;
- an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;
- an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or
- a participant in a Work Experience Program (WEP) under section 336-c of the New York State Social Services Law.

Retaliation Prohibited

An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSLL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSLL.

Notice of Rights

An employer must provide its employees with written notice of their rights pursuant to the PSLL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at <http://www.nyc.gov/html/dca/html/law/PaidSickLeave.shtml>.

Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed fifty dollars for each employee who was not given appropriate notice.

Records

An employer must retain records documenting its compliance with the PSSL for a period of at least three years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSSL.

Enforcement and Penalties

Upon receiving a complaint alleging a violation of the PSSL, DCA has the right to investigate such complaint and attempt to resolve it through mediation. Within 30 days of written notification of a complaint by DCA, or sooner in certain circumstances, the employer must provide DCA with a written response and such other information as DCA may request. If DCA believes that a violation of the PSSL has occurred, it has the right to issue a notice of violation to the employer.

DCA has the power to grant an employee or former employee all appropriate relief as set forth in New York City Administrative Code 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSSL civil penalties not to exceed \$500 for a first violation, \$750 for a second violation within two years of the first violation, and \$1,000 for each succeeding violation within two years of the previous violation.

More Generous Policies and Other Legal Requirements

Nothing in the PSSL is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time. The PSSL provides minimum requirements pertaining to sick time and does not preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees. The PSSL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

EXHIBIT H

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

All certificates of insurance (except certificates of insurance solely evidencing Workers' Compensation Insurance, Employer's Liability Insurance, and/or Disability Benefits Insurance) must be accompanied by one of the following:

- (1) the Certification by Insurance Broker or Agent on the following page setting forth the required information and signatures;

-- OR --

- (2) copies of all policies as certified by an authorized representative of the issuing insurance carrier that are referenced in such certificate of insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

CITY OF NEW YORK
CERTIFICATION BY INSURANCE BROKER OR AGENT

The undersigned insurance broker or agent represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects.

[Name of broker or agent (typewritten)]

[Address of broker or agent (typewritten)]

[Email address of broker or agent (typewritten)]

[Phone number/Fax number of broker or agent (typewritten)]

[Signature of authorized official, broker, or agent]

