

CITY OF NEW YORK

FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. 1)

RESOLVED, that the Franchise and Concession Review Committee authorizes the New York City Department of Parks and Recreation ("Parks") to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to enter into a Sole Source License Agreement ("License Agreement") with Cirque du Soleil America, Inc ("Cirque" or "Licensee") for the operation of a Circus at the Harlem River Event Site at Randall's Island Park, Manhattan. The License Agreement will commence upon Cirque's receipt of a written Notice to Proceed and will expire on December 9, 2016. Licensee shall pay to the Randall's Island Park Alliance ("RIPA") a lump sum license fee of three hundred and thirty thousand United States dollars (US \$330,000.00) for the occupation of the Licensed Premises and the presentation of no more than seventy-five (75) performances of its Circus show entitled Kurios. Licensee shall also pay to RIPA a license fee of four thousand and four hundred United States dollars (US \$4,400.00) for every optional performance above seventy-five (75) performances of its Circus show entitled Kurios.

THIS IS A TRUE COPY OF THE RESOLUTION ADOPTED BY THE
FRANCHISE AND CONCESSION REVIEW COMMITTEE ON

December 9, 2015

Date: _____

Signed: _____

Title: Director of the Mayor's Office of Contract Services

CONCESSION AGREEMENT RECOMMENDATION FOR AWARD MEMORANDUM COVER SHEET

(Attach, in the following order, applicable CRFA Memo, Responsibility Determination Form, approved CPSR Cover Sheet and, if the selection procedure was not CSB, the CPSR Memo and CCPO Memo (if applicable))

AGENCY: New York City Department of Parks and Recreation ("Parks")	RECOMMENDED CONCESSIONAIRE Name: <u>Cirque du Soleil America, Inc.</u> Address: <u>980 Kelly Johnson Drive, Las Vegas, Nevada, 89119.</u>	CONCESSION TITLE/ DESCRIPTION: The Operation of a Circus at Randall's Island Park, Manhattan
# VOTES required for proposed action = 4 <input checked="" type="checkbox"/> N/A	Telephone # <u>702-352-0200</u> <input checked="" type="checkbox"/> EIN <input type="checkbox"/> SSN # <u>88-0355682</u> Not-for-Profit Organization Certified by DSBS as M/WBE	CONCESSION I.D. # <u>M104-O</u>

LOCATION OF CONCESSION SITE(S)* Address: Harlem River Event Site at Randall's Island N/A
 *Attach additional sheet **Borough Manhattan C.B. 11 Block # 1819 Lot # 203**

SELECTION PROCEDURE
 (*CCPO approval of CRFA required)

Competitive Sealed Bids
 Competitive Sealed Proposals* (FCRC approved Agency request to deviate from final recommendation of the Selection Committee on ___/___/___.)
 Different Selection Procedure: * (Sole Source Agreement Other _____)
 > FCRC approved different selection procedure on 9/9/15.
 Negotiated Concession*

CONCESSION AGREEMENT TERM

Initial Term: From Notice to Proceed to December 9, 2016

Total Potential Term: One (1) Year*

* >20 years – FCRC unanimously approved term on ___/___/___

ANNUAL REVENUE
 (Check all that apply)
 Additional sheet (s) attached

Annual Fee(s)
 % Gross Receipts _____ %
 The Greater of Annual Minimum Fee(s of \$ _____ v. _____ % of Gross Receipts

Other Cirque du Soleil America, Inc. ("Cirque" or "Licensee") shall pay to Randall's Island Park Alliance ("RIPA") a lump sum license fee of three hundred and thirty thousand United States dollars (US \$330,000.00) for the occupation of the Licensed Premises and the presentation of no more than seventy-five (75) performances of its Circus show entitled Kurios. Licensee shall also pay to RIPA a license fee of four thousand and four hundred United States dollars (US \$4,400.00) for every optional performance above seventy-five (75) performances of its Circus show entitled Kurios.

NOTIFICATION REQUIREMENTS

Subject concession was awarded by CSB or CSP. YES NO

If YES, check the applicable box(es) below:

The subject concession is a Significant Concession and the Agency completed its consultations with each affected CB/BP regarding the scope of the solicitation by ___/___/___, which was at least 30 days prior to its issuance.
 The subject concession is a Significant Concession and the Agency included this concession in the Agency's Plan and completed consultations with each affected CB/BP pursuant to §1-10 of the Concession Rules.
 The subject concession was determined not to be a Major Concession and the Agency sent notification of such determination to each affected CB/BP by ___/___/___, which was at least 40 days prior to issuance of the solicitation.

If NO, check the applicable box below:

The Agency certifies that each affected CB/BP received written notice by 7/31/15, which was at least 40 days in advance of the FCRC meeting on 9/9/15 at which the agency sought and received approval to use a different

selection procedure.

- The Agency certifies that each affected CB/BP received written notice on / / , at the time that a notice of intent to enter into negotiations was published for the subject concession, and provided a copy of such notification to the members of the Committee within five days on / / .
- The Agency certifies that based on exigent circumstances the FCRC unanimously approved waiver of advance written notice to each affected CB/BP on / / .

Law Department approved concession agreement on _____

Award is a major concession. YES NO

If YES, award was approved pursuant to Sections 197-c and 197-d of the NYC Charter as follows:

- CPC approved on / /
- City Council approved on / / or N/A

AUTHORIZED AGENCY STAFF

This is to certify that the information presented herein is accurate and that I find the proposed concessionaire to be responsible and approve of the award of the subject concession agreement.

If the concession was awarded by other than CSB or CSP, additionally check the applicable box below:

- The concession was approved by the FCRC on _____.
- The concession was not subject to the approval of the FCRC because it has a term of <30 days and is not subject to renewal.

Name Alexander Han **Title** Deputy Director of Concessions

Signature _____ **Date** / /

CERTIFICATE OF PROCEDURAL REQUISITES

This is to certify that the agency has complied with the prescribed procedural requisites for award of the subject concession agreement.

Signature _____ **Date** / /
City Chief Procurement Officer

**RECOMMENDATION FOR AWARD OF CONCESSION AGREEMENT MEMORANDUM:
CONCESSION AGREEMENT AWARDED BY OTHER THAN CSB OR CSP**

SUMMARY OF PROPOSED CONCESSION USE (Attach Proposed Agreement)

The Operation of a Circus at the Harlem River Event Site at Randall's Island Park, Manhattan

Instructions: Provide all information requested below; check all applicable boxes.

A. SELECTION PROCEDURE

Sole Source

Other *Describe:*

B. NEGOTIATIONS

Instructions: Describe the nature of negotiations conducted, including negotiations with respect to the amount of revenue offered.

Following FCRC approval to enter into negotiations with the Cirque du Soleil America, Inc. ("Cirque" or "Licensee"), the New York City Department of Parks and Recreation ("Parks") and Cirque conducted meetings to discuss the terms of this License Agreement ("License Agreement"). Pursuant to a license agreement between Parks and Randall's Island Park Alliance ("RIPA") dated December 24, 2012 which provides for the payment of license fees to RIPA for projects located in Randall's Island Park and which funds shall be used by RIPA for the operation and maintenance of Randall's Island Park, Licensee shall pay to RIPA a lump sum license fee of three hundred and thirty thousand United States dollars (US \$330,000.00) for the occupation of the Licensed Premises and the presentation of no more than seventy-five (75) performances of its Circus show entitled Kurios. Licensee shall also pay to RIPA a license fee of four thousand and four hundred United States dollars (US \$4,400.00) for every optional performance above seventy-five (75) performances of its Circus show entitled Kurios.

C. BASIS FOR AWARD (If sole source award, attach the offer; if other than a sole source award, attach the three highest rated offers, if applicable.)

The agency determined that award of the concession is in the best interest of the City because:

Parks believes that pursuing a License Agreement with Cirque is in the City's best interest because of the unique nature of the services and activities offered by Cirque.

Cirque has extensive experience running professional operations throughout the world. It has an outstanding history of producing specialized events, with highly trained staff and performers and utilizes its own infrastructure. The Cirque set up is extremely low impact and self-contained, and will provide Randalls' Island Park Alliance with much needed revenue while not interfering with

the normal operations and usage of Randall's Island Park. In fact, Cirque's 2003, 2004, 2006, and 2009 shows at Randall's Island Park were successful and ran smoothly.

As Parks believes it is in the City's best interest to offer this service to the public, Parks is requesting approval to enter into a License Agreement with Cirque to operate a circus at the Harlem River Event Site at Randall's Island Park, Manhattan.

D. PUBLIC HEARING N/A – Subject award NOT a significant concession]

1. Publication & Distribution of Public Hearing Notice

Subject concession is a **Citywide** concession and Agency hereby certifies that a notice containing a summary of the terms and conditions of the proposed concession and stating the time, date and location of the public hearing was published once in the City Record on ___/___/___, which was not less than 15 days prior to the hearing date or a shorter period approved by the CCPO and was given to each affected CB-BP and the Committee Members on ___/___/___, which was not less than 15 days prior to the hearing date. Agency also published a public hearing notice twice in the two newspapers indicated below. A copy of each such notice was sent to each affected CB-BP by ___/___/___.

- _____, a NYC citywide newspaper on ___/___/___ and ___/___/___
- _____, a NYC citywide newspaper on ___/___/___ and ___/___/___

OR

Subject concession is **NOT a Citywide** concession and Agency hereby certifies that a notice containing a summary of the terms and conditions of the proposed concession and stating the time, date and location of the public hearing was published once in the City Record on 11/20/14, which was not less than 15 days prior to the hearing date or a shorter period approved by the CCPO and was given to each affected CB-BP and the Committee Members on 11/20/14, which was not less than 15 days prior to the hearing date. Agency additionally published a public hearing notice and summary of the terms and conditions of the proposed agreement twice in two newspapers indicated below. A copy of each such notice containing a summary of the terms and conditions of the proposed agreement was sent to each affected CB-BP by 11/20/14.

- Our Town*, a NYC local newspaper published in the affected borough(s) on 12/3/15.
- Harlem Times*, a NYC local newspaper published in the affected borough(s) on 12/3/15.
- NY Post*, a NYC citywide newspaper on 11/25/15 and 12/2/15.

2. Public Hearing Date, Exception to Public Hearing Requirement

A Public Hearing was conducted on ___/___/___.

OR

The Agency certifies that the total annual revenue to the City from the subject concession does not exceed one million dollars and a Public Hearing was not conducted because, pursuant to §1-13(q)(2) of the Concession Rules, the Agency gave notice of the hearing and did not receive any written requests to speak at such hearing or requests from the Committee that the Agency appear at the hearing. Furthermore, the Agency certifies that it published a notice in the City

Record canceling such hearing on ___/___/___ and sent a copy of that notice to all Committee Members.

LICENSE AGREEMENT

BETWEEN

CIRQUE DU SOLEIL AMERICA, INC.

AND

**CITY OF NEW YORK
PARKS & RECREATION**

AND

RANDALL'S ISLAND PARK ALLIANCE, INC.,

for

THE OPERATION OF A CIRCUS AT RANDALL'S ISLAND

BOROUGH OF MANHATTAN, NEW YORK,

Dated: _____

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
GRANT OF LICENSE	2
DEFINITIONS	2
TERM OF LICENSE	3
PAYMENT TO CITY.....	5
RIGHT TO AUDIT.....	7
SET-UP AND TAKE-DOWN	8
UTILITIES	10
INFLAMMABLES	12
OPERATIONS.....	12
MAINTENANCE, SANITATION, IMPROVEMENTS, REPAIRS AND RETURN OF LICENSED PREMISES	21
APPROVALS	22
RESERVATION FOR SPECIAL EVENTS.....	23
ASSIGNMENTS AND SUBLICENSES.....	24
IMPROVEMENT/CORRECTION/PARKS CONSTRUCTION.....	23
ACCESS	25
NO WAIVER OF RIGHTS	24
NON-DISCRIMINATION.....	25
TRADEMARKS	25
LOCATION RELEASES.....	25
INDEMNIFICATION.....	26
INSURANCE.....	26
INVESTIGATIONS.....	29
CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE.....	31
WAIVER OF TRIAL BY JURY	32
PROCUREMENT OF AGREEMENT	32
CUMULATIVE REMEDIES - NO WAIVER	32
SEVERABILITY; INVALIDITY OF PARTICULAR PROVISIONS.....	32
CONFLICT OF INTEREST	33
EMPLOYEES	33

INDEPENDENT STATUS OF LICENSEE.....	33
ALL LEGAL PROVISIONS DEEMED INCLUDED.....	33
JUDICIAL INTERPRETATION.....	34
PAYMENTS AND NOTICES.....	35
MODIFICATION OF AGREEMENT.....	36
SIGNATURE PAGE.....	37
<u>EXHIBIT A</u> - Licensed Premises.....	41
<u>EXHIBIT B</u> - Operations Plan.....	42
<u>EXHIBIT C</u> - Site Plan.....	43
<u>EXHIBIT D</u> - Performance Schedule.....	44
<u>EXHIBIT E</u> - Load-In & Load-Out Schedule.....	47
<u>EXHIBIT F</u> - Utilities & Services.....	48
<u>EXHIBIT G</u> - Pre-Approved Materials.....	49
<u>EXHIBIT H</u> - Price List (Concessions & Tickets).....	50
<u>EXHIBIT I</u> - List of Cirque Sponsors.....	53
<u>EXHIBIT J</u> - Parking Facilities.....	54
<u>EXHIBIT K</u> - Site Improvement Plan.....	55
<u>EXHIBIT L</u> Intentionally Omitted	
<u>EXHIBIT M</u> – Certificates of Insurance and Certification by Insurance Broker or Agent.....	58
<u>EXHIBIT N</u> - Transportation Information.....	59
<u>EXHIBIT O</u> – VIP Tent Rider.....	60
<u>EXHIBIT P</u> – Release Form.....	61

LICENSE AGREEMENT (“License Agreement” or “License”) made this _____ day of _____, 2015 between the City of New York (the “City”) acting by and through the Department of Parks & Recreation (“Commissioner” and “Parks,” respectively), whose address is the Arsenal, 830 Fifth Avenue, New York, New York 10065, and Randall’s Island Park Alliance, Inc. (“RIPA”), a not-for profit corporation, organized under the laws of the State of New York, whose address is 24 West 61st Street, 4th Floor, New York, NY 10023, and Cirque du Soleil America, Inc. (“Licensee”), a Corporation organized under the laws of the State of Delaware, with its principal place of business at 980 Kelly Johnson Drive, Las Vegas, Nevada, 89119.

W I T N E S S E T H:

WHEREAS, the Department of Parks and Recreation, pursuant to §533 of the New York City Charter, has jurisdiction over parklands of the City of New York and facilities therein; and

WHEREAS, the Harlem River Event site on Randall’s Island Park (as denoted in Exhibit A annexed hereto) in the Borough of Manhattan, is property under the jurisdiction and control of Parks; and

WHEREAS, the Commissioner desires to provide for the operation and management of a circus as a concession for the accommodation, convenience and enjoyment of the public; and

WHEREAS, Parks complied with the requirements of the Franchise and Concession Review Committee (“FCRC”) for the selection of a sole source concessionaire; and

WHEREAS, the Licensee is engaged in the business of producing and presenting live entertainment performances for the public based on a theatrical approach to the circus and desires to operate, manage, maintain and present its show entitled Kurios (“Circus” as defined below in Article 2.1) at the Licensed Premises (as defined below in Article 2.1) 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 and maintenance of the Circus at the Licensed Premises.

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

GRANT OF LICENSE

1.1 Commissioner hereby grants to Licensee and Licensee hereby accepts from Commissioner this License to operate, maintain and manage a Circus at the Licensed Premises as a public accommodation in accordance with the terms herein.

1.2 Licensee shall obtain any and all approvals, permits, and other licenses required by federal, state and City laws, rules, regulations and orders which are or may become necessary to operate the Circus and any other improvements or services contemplated herein or in conjunction with said Circus, at the Licensed Premises, in accordance with the terms of this License. In accordance with this provision, Licensee must apply to the City's Department of Consumer Affairs for inspections to be performed by the City's Department of Buildings. Licensee is solely responsible for obtaining all necessary Certificates of Occupancy and Permits of Assembly.

1.3 It is expressly understood that no land, building, space, improvement, or equipment is leased to Licensee, but that during the Term of this License, Licensee shall have the use of the Licensed Premises for the purpose herein provided. Except as herein provided, Licensee has the right to occupy and operate the Licensed Premises only so long as each and every term and condition in this License is strictly and properly complied with and so long as this License is not terminated by the Commissioner under the terms of this License.

1.4 Licensee shall provide, at all times, 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 it being understood that save and except for an emergency event, such inspection shall not be conducted during any Circus performance taking place under the main tent ("Big Top").

1.5 The City shall use reasonable efforts to ensure that save and except for an event of force majeure the Licensed Premises shall be in the same or similar condition on the first day of the Occupation Period as it was on the date of Licensee's inspection, which shall take place prior to the Occupation Period (as defined in Section 3.1) on a date to be mutually agreed by Parks and Licensee.

DEFINITIONS

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

(a) "Circus" shall mean live entertainment performances for the public based on a theatrical approach of the circus at the Licensed Premises including all activities and operations related to such performances and all necessary equipment and personnel required to operate such equipment, in accordance with all federal, state and City laws, rules and regulations now in effect or that shall become effective during the Term of this License.

(b) "Commencement Date" shall mean the date Licensee receives written notice from Parks to proceed.

(c) "Licensed Premises" shall mean the areas denoted on the plan attached hereto as Exhibit A, specifically the Harlem River Event site on Randall's Island Park designated in said Exhibit.

(d) "Occupation Period" shall mean the period from September 12, 2016 to December 9, 2016, or a lesser period thereof.

(e) "Performance Period" shall mean the period when the Circus performances shall be open and/or available to the general public, including limited access performances such as dress rehearsal(s) and the Premiere Performance (as hereinafter defined). The Performance Period shall commence no earlier than September 29, 2016 and end no later than November 27, 2016.

TERM OF LICENSE

3.1 This License shall become effective upon the Licensee receiving written notice from Parks to proceed (Commencement Date) and shall terminate thereafter on December 9, 2016 (Termination Date). In the event that the end date of the Occupation Period is set by the parties at a date sooner than December 9, 2016, such date shall be deemed the Termination Date. The period of time from the Commencement Date to the Termination Date shall be the License Term ("Term"). Within the Term, Licensee shall have the right to occupy the Licensed Premises during the Occupation Period. Operations as set forth in Exhibit E shall commence on September 12, 2016. With the approval of Parks, Licensee may conduct initial site inspections and lay-out planning activities prior to the commencement of the Term of this License.

3.2 In addition to the rights to terminate as provided herein, this License is terminable at will at any time by the Commissioner. Such termination shall be effective ten (10) days after written notice to Licensee, such termination shall not be arbitrary or capricious. The Commissioner, the City, its employees and agents shall not be liable for damages to Licensee in the event that this License is terminated by Commissioner as provided for herein.

3.3 (a) Should Licensee breach or fail to comply with any of the provisions of this License, any federal, state or local law, rule, regulation or order affecting the License or the Licensed Premises with regard to any and all matters, Commissioner may in writing order Licensee to remedy such breach or comply with such provision, law, rule, regulation or order, and in the event that Licensee fails to comply with such written notice within twenty (20) days from the mailing thereof, subject to unavoidable delays beyond reasonable control of Licensee, then this License shall immediately terminate. If said 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 thereof.

(b) The following shall constitute events of default for which this License may be terminated by Commissioner on five (5) days notice: **(i)** the appointment of any receiver of Licensee's assets; the making of a general assignment for the benefit of creditors; **(ii)** the occurrence of any act which operates to deprive Licensee permanently of the rights, powers and privileges necessary for the proper performance of the Circus; **(iii)** 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 (60) days.

(c) Nothing contained in paragraphs (a) or (b) above shall be deemed to imply or be construed to represent an exclusive enumeration of circumstances under which Commissioner may terminate this License provided that such termination by the Commissioner is not arbitrary or capricious.

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

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

3.6 Licensee shall, on or prior to the expiration or sooner termination of this License, remove all personal possessions from the Licensed Premises pursuant to Section 6.1(f) herein.

3.7 Licensee's Termination Rights. Licensee shall have the right to terminate this License, under the following conditions:

(a) In the event Licensee is delayed or prevented from commencing operations of the Licensed Premises due to acts of God, war, enemies or hostile government actions, revolutions, insurrection, riots, civil commotion, strikes, fire or other casualty. In such event, Licensee shall be entitled to a refund of payments made to RIPA.

(b) If pursuant to Section 7 herein, Licensee inspects the Licensed Premises and determines that Licensee will be unable to adequately provide necessary additional utilities, sufficient to provide the Circus contemplated herein, then Licensee, at its sole discretion, may terminate this License in accordance with the provisions of Section 7.

(c) If Licensee fails to obtain, any of the required permits, licenses, authorizations or consents (i) as required by the City of New York for the use of the Licensed Premises and (ii) to conduct the activities permitted under this License

(d) In the event Licensee terminates this License prior to the beginning of the Term for any of the reasons set forth in Section 3.7 (a), (b) and (c) hereof, then Licensee shall have no obligation to pay to the Commissioner, City, or RIPA any license fee or other amounts which would have otherwise been payable but for the termination of the License, and Licensee shall be entitled to recover from Commissioner, City, or RIPA any license fee or other amounts paid prior to the effective termination date.

(e) In the event Licensee terminates this License during the Term for any of the reasons set forth in Section 3.7 (a), (b) and (c) hereof, then the license fee to which RIPA shall be entitled shall be reduced on the basis of the number of days during which Licensee occupied the Licensed Premises prior to the effective termination date.

(f) In the event this License is terminated due to default by Licensee of any of the terms or conditions contained in this License, Licensee shall not be entitled to any refund or return of payments made pursuant to Section 4 herein.

(g) In any event, where Licensee is entitled to a refund or return of any payments or monies, such payments or monies shall be reduced by an amount equal to the City's costs, excluding administrative office costs, incurred due to Licensee's failure to restore the Licensed Premises according to the approved Site Restoration Plan as set forth in Section 10.7 herein. Notwithstanding the foregoing and anything

provided herein, where the Licensed Premises are destroyed or damaged due to acts of God, war, enemies or hostile government actions, revolutions, insurrection, riots, civil commotion, strikes, fire or other casualty which is not caused by Licensee or any of its representatives, contractors or Circus patrons, Licensee shall not be obliged to restore the Licensed Premises to its original condition save and except to remove all personal possessions from the Licensed Premises as stated in Section 3.6 hereinabove.

PAYMENT

4.1 Pursuant to a license agreement between Parks and RIPA dated December 24, 2012 which provides for the payment of license fees to RIPA for projects located in Randall’s Island Park and which funds shall be used by RIPA for the operation and maintenance of Randall’s Island Park, Licensee shall pay to RIPA a lump sum license fee of three hundred and thirty thousand United States dollars (US \$330,000.00) for the occupation of the Licensed Premises and the presentation of no more than Seventy-Five (75) performances of its Circus show entitled Kurios. Licensee shall also pay to RIPA a license fee of four thousand and four hundred United States dollars (US \$4,400.00) for every optional performance above seventy-five (75) performances of its Circus show entitled Kurios. Licensee is limited to a maximum of ten (10) optional performances, for a total of not more than eighty five (85) total performances of its Circus Kurios.

4.2 The license fee shall be paid to RIPA in installments according to the following Schedule of Fee Payments:

DUE DATE	AMOUNT
10 days after Licensee receives written notice from Parks to proceed	US\$110,000 (33.33%)
August 1, 2016	US\$110,000 (33.33%)
September 9, 2016	US\$110,000 (33.33%)
December 9, 2016	Additional amount due (if any) for option dates

In the event that payment of license fees or other charges shall become overdue for ten (10) days following the date on which such fees are due and payable as provided in this License, a late charge of 2% per month (computed on a thirty day month) from the date it was due and payable on the sums so overdue shall become immediately due and payable to the RIPA, or to any successor organization at the direction of the City as liquidated damages for the administrative cost and expenses incurred by RIPA, or to any successor organization at the direction of the City by reason of Licensee’s failure to make prompt payment and said late charges shall be payable by Licensee without notice or demand. If the late fee and all arrears (including prior 2% charges) are not paid in full by the 10th day of the month following the month in which it shall be due, or is already past due, an additional charge of 2% of the total of such fee and arrears shall be added thereto and shall be payable and collectable with the next license fee installment. Failure to

abide by the terms of this Section shall be presumed to be a failure to comply with the terms, conditions and covenants of this License Agreement and shall be a default hereunder. No failure by RIPA or the Commissioner to insist upon the strict performance by Licensee of Licensee's obligations to pay late charges shall constitute a waiver by RIPA or the Commissioner of his right to enforce the provisions of this Section. If any local, state or federal law or regulation which limits the rate of interest which can be charged pursuant to this Section is enacted, the rate of interest set forth in this Section shall not exceed the maximum rate Licensed under such law or regulation.

4.4 (a) Licensee shall deposit with the City a Security Deposit (hereinafter the "Security Deposit") in the sum of One Hundred Thousand United States Dollars (US \$100,000.00) for the full, faithful and prompt performance of and compliance with all the terms and conditions of this License. The Security Deposit shall remain with the City throughout the Term of this License Agreement.

(b) The Security Deposit shall consist of certified checks payable to the City of New York., or irrevocable letters of credit naming the City of New York as beneficiary or, with the specific approval of the Commissioner, another negotiable instrument payable to the City of New York which is of equal value with the sum so required in two (2) equal installments as follows:

(i) fifty thousand United States dollars (US \$50,000) on the execution date of the License;
and

(ii) fifty thousand United States dollars (US \$50,000) thirty (30) days prior to September 12, 2016.

(c) The Security Deposit shall be held by the City without liability for interest thereon, as security for the full and faithful performance by the Licensee of each and every term and condition of this License as set forth in Section 4.4 (a) herein above on the part of the Licensee to be observed and performed; provided, however, that Licensee may, upon prior approval of the Commissioner, submit to City an interest-bearing bond (with a minimum market value sufficient to cover the amount of the required Security Deposit) to serve as said Security Deposit. In that event the Licensee may collect or receive any interest or income earned on such bonds less any part thereof or amount which the City is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of administrative expense or custodial charge, or otherwise. The City shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(d) If any fees or other charges or sums payable by Licensee to RIPA, any successor organization or the City shall be overdue and unpaid or should RIPA, any successor organization, or the City make payments on behalf of the Licensee, or should the Licensee fail to perform any of the terms of this License, then Parks may, at its option, and without prejudice to any other remedy which the City may have on account thereof, after five (5) days' notice, appropriate and apply the Security Deposit according to the terms and conditions stated in Section 4.4 (a) herein above or as much thereof as may be necessary to compensate RIPA, any successor organization, or the City toward the payment of license fee, charges, liquidated damages or other sums due from the Licensee or towards any loss, damage or expense sustained by RIPA, any successor organization, or the City resulting from such default on the part of Licensee. In the event Licensee shall fully and faithfully comply with all of the terms, covenants and conditions of this License and pay all license fees and other charges and sums payable by Licensee to RIPA, any successor organization, or the City, the Security Deposit shall be returned to Licensee following the surrender of the Licensed Premises by the Licensee providing that Licensee has fulfilled all its obligations under this License Agreement.

(e) In the event any bankruptcy, insolvency, reorganization or other creditor-debtor proceedings shall be instituted by or against the Licensee or its successors or assigns, or the guarantor, if any, the Security Deposit shall be deemed to be applied first to the payment of s and/or other charges due to the City for all periods prior to the institution of such proceedings and the balance, if any, of the Security Deposit may be retained by the City in partial liquidation of the City's damages.

4.5 In the event Parks determines that Licensee or his/her employees, agents, sublicenses, or subcontractors have breached any provision contained in Sections 4.1 through 4.4, hereinabove or Sections 9.1 through 9.22 , herein, Licensee may be subject to a charge of Five Hundred United States Dollars (US \$500.00) with respect to each incident of such breach provided that Licensee has been given reasonable notice of such breach and has failed to cure within fifteen (15) days of such notice.

4.6 License fees shall be made payable to the Randall's Island Park Alliance, Inc. and delivered or mailed in time to RIPA pursuant to Section 33.1. Fees payable by Licensee to City as set forth in this Section 4 shall be made payable to the New York City Department of Parks & Recreation and delivered or mailed in time to arrive by the due date pursuant to Section 33.1.

RIGHT TO AUDIT

5.1 Licensee shall keep books and records in a form suitable for audit and acceptable to the Commissioner and shall institute a revenue control system acceptable to Commissioner.

5.2 Parks, the Comptroller and other duly authorized representatives of the City shall have the right, during business hours, upon prior notice to Licensee and in the presence of a representative of Licensee, to examine, audit or photocopy the records, books of account and data of the Licensee pertaining to this License for any purpose deemed necessary by the office of The Comptroller of the City of New York or the Commissioner of Parks. Licensee shall also permit the inspection by Parks, Comptroller or other duly authorized representatives of the City of any equipment used by Licensee, including, but not limited to, cash registers and recording machines, and all reports or data generated from or by the equipment. Licensee shall keep the aforementioned books of accounts and records for six years from the date of termination of this License and shall cooperate fully 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 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 must pay the food, board and travel costs incidental to two auditors conducting such examination or audit at said location.

5.3 The failure or refusal of the Licensee to permit Parks, the Comptroller or any other duly authorized representative of the City to audit and examine the Licensee's records, books of account and data or the interference in any way by the Licensee in such an audit or examination is presumed to be a failure to substantially comply with the terms and conditions of this License and a default hereunder which shall entitle Parks to terminate this License, following the giving of a written notice.

5.4 Notwithstanding anything in this License Agreement, 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.

SET-UP AND TAKE-DOWN

6.1 (a) The Performance Schedule (“Performance Schedule”) annexed hereto and made a part hereof as Exhibit D has been submitted to and duly approved by the Revenue Division.

Licensee’s Operations Plan (“Operations Plan”), Site Plan (“Site Plan”) and Load-In/Load-Out Schedule (“Load In/Load Out Schedule”), to be annexed hereto and made a part hereof as Exhibits B, C and E, respectively, must be submitted by Licensee to the Revenue Division for its prior approval, at least thirty (30) days prior to September 12, 2016. The approval process for such exhibits shall be governed by the terms and conditions set forth in Section 6.1(k) herein.

The Site Plan shall depict the dimensions of and location and/or position of the tents, including but not limited to ticket box office, office trailers and vans, seating arrangements, press area, security, sound and lighting systems, vendor sites or locations, perimeter site fencing, and the area and locations of all technicians, employees, agents, contractors, and servants of the Licensee, as well as the number and location of any concessions, refuse containers and other equipment. The size and location of any sponsorship signage or recognition to be installed at the Licensed Premises shall also be reflected on the Site Plan. The cost of erecting, installing and removing all equipment, including but not limited to necessary stage and auxiliary apparatus and paraphernalia, shall be borne solely by the Licensee.

(b) The Operations Plan shall address the following items: the number, location and hours of operations for all personnel assigned to the Licensed Premises; the number and location of staffed first-aid rooms, indicating the level of qualifications of personnel staffing such rooms and the number and location of ambulances available on standby; the number and location of security personnel assigned for the Circus; the location and number of personnel assigned to a designated lost and found office.

(c) The Licensee shall provide to Commissioner no later than July 15, 2016 the name, address and contact person of any security company to be employed.

(d) The Load-In/Load-Out Schedule, as set forth in the attached Exhibit E, states the dates and times for Licensee to enter the Licensed Premises and arrange the set-up; the dates and times for Licensee to perform the take-down and removal of all Licensee’s structures, vehicles, equipment, fences, and personnel from the Licensed Premises; the schedule of set-up and take-down activities.

(e) Any subsequent changes to: **(1)** the Operations Plan, the Site Plan and the Load-In/Load-Out Schedule after such exhibits have been approved as provided in Section 6.1 (a) herein or **(2)** the Performance Schedule as set forth in the attached Exhibit D, must be submitted to the Revenue Division for its prior approval as set forth in Section 6.1(k) herein, which approval shall not be unreasonably withheld.

(f) At the expiration or sooner termination of this License under the terms of this License, Licensee shall remove all of its property and surrender the Licensed Premises in the condition existing prior to the Commencement Date, including without limitation the re-sodding and restoration of the

Licensed Premises, ordinary wear and tear excepted. Licensee shall cooperate fully in the inspection and if necessary, repair or restoration of the Licensed Premises, as provided in Section 10 herein.

(g) Any equipment and/or personal property not removed from the Licensed Premises within thirty-six (36) hours of the expiration or sooner termination of this License shall be deemed abandoned by Licensee and Licensee agrees that such equipment and/or personal property is intended to be abandoned. The City may remove and dispose of such property with no liability for any damage or loss to Licensee. Licensee shall be liable for City's reasonable costs incurred in the removal and disposal of such property. Licensee agrees that City may recover any costs incurred for removal, disposal or storage by means of deduction from the Security Deposit required herein.

(h) Once a Site Plan or Performance Schedule has been approved by Commissioner, it shall take precedence over the terms of this License to the extent that there is a conflict or discrepancy between the approved Site Plan and/or Performance Schedule and the terms of this License.

(i) *Intentionally left Blank.*

(j) Licensee shall obtain Parks' written approval of any third party Circus Manager/Production Company prior to retention by Licensee to produce the Circus. No later than sixty (60) days prior to the first day of the Occupation Period Licensee shall provide the name and place of business of the marketing/public relations firm which shall be retained by Licensee to publicize the Circus and any major Circus personnel or acts for Parks' approval which approval shall not be unreasonably withheld. Any subsequent change of Manager/Production Company or marketing/public relations firm must be approved by Parks.

(k) Licensee hereby agrees to strictly adhere to all prior approval obligations in this License. Accordingly, for purposes of the Circus, all activities and items subject to the approval of Parks under this License shall be submitted to Parks for approval by a representative from Licensee, hereby designated as Cirque du Soleil's Site Development Department, represented by: Jorg Schlegel, Site Development Analyst, 8400, 2nd Avenue, Montreal (Quebec) H1Z 4M6, Canada, tel: (514)723-7646 ext. 8262, fax: (514) 723-6388, email address: <mailto:joerg.schlegel@cirquedusoleil.com> and Sylvie Parc, Site Development Coordinator, 8400, 2nd Avenue, Montreal (Quebec) H1Z 4M6, Canada, tel: (514) 723-7646 ext.8175, fax: (514) 723-6388, email address: sylvie.parc@cirquedusoleil.com (as an alternative). Licensee shall not delegate in whole or in part any approval obligations to third parties or subcontractors unless said third party or subcontractor is expressly pre-approved in writing by Parks to participate in the approval process. Licensee and Parks agree to seek approvals and to respond to all approval requests as follows except as otherwise provided in this License: Approvals submitted prior to September 1, 2016 within ten (10) days of receipt of the written approval request; Approval requests submitted after September 1, 2016 within two (2) days of receipt of the written approval request. Approvals may be submitted in writing by e-mail, or letter delivered by regular mail or receipted overnight mail with the US Postal Service or major overnight carrier. No party shall unreasonably withhold its approval. If any approval request is disapproved, the reasons for such disapproval shall be expressed in writing.

(l) *Intentionally left Blank.*

(m) Licensee acknowledges that it is acquiring a license to use the Licensed Premises and Fixed Equipment thereon solely on 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,"

however, if it is discovered that the Licensed Premises are contaminated with substances or materials defined as hazardous under current federal, New York State or City laws (“Hazardous Substances”) in amounts requiring remediation or removal under applicable law and that such contamination resulted entirely from events occurring prior to the Occupation Period of this License Agreement, Licensee shall not be responsible for remediation or removal of the Hazardous Substances. Should Hazardous Substances be detected at the Licensed Premises during the Occupation Period, it shall be Licensee’s burden to satisfactorily prove that said contamination arose prior to the Occupation Period of this License. However, the foregoing shall not exempt the Licensee from liability related to contamination discovered at the Licensed Premises after the termination of this License, which is caused by Licensee during the Occupation Period of this License. Parks acknowledges and agrees that the activities contemplated hereunder by Licensee are consistent with traditional Park uses.

(n) Licensee may not cut down, replant, or remove any trees from the Licensed Premises, nor undertake any planting, construction or excavation without the prior written approval of the Commissioner.

6.2 Licensee shall obtain all approvals and/or permits required by all present and future applicable federal, state and City laws, rules, regulations and orders necessary to operate the Circus, including but not limited to permits from the City’s Police Department, Fire Department, Buildings Department, Parks Vehicle Permits, and any other permits, approvals, permissions, or authorizations necessary or required by any and all agencies having jurisdiction, to operate the Licensed Premises. Licensee shall at all times operate the Licensed Premises in accordance with the provisions of any Certificates of Occupancy and Permits of Assembly, as issued. Parks agrees to cooperate with and if possible, assist the Licensee with its efforts to obtain permits and approvals for the operation of the Licensed Premises.

6.3 Commissioner may deem it a material default of this License for Licensee to fail to fulfill its obligations under this Section 6 for any reason. Such default may result in termination of this License upon written notice of default to Licensee in the event that Licensee fails to comply with such written notice within five (5) days from the mailing thereof.

UTILITIES

7.1 Licensee, at its sole cost and expense, shall install or cause to be installed, and maintained, all utility lines, meters and supplies of power necessary for the proper operation of this License and pay all utility costs associated therewith. Utilities, as described in this License, may include, but shall not be limited to, electricity, gas, heat, coolant, telephone, and all Department of Environmental Protection (“DEP”) water and sewer charges. Licensee shall 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 having jurisdiction over the construction and operation of the Licensed Premises. Subject to Section 7.2 below, Parks does not make representation or warranty that existing cables, lines, meters, or supplies of power are adequate for Licensee's needs or that any entity can or will make such service available.

7.2 Notwithstanding the foregoing, Parks shall be solely responsible for providing at the locations designated by Licensee on the map attached to Exhibit F and, at its sole cost and expense, the utilities and services described in Exhibit F attached hereto. Parks shall cause the utilities and services described in Exhibit F to: (i) be functional and in good working order; and (ii) meet the specifications set forth in

Exhibit F, during the Occupation Period of the Licensed Premises. Except for Park's obligations under this Section, Licensee shall be solely responsible, at its sole cost and expense, for hook-up and disconnection of its equipment to any and all utilities used by Licensee for the Licensed Premises.

7.3 Licensee shall be responsible for payment of all utility costs incurred during the Occupation Period of this License, however Licensee shall have the right to provide separate metering for its sublicensees and upon notice to the City of such separate metering City shall accept separate payments for utilities from such sublicensees, provided that it is expressly understood between Licensee and sublicensee that such payment arrangement is made solely as an accommodation to Licensee and in no way relieves Licensee of its obligation to ensure full payment of such costs.

7.4 RESERVED.

7.5 Licensee shall, within thirty (30) days of execution of this License, submit to the Commissioner, written approval of the Licensed Premises and the utilities thereon as being suitable to accommodate the Circus. Such approval shall not relieve City from their obligations under Sections 7.2 herein. In the event that Licensee determines that it cannot install and/or construct necessary utilities for the operation of the Circus, Licensee may, within thirty (30) days after execution of this License, terminate this License with thirty (30) days written notice. In such event Licensee shall have no obligation to pay any license fee or Security Deposit which would have otherwise been payable but for the termination of this License, and Licensee shall be entitled to recover from any license fee paid or the Security Deposit deposited prior to the effective termination date. For greater clarity, no other amount shall be claimed by RIPA or City in connection with such termination.

7.6 Licensee is permitted to, at its sole cost and expense, with the prior written approval of Parks and any other agency having jurisdiction over the subject utilities, install on the Licensed Premises utilities needed for the operation of the Circus.

INFLAMMABLES

8.1 Licensee shall not use or permit the storage of any illuminating oils, oil lamps, turpentine, benzene, or similar substances or explosives of any kind or any substances or items prohibited in the standard policies of insurance companies in the State of New York. Notwithstanding the foregoing and subject to Licensee acquiring all necessary permits and approvals from any agency having jurisdiction, Licensee may store the pre-approved substances itemized in and annexed hereto as Exhibit G on the Licensed Premises.

OPERATIONS

9.1 Licensee, at its sole cost and expense, shall conduct the operations authorized under this License for the accommodation of the general public during such times of day, and in such manner as set forth in this License and as permitted by the laws, rules, regulations and orders of government agencies having jurisdiction. Licensee shall provide the necessary number of personnel having the requisite skills together with the necessary personal equipment and consumable supplies and shall perform the following services at the Licensed Premises pursuant to this License:

(a) With the express written approval of the Commissioner, which shall set forth the terms of a site visit for the limited purpose of planning the layout of equipment to be operated during the Circus, Licensee may enter the Licensed Premises prior to the Commencement Date.

(b) No later than two (2) weeks prior to the date scheduled for the commencement of setting up Licensee's equipment, Licensee shall schedule with Parks the dates and times for load in and load out operations as set forth in Exhibit E during which delivery and set-up of Licensee's equipment shall take place on the Licensed Premises. Parks, in its sole discretion, and at no cost to Licensee, may have a representative present at the Licensed Premises at all times during Licensee's set-up pursuant to Section 6. Licensee may deliver or set-up any equipment without Parks' designated representative being present, except where Parks has given prior notice that such delivery or set up shall not proceed without a representative present and provided that said representative is present at the Licensed Premises within thirty (30) minutes of the scheduled appointed time.

(c) Prepare and install on the Licensed Premises, equipment and facilities necessary for the operation of the Circus, including but not limited to tents, fences, generators, and lighting equipment, sanitary vans, office trailers and kitchen facilities for Licensee's staff;

(d) Operate concession stands for the sale of merchandise, food and beverages, as further described in Exhibit H attached hereto;

(e) Licensee may promote, advertise and display on the Licensed Premises: **(i)** goods and products and name and logos of any person or entity associated with the Circus and the Licensee; **(ii)** the goods and products and name and logo of any sponsor of the Circus; and **(iii)** the name and logo of any charity organization with which the Licensee is associated. All such third party advertising shall be: (i) approved by Parks as provided in Section 9.11(b); and (ii) restricted to the inside of the Licensed Premises. Licensee may host press conferences and/or promotional events by Licensee or its sponsors.

(f) Operate a ticket box office for the sale of tickets to the Circus;

(g) Ticket prices charged to Circus' patrons ("Ticket Prices"), the types of tickets sold to patrons to attend the Circus ("Ticket Types") on the Licensed Premises and the price and types of the merchandise offered to Circus's patron on the Licensed Premises ("Merchandise Prices") must be submitted to Commissioner for Commissioner's approval which shall not be unreasonably withheld.

(i) The Ticket Types and Ticket Prices are attached as Exhibit H and made a part hereof and have been submitted to and duly approved by Commissioner.

(ii) A list of the types of merchandise offered to Circus's patrons on the Licensed Premises and the Merchandise Prices shall be submitted to the Commissioner for the Commissioner's approval prior to the Occupation Period which shall not be unreasonably withheld.

Any subsequent changes to the Ticket Price or Ticket Types as set forth in the attached Exhibit H and to the Merchandise Prices must be submitted to Commissioner for Commissioner's approval as set forth in Section 6.1(k) herein, which approval shall not be unreasonably withheld.

(h) Provide an adequate number of portable toilets and separate hand washing facilities to service the Circus patrons. This number, including the number that shall be accessible to persons with disabilities, shall be determined in consultation with Parks, but Parks determination in this matter shall be final. Such toilets shall be cleaned and their storage tanks shall be emptied before the start of each day's operation, or more frequently if required by Parks.

9.2 Licensee shall obtain and possess all federal, state and City authorizations, and at all times display appropriate City Department of Health permits. Licensee's employees, sublicensees, agents, or independent contractors assigned or engaged to prepare or sell food and beverages to the public shall possess appropriate City Department of Health authorizations. Menus of the food services items to be offered by Licensee, including a list of proposed prices are attached hereto as Exhibit H (the "Food and Price List") and have been duly approved by the Commissioner. Any subsequent changes to the Food and Price List as set forth in the attached Exhibit H must be submitted to Commissioner for Commissioner's approval as set forth in Section 6.1(k) herein, which approval shall not be unreasonably withheld.

9.3 During the Performance Period, Licensee shall conduct its operations, including security operations, at the Licensed Premises on a twenty-four (24) hours a day basis as further detailed in the Operation Plan and the Performance Schedule.

9.4 Licensee shall not increase the approved fees, examples of which are listed in Exhibit H, without the prior written approval of the Commissioner. Should Licensee choose not to charge the maximum allowable fees and rates, this shall in no way be interpreted as a waiver of Licensee's right to charge such maximum allowable fees and rates at any other time. Licensee shall not make any fees or charges to the public not specifically contemplated herein, without the express prior approval of the Commissioner.

9.5 Licensee is solely responsible for securing all necessary permits and approvals for the provision of any foodstuff to the public, whether provided by Licensee, any employee, agent, sublicensee, or independent contractor.

9.6 Licensee shall not use any polystyrene foam products in the provision of food, beverages, merchandise or other services offered under this License.

9.7 Licensee warrants that all food, beverages and merchandise sold pursuant to this License shall be of high grade and good quality. Licensee shall maintain adequate inventory control to ensure a constant supply of food, beverages and merchandise. Licensee shall operate its food service operations in such a manner as to maintain the highest health inspection rating of the NYC Department of Health.

9.8 (a) Licensee shall bear the loss of any lost, stolen, misappropriated or counterfeit monies derived from operations pursuant to this License. Licensee acknowledges and agrees that Licensee is solely responsible for any monies received during the operation of this License, including but not limited to the collection of such funds as well the safe transfer of the funds to banking institutions.

(b) Licensee shall have the right, in its sole and absolute discretion, to choose and utilize any and all ticket agencies (collectively, the "Ticket Agencies") for the sale of tickets of the Circus.

9.9 An officer of the Licensee shall personally operate this License or employ an operations manager ("Manager") at the Licensed Premises. Commissioner acknowledges that the Manager for the purposes herein shall be Kurios General Manager. The Manager or any other designated representative of Licensee working on tour as identified by the Manager shall be available on-site during all hours of operation. Licensee shall, throughout the occupation of the Licensed Premises 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 any other designated representative of Manager in event

of an emergency. All of Licensee's employees shall deal with the public in a courteous and professional manner.

9.10 Licensee shall, at its sole cost and expense, supervise and be responsible for the acts of all personnel necessary for the proper operation of this License, including but not limited to:

- (a) collect and safeguard all monies generated under this License;
- (b) maintain the Licensed Premises;
- (c) conduct and supervise all activities to be engaged in upon the Licensed Premises, including but not limited to food service personnel, cashier(s) and vending personnel as well as the provision of security at the Licensed Premises; and
- (d) provide first-aid to all staff and visitors.

9.11 (a) Under no circumstances may the Licensee sell or cause to be sold on or about the Licensed Premises cigarettes, cigars, other tobacco products or electronic cigarettes. Pursuant to local law, smoking and the use of electronic cigarettes is prohibited inside of the Licensed Premises and it is the Licensee's responsibility to adhere to and enforce this prohibition.

(b) Subject to the provision of this Section and Parks' prior written approval which shall not be unreasonably withheld, Licensee shall be entitled to erect, at its own cost and expense, signs, banners and advertisements, including third party product brands advertisement (collectively "Signage") on the Licensed Premises during the Occupation Period. During the Occupation Period, Licensee shall abide to the following guidelines: (i) Signage announcing the Circus and Licensee may be placed on the exterior and interior of the structures within the Licensed Premises; (ii) Signage announcing the Circus' third party associations may be placed inside the structures; (iii) Signage announcing the Licensee, Circus and/or Circus' third party associations, may also be placed outside of the structures on the Licensed Premises providing that the Signage faces the inward of the Licensed Premises and Signage announcing the Circus' third party associations shall also references the Circus or Licensee. The design, location, size and type of such Signage shall be aesthetically appropriate and subject to the reasonable approval of Parks.

(c) A detailed plan of all Signage to be erected on the Licensed Premises ("Signage Plan") shall be submitted to Parks for approval three (3) months prior to the beginning of the Occupation Period, which approval shall not be unreasonably withheld. If Parks has not provided its approval or refusal for the Signage Plan within fifteen (15) business days after receipt of the Licensee's request, such approval shall be deemed to have been granted. In the event that the Licensee wants to erect additional Signage on the Licensed Premises which are not detailed on the Signage Plan, such additional Signage shall be submitted to Parks for approval, which approval shall not be unreasonably withheld. If Parks has not provided its approval or refusal for the additional Signage within fifteen (15) business days after receipt of the Licensee's request, such approval shall be deemed to have been granted. The parties acknowledge and agree that Parks' approval shall only be required once, for the first time Signage is used and that similar use of such Signage shall not require further approval. The Licensee will be prohibited from placing or

permitting the placement of advertisements in the Licensed Premises without the prior written approval of Parks, as provided herein. In addition, advertising of product brands is strictly prohibited without Parks' prior approval, as provided herein.

(d) The display or placement of tobacco or electronic cigarette Signage shall be prohibited. In the event Signage is allowed, the following standards will apply: Any type of Signage which is false or misleading, which promotes unlawful or illegal goods, services or activities, or which is otherwise unlawful, including but not limited to Signage that constitutes the public display of offensive sexual material in violation of Penal Law Section 245.11 shall also be prohibited. Any such prohibited material displayed or placed at the Licensed Premises shall be immediately removed by the Licensee upon notice from Parks.

9.12 Licensee shall provide reasonable access to the Licensed Premises to disabled members of the public. This accessibility shall be clearly indicated by signs and reasonably included in all of Licensee's print advertising related to the Licensed Premises. Licensee shall provide for compliance with the applicable provisions of the Americans with Disabilities Act and any other similarly applicable legislation in connection with its operation of the Licensed Premises.

9.13 Licensee shall, at its sole cost and expense, provide a twenty-four hour per day security system at the Licensed Premises. No grant of authority for Licensee to establish living quarters on the Licensed Premises is provided by this obligation.

9.14 Licensee shall prepare and provide to Parks operational status reports and reports of major accidents or unusual incidents occurring at the Licensed Premises, on a regular basis and in a format reasonably acceptable to the Commissioner. Licensee shall promptly notify Parks, in writing, of any claim for injury, death, property damage or theft which shall be asserted against Licensee with respect to the Licensed Premises. Licensee shall also designate a person to handle all such claims, including all insured claims for loss or damage pertaining to the operations of the Licensed Premises and Licensee shall notify Parks in writing as to said person's name and address.

9.15 Licensee shall promptly notify Parks' personnel 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 or substantial damage of any character.

9.16 Licensee shall maintain close liaison with the Parks Enforcement Patrol and New York City Police and cooperate with all efforts to remove illegal vendors from the Licensed Premises and adjacent areas. Licensee shall not allow or permit illegal activity to occur on the Licensed Premises.

9.17 (a) Licensee may, subject to the prior approval of the Commissioner which shall not be unreasonably withheld as to design, content and distribution, print or arrange for the printing of advertising, signs, programs or brochures containing advertising matter. Licensee may employ callers or criers or other means of soliciting business at the Licensed Premises. Licensee shall only be allowed to use the wording "Randall's Island Park" as a business or trade name to identify the Licensed Premises.

(b) Licensee shall submit to Commissioner for approval, any and all advertising and promotional materials for the Circus it being understood and agreed by Commissioner, that Commissioner's approval shall only be required once, for the first time each different type of material is produced by Cirque, conditioned on there being no material change to such advertising and promotional material as approved by Commissioner. All advertising and promotional materials of any kind shall be submitted to the Commissioner for his approval prior to its release or distribution and Commissioner's approval shall not be unreasonably withheld. Licensee shall have the right to print or to arrange for the

printing of programs for the Circus containing advertising matter, except advertising matter which in the determination of the Commissioner is indecent, in obvious bad taste, or which demonstrates a lack of respect for public morals or conduct. Licensee may release news items to the media as it sees fit, provided that Licensee establishes a telephone number at which public information inquiries regarding the Circus will be received and addressed. If the Commissioner, in his discretion, finds the content of any news releases to be unacceptable, then Licensee shall cease their distribution or alter such releases as directed. Solely for the purposes of advertising, promotion, or publicity for the Circus, Licensee may create news releases for television and radio broadcast or recording on film, disc, audio tape or videotape. Subject to the prior approval of Commissioner which shall not be unreasonably withheld, Licensee may install, and use all equipment necessary and customary for telecasting, broadcasting, recording, taping, filming or otherwise reproducing or duplicating the Circus in whole or in part solely for the purposes of such advertising, promotion or publicity for the Circus, and not for any other revenue generating purposes.

(c) Licensee has provided to Commissioner the list attached hereto as Exhibit I of all of the sponsors of the Circus that will be promoted, advertised or displayed on the Licensed Premises during the Occupation Period and in the media (“Sponsors”) which Sponsors have been duly approved by Commissioner. The parties hereto agree and acknowledge that any subsequent addition of sponsors for the Circus whether acknowledged on signage installed on-site at the Circus, or in advertising for the Circus, shall be approved by Commissioner, whose approval shall not be unreasonably withheld. Under no circumstances shall Licensee retain alcoholic beverage, tobacco or electronic cigarette sponsors for the Circus.

9.18 Licensee shall, at its sole cost and expense, post throughout the Licensed Premises such signs as may be necessary to direct patrons to its services and facilities. Such signs shall include the necessary wording and arrows to direct patrons to Licensee’s attendants. If Licensee contemplates placing any signs off-site, such as on nearby highways or streets, it shall be Licensee’s responsibility to obtain any necessary approvals or permits from any governmental agency having jurisdiction over such highways, streets or locations. The design and content of all signs concerning the Licensed Premises, whether on or off Parks’ property, are subject to Commissioner’s prior approval, which shall not be unreasonably withheld or delayed.

9.19 If required by Section 24-216 of the New York City Administrative Code, devices and activities which will be operated, conducted, constructed or manufactured pursuant to this License and which are subject to the provisions of the New York City Noise Control Code shall be operated, conducted, constructed or manufactured without causing a violation of such code. Such devices and activities shall incorporate advances in the art of noise control developed for the kind and level of noise emitted or produced by such devices and activities in accordance with such regulations and orders.

9.20 Licensee shall maintain at all times a clear access path for emergency vehicles.

9.21 (a) Parks shall make reasonable efforts, at no extra cost to Licensee, to coordinate with the Triborough Bridge and the Tunnel Authority (“TBTA”) in order for the TBTA to provide for easier, more direct access to Randall’s Island from the toll station (such as opening another cash lane closer to the exit area) than the one that exists at the time of the execution of this License.

(b) Parks does not grant under this License the right to operate and control vehicular parking spaces in the Licensed Premises’ parking areas, or to receive and retain revenue derived therefrom, as such rights have been granted to a third party parking concessionaire (“Parking Concessionaire”).

(i) The License Agreement between Parks and the Parking Concessionaire obligates the Parking Concessionaire to provide and maintain throughout the Performance Period, accessible spectator parking and shall provide traffic management, appropriate signage (on Randall's Island and, if possible, on the Triborough Bridge) and a staffed presence for the designated parking areas as depicted on the plan attached hereto as Exhibit J (the "Parking Facilities"). The Parking Concessionaire shall be entitled to charge Circus patrons, other than Tapis Rouge (VIP) ticket holders, up to a maximum of twenty five United States dollars (US \$25) for each parking space. The Parking Concessionaire shall make available for parking of Tapis Rouge (VIP) ticket holder's vehicles, throughout the Performance Period, a maximum of 80 spaces within the area forming part of the Parking Facilities referred to as the "Preferred Parking Area" on the plan attached hereto as Exhibit J, reserved for Tapis Rouge (VIP) ticket holders, without any additional fee or charge to Tapis Rouge (VIP) ticket holders. Licensee shall pay the Parking Concessionaire Twenty Five United States dollars (US \$25) per Tapis Rouge (VIP) ticket holder vehicle parked in the Preferred Parking Area. The procedures and the specific numbers of VIP spaces required for each performance shall be specified by Licensee's Public Services Director or his representative to Parking Concessionaire's designated representative, on a daily basis, forty eight (48) hours prior to the relevant performance. The terms and conditions of payment in connection with amount due by Licensee to the Parking Concessionaire for the Preferred Parking Area shall be determined by separate agreement between the Licensee and the Parking Concessionaire. The Parking Concessionaire shall ensure that the Preferred Parking Area is maintained in a good condition throughout the Performance Period, at no cost to Licensee. Without limiting the generality of the foregoing, the Parking Concessionaire shall ensure that the Preferred Parking Area shall be leveled, well drained and without any holes all times during the Performance Period.

(ii) Licensee shall not be responsible or liable for any event or activity on the Parking Facilities (including any expenses to be incurred in managing and operating such parking operation) except to the extent that such liability arises from the actions of Licensee or its agents, or employees. Parking activities under this Section including traffic control management on or adjacent to the Parking Facilities shall be the sole responsibility of the Parking Concessionaire.

(c) Parks does not grant under this License the right to operate and control ferry operations to and from the Licensed Premises, or to receive and retain revenue derived therefrom, as such rights have been granted to a third party ferry concessionaire ("Ferry Concessionaire").

(iii) The License Agreement between Parks and the Ferry Concessionaire obligates the Ferry Concessionaire to provide and maintain throughout the Performance Period, ferry operations. The terms and conditions of payment in connection with ferry service shall be determined by the Ferry Concessionaire. The Ferry Concessionaire shall ensure that the ferry dock area is maintained in a good condition throughout the Performance Period, at no cost to Licensee.

Licensee shall not be responsible or liable for any event or activity at the ferry dock area (including any expenses to be incurred in managing and operating such ferry operation) except to the extent that such liability arises from the actions of Licensee or its agents, or employees. Ferry activities under this Section shall be the sole responsibility of the Ferry Concessionaire.

Parks has provided to Licensee certain information in respect to transportation which is annexed hereto as Exhibit N ("Transportation Information") which information Licensee shall provide to its clients.

9.22 (a) Provided that a première performance (the “Première Performance”) and a premiere party for the show of the Circus are held in the City of New York during the Term, which decision shall be made in Licensee’s sole and absolute discretion, Licensee shall provide to RIPA one hundred fifty (150) single tickets at no fee for such Première Performance of the show and premiere party. The parties acknowledge and agree that, in the event that Licensee decides to hold a One Drop Gala or in the event that Licensee decides not to hold a Premiere Performance, Licensee shall instead provide RIPA with one hundred fifty (150) singles tickets at no fee to an alternate performance on a date to be determined by the parties based on availability, but which will be within a week of the first performance of the Circus in 2016 and will not be a weekday matinee performance (“Alternate Performance”). Except for the license fees which shall be due and payable as set forth in this Agreement, no additional compensation shall be payable in the event that Licensee does not hold a Premiere Performance and RIPA is provided with tickets to an Alternate Performance instead of tickets to the Première Performance and premiere party. It is understood that no less than one half (1/2) of the tickets provided to RIPA under this provision will be premium tickets or category one (1) tickets.

(b) Licensee shall also provide to RIPA one hundred fifty (150) single tickets for the Show’s dress rehearsal (the “Dress Rehearsal”) at no fee, generally held on the day before the Première Performance of the Show, it being understood that this Dress Rehearsal may be stopped at any time during the performance. Licensee shall make such tickets available ten (10) days before the Dress Rehearsal. It is understood that RIPA will distribute these tickets to third parties, such as local community organizations in accordance with Section 9.22 c).

(c) The location for the seats for the Première Performance and the Dress Rehearsal shall be determined by Licensee. RIPA acknowledges and agrees that the tickets to the Première Performance and the tickets to the Dress Rehearsal received under this Section are for gratis distribution, to be distributed at RIPA’s sole discretion. In addition, RIPA shall not offer the tickets mentioned in this paragraph in a sweepstake organized by RIPA or any third party.

(d) In the event that Licensee wishes, in its sole and absolute discretion, to provide to RIPA tickets to performances of shows of the Circus during the Term of the License Agreement that have not been sold to patrons or given to third parties, Licensee may, in its sole and absolute discretion, offer them to RIPA at no fee.

9.23 Parks’ inspectors may visit the Licensed Premises unannounced to inspect operations, ensure proper maintenance of the Licensed Premises, and determine whether Licensee is in compliance with the terms and conditions of this License Agreement. If Licensee fails to provide the cleaning, maintenance, and operational services required by this License Agreement, Parks shall notify Licensee in writing, and Licensee shall be required to correct such shortcomings within the timeframe set forth in such notice. In the event that Licensee fails to cure such violation, Parks will send Licensee a second written notice. If Licensee fails to cure the violation within the timeframe set in the second notice, Parks may, at its option, in addition to any other remedies available to it by Law or pursuant to this Agreement, suspend or terminate this License. In the event that, further to the suspension of the License, the License is reinstated, at Licensee’s request, Parks may impose a two hundred fifty United States dollars (US \$250) administrative fee for reinstatement of a suspended License. However, if such administrative fee is not

paid within the time period specified by Parks, the administrative fee may be deducted from the Security Deposit.

9.24 The Licensee will be responsible for regular pest control inspections and extermination as needed in accordance with Licensee's practices or by the applicable Law. To the extent that the Licensee applies pesticides to any property owned or leased by the City, the Licensee or any subcontractor hired by Licensee shall comply with Chapter 12 of Title 17 of the New York City Administrative Code and limit the environmental impact of its pesticide use.

MAINTENANCE, SANITATION, IMPROVEMENTS, REPAIRS AND RETURN OF LICENSED PREMISES

10.1 (a) Licensee shall be entitled to make, at its own cost and expense, all improvements and modifications to the Site listed in Exhibit K attached hereto, which Exhibit has been duly approved by Commissioner hereunder (the "Site Improvements Plan"). In the event there are any subsequent changes to the pre-approved Site Improvements Plan hereunder, Licensee shall provide no later than thirty (30) days prior to the first day of the Occupation Period a revised Site Improvements Plan to Commissioner for Commissioner's prior written approval. Should Commissioner not notify Licensee within seven (7) days after receipt of the revised Site Improvements Plan then such revised Site Improvement Plan shall be deemed approved by Commissioner. If Commissioner does not grant its approval, the parties shall work together in good faith in order to resolve any material issues and obtain the approval of Commissioner prior to the first day of the Occupation Period. Upon Commissioner's approval of the final Site Improvements Plan under the terms of this Section, it shall be appended to this contract as Exhibit K and shall supersede the first Site Improvements Plan provided hereunder.

(b) Commissioner hereby acknowledges and agrees that Licensee may drill approximately **900-1000** holes in average 5' deep by 2" in diameter in the ground of the Licensed Premises for the installation of facilities and equipment necessary for the Circus as provided on the Site Improvements Plan. Licensee is responsible for paying to repair any holes they drill into the Licensed Premises.

10.2 Throughout the Occupation Period of this License, Licensee shall, at its sole cost and expense (or through arrangements with third parties at no expense to the City) and to the reasonable satisfaction of Commissioner, put, keep, repair and preserve in good order the Licensed Premises, including all structures, walkways, trees and perimeter fence(s). Licensee shall at all times keep Licensed Premises, clean, litter free, neat and, with respect to any structures for the provision of food, fumigated, disinfected, deodorized and in every respect sanitary. Licensee shall provide regular cleaning and maintenance services for Licensed Premises, including collection and removal of litter, debris and garbage. In conformance with this provision, Licensee shall complete daily cleaning of the Licensed Premises by 9:00 am every day during the Performance Period. Licensee shall repair and maintain in good working order any and all equipment installed at the Licensed Premises necessary for the proper operation of this License. Licensee shall provide equipment maintenance contracts, or directly provide maintenance services deemed by Parks to be sufficient for the Licensed Premises. Licensee shall adhere to the maintenance schedules recommended by the manufacturers for all mechanical systems and equipment.

10.3 Licensee shall maintain the Licensed Premises to the satisfaction of the Commissioner. All such maintenance shall be performed by Licensee in a good and worker-like manner.

10.4 Licensee shall provide adequate waste receptacles on the Licensed Premises. All waste, garbage, refuse, rubbish and litter, of whatever description which collects upon the Licensed Premises without regard for its source, shall be collected, bagged and removed as necessary by Licensee, or by a private carting company at the Licensee's sole cost and expense. All waste so removed shall be disposed of in a manner so as to comply with all applicable Federal, state, and City laws or ordinances.

10.5 At its sole cost and expense, Licensee shall remove any and all graffiti which may appear on the structures on the Licensed Premises. Such graffiti removal shall be commenced within twenty-four hours of the appearance of any such graffiti, and shall continue until such graffiti is removed.

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

10.7 (a) Prior to the Termination Date as defined in Section 3.1 herein, or upon earlier termination under the terms of this License, Licensee shall remove from the Licensed Premises all improvements, tents, equipment and other personal property placed on the Licensed Premises in connection with the Circus and return the Licensed Premises at Licensee's expense to the condition existing prior to the Commencement Date, including without limitation the re-sodding and restoration of the Licensed Premises, ordinary wear and tear excepted.

(b) After the restoration of the Licensed Premises as set forth in Section 10.7 (a) herein, on or before December 16, 2016, a duly authorized representative of Parks and of Licensee shall together inspect the Licensed Premises to evaluate the condition of the Licensed Premises further to such restoration ("Inspection"). If after such Inspection Parks reasonably determines that additional repair or restoration is required, Licensee shall promptly perform such work at its sole cost and expense. If Parks is satisfied with the condition of the Licensed Premises following the Inspection or after any additional repair or restoration is completed, Parks shall sign the release in the form attached hereto as Exhibit P (the "Release Form").

(c) Licensee agrees and acknowledges that time is of the essence in the restoration of the Licensed Premises and other park areas so that the Licensed Premises and other areas of the Park are available for use by the public as soon as possible following the Circus, and Licensee shall pay costs reasonably necessary to expedite the restoration.

APPROVALS

11.1 Licensee is solely responsible for obtaining all government approvals, permits and licenses required by federal, state and City laws, regulations, rules and orders to fulfill this License.

11.2 Whenever any act, consent, approval or permission is required of the City, Parks or the Commissioner under this license, the same shall be valid only if it is, in each instance, in writing and signed by the Commissioner or his 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. Such written approvals may be communicated by the parties hereto via e-mail.

RESERVATION FOR SPECIAL EVENTS

12.1 Commissioner represents to Licensee that he has not granted to any other person or entity any license, permit, or right of possession or use which would prevent in any way Licensee from performing its obligations and realizing its rights under this License.

12.2 Licensee shall notify the Commissioner within five business days whenever Licensee tentatively schedules any private use of the Licensed Premises (*e.g.*, private parties) which would close the Licensed Premises to the general public. In no event shall Licensee close the Licensed Premises to conduct private activities during public hours of use except when such activities are specifically approved or sponsored by Parks. Any closure of the Licensed Premises which Licensee seeks to schedule during public hours of use must be announced to the public at least two weeks in advance of such activities or events.

ASSIGNMENTS AND SUBLICENSES

13.1 Subject to the provisions of Paragraph 13.2 herein, Licensee shall not assign or sublicense its interest in whole or in part in this License without obtaining the Commissioner's prior written approval, as follows:

(a) 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 its principal business activity will consist of the management and operation of the Licensed Premises in accordance with the terms of this License. The constraints contained herein are intended to assure the City that the Licensed Premises are operated by persons, firms and corporations who are experienced and reputable operators and are not intended to diminish Licensee's interest in the Licensed Premises. City may require payment of a reasonable transfer fee as a condition of the granting of any required consent or approval of assignment.

(b) As used in this Section 13 the term "assignment" shall be deemed to include any direct or indirect assignment, sublet, sale, pledge, mortgage, transfer of or change which along or in combination with other prior or simultaneous transfers or assignments would have the effect of changing the ownership or control of more than 49% in stock or voting control of the Licensee, including any transfer by operation of law. No sale or transfer of the stock owned by Licensee or its nominee may be made under any circumstance if such sale will result in a change of control violative of the intent of this Article.

13.2 Should Licensee choose to assign or sublicense the management and operation of any element of service or activity authorized under this License to another party, Licensee shall seek the approval of the Commissioner by submitting a written request including proposed assignment documents as provided above. The Commissioner may request any additional information he deems necessary and Licensee shall promptly comply with such requests.

13.3 No consent to or approval of any assignment or sublicense granted pursuant to this Section 13 shall constitute consent to or approval of any subsequent assignment or sublicense.

13.4 Failure to comply with the provisions of this Section 13 shall cause the immediate termination of this License.

IMPROVEMENT/CORRECTION/PARKS CONSTRUCTION

14.1 Should Commissioner, in his sole judgment, decide 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. If 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 his sole discretion, may extend such period of time in order to permit Licensee to cure, under such terms and conditions as appropriate. During any period where the Commissioner determines that an unsafe or emergency condition exists on the Licensed Premises, the Commissioner may require a partial or complete suspension of operation in the area affected by the unsafe or emergency condition.

Should Licensee fail to correct such unsafe or emergency condition as required by this Section 14.1, Parks may correct said condition, at its discretion, and shall be entitled to reimbursement from Licensee for reasonable costs associated with said correction.

14.2 Parks reserves the right to, in its sole discretion to perform emergency construction and/or emergency maintenance work at the Licensed Premises at any time during the Term of this License.

14.3 Parks acknowledges and agrees that any non-emergency Parks construction being performed on parkland adjacent to or in the vicinity of the Licensed Premises on Randall's Island shall not interfere with the operation of the Licensed Premises, especially the scheduled performances as set forth in Exhibit D, during the Term of this License. Parks shall use reasonable efforts to coordinate with other City agencies having heavy construction projects near the Licensed Premises to prevent the noise interference with Licensee's performances during the Term of the License.

14.4 It is acknowledged and agreed that Licensee shall hold Parks harmless for closure of the Licensed Premises due to emergency construction and emergency maintenance.

14.5 Licensee shall be responsible for security of all Licensee's property on the Licensed Premises at all times.

ACCESS

15.1 Licensee shall provide, at all times, 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 it being understood that save and except for an emergency event, such inspections shall not be conducted during any Circus performance taking place under the Big Top at such time. Licensee acknowledges that it is the intention of this License that Licensee maintains close cooperation with the New York City Police Department and Parks and to aid in the maintenance of the services of those Departments insofar as Licensee's services interact with those of said Departments.

NO WAIVER OF RIGHTS

16.1 No acceptance by Commissioner of any compensation, fees, 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 Commissioner to terminate this License. No waiver by 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.

NON-DISCRIMINATION

17.1 Licensee shall not unlawfully discriminate against any customer because of actual or perceived age, race, creed, religion, sex, gender, color, disability, sexual preference or orientation, national origin, alienage, citizenship status, partnership status, marital status, military status, presence of a service animal or any other class of individuals protected from discrimination in public accommodations by City, State or Federal laws, rules or regulations. Licensee shall not unlawfully discriminate against any employee or applicant for employment because of actual or perceived age, race, creed, religion, religious practice, sex, gender, color, disability, sexual preference or orientation, national origin, alienage, citizenship status, partnership status, marital status, pregnancy, childbirth or condition relating to pregnancy or childbirth, political beliefs or affiliations, arrest or conviction record, military status, predisposing genetic characteristics, unemployment status, status as a victim of domestic violence, stalking, and sex offenses, presence of a service animal, or any other protected class of individuals as defined by City, State or Federal laws, rules or regulations. All advertising for employment shall indicate that Licensee is an Equal Opportunity Employer.

TRADEMARKS

18.1 (a) Parks acknowledges that the name “Cirque du Soleil TM” and the title of the Circus are the sole and exclusive property of the Licensee and its affiliates and are the Licensee’s and its affiliates’ duly registered trade and service marks (“Marks”). Accordingly, Licensee grants Parks a non-exclusive license, from the execution hereof through the Termination date, to use the Marks only in direct connection with this License and for no other purpose. Without limiting the generality of the foregoing, Parks may not sell any item which attains a value as a result of the use of the Marks, including, but not limited to souvenirs, novelties and other advertising material.

(b) Licensee should be aware that the City is the trademark owner of various marks and has licensed the use of those trademarks for use on certain designated merchandise. If Licensee wants to sell merchandise that uses the City’s trademarks, Licensee shall be required to purchase such merchandise from authorized Licensees of the City of New York.

(c) The sale of counterfeit or unlicensed merchandise by Licensee on the Licensed Premises will result in the immediate termination of the permit and seizure of the security deposit.

LOCATION RELEASES

19.1 Parks shall, upon demand by Licensee, execute and provide to Licensee, at no cost to Licensee, all location releases and similar authorizations as may be required from time to time by Licensee in order to allow audiovisual television or film producers to film the Licensed Premises or any Circus performance at

the Licensed Premises and which releases and authorizations are reasonably acceptable to Parks and RIPA.

INDEMNIFICATION

20.1 Licensee assumes all risks arising from the operations of the Circus under this License.

20.2 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.

20.3 Licensee shall indemnify, defend and hold the City and RIPA and their respective officials and employees harmless against any and all claims, liens demands, judgments, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature (including, without limitation, reasonable attorneys' fees and disbursements) arising out of or related to the operations of the Circus under this License (regardless of whether or not Licensee itself had been negligent) and/or Licensee's failure to comply with the law or any of the requirements of this License. Insofar as the facts or law relating to any of the foregoing would preclude the City, or RIPA or their respective officials and employees from being completely indemnified by Licensee, the City, RIPA and their respective officials and employees shall be partially indemnified by Licensee to the fullest extent permitted by law.

20.4 Licensee shall defend, indemnify and hold the City and RIPA harmless from any and all claims (even if the allegations of the lawsuit are without merit) or judgments for damages and from costs and expenses to which the City or RIPA may be subject to or which it may suffer or incur allegedly arising out of or in connection with any infringement by the Licensee of any copyright, trade secrets, trademark or patent rights or any other property or personal right of any third party by the Licensee and/or its sublicensees in relation to the activities covered by this License. Licensee shall defend, indemnify, and hold the City and RIPA harmless regardless of whether or not the alleged infringement arises out of compliance with the License. Insofar as the facts or law relating to any claim would preclude the City and RIPA from being completely indemnified by the Licensee, the City and RIPA shall be partially indemnified by the Licensee to the fullest extent permitted by law.

20.5 Licensee's obligation to defend, indemnify and hold the City, RIPA and their respective officials and employees harmless shall not be (i) limited in any way by Licensee's obligations to obtain and maintain insurance or cause an assignee approved by Parks to obtain and maintain insurance under this License, nor (ii) adversely affected by any failure on the part of the City, RIPA or their respective officials and employees to avail themselves of the benefits of such insurance.

20.6 Licensee hereby expressly waives any and all claims for compensation 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 current which may occur from time to time, (except to the extent a claim arises out of Parks' failure to fulfill its obligations described in Section 7.2), or for any loss resulting from fire, water, windstorm, tornado, explosion, civil commotion, strike or riot, and Licensee hereby expressly releases and discharges Commissioner, his agents, and City from any and all demands, claims, actions, and causes of action arising from any of the causes aforesaid.

20.7 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 Commissioner sooner than the fixed term because the License was terminated or revoked for any reason as provided herein.

INSURANCE

21.1 Licensee's Obligation to Insure

No later than 30 days prior to the Term, through the date of the expiration or termination of all of Licensee's obligations hereunder, Licensee shall ensure that the types of insurance indicated in this Section 21, with the exception of Liquor Law Liability Insurance, are obtained and remain in force, and that such insurance adheres to all requirements herein. Licensee shall ensure that Liquor Law Liability Insurance adheres to all requirements herein and is in effect prior to the commencement of any service of alcohol and continue throughout such operations.

Licensee is not authorized to undertake or maintain operations under this License if all required coverage is not maintained pursuant to this Section 21.1.

21.2 Commercial General Liability Insurance

Licensee shall maintain Commercial General Liability insurance in the amount of at least Twenty Five Million United States Dollars (US \$25,000,000) per occurrence and Twenty Five Million United States Dollars (US \$25,000,000) aggregate. This insurance shall protect the insureds from claims for property damage and/or bodily injury, including death that may arise from any of the operations of the Circus 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, and shall not contain exclusions other than the exclusions included in the ISO Form CG 0001, exclusions required by law, or exclusions approved by the Commissioner, and shall be "occurrence" based rather than "claims-made."

Such Commercial General Liability insurance shall name the City and RIPA, together with their respective officials and employees, as Additional Insureds. The limit of such coverage shall be the minimum limit set forth in Section 21.2.

21.3 Workers' Compensation, Employers' Liability and Disability Benefits Insurance

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

21.4 Commercial Automobile Liability Insurance

With regard to all operations under this License, Licensee shall maintain Commercial Automobile Liability insurance in the amount of at least Two Million United States Dollars (US \$2,000,000) each accident (combined single limit) for liability arising out of the ownership, maintenance or use of any owned, non-owned or hired vehicles.

21.5 Liquor Law Liability Insurance

In the event Licensee shall serve alcohol or shall permit a sublicensee or others to serve alcohol on the Permitted Premises, Licensee shall carry or cause sublicensee or others to carry Liquor Law Liability insurance in an amount not less than Five Million United States Dollars (US \$5,000,000) per occurrence and Five Million United States Dollars (US \$5,000,000) per event aggregate, and name the City and RIPA as Additional Insureds. Such insurance shall be effective prior to the commencement of any such service of alcohol and continue throughout such operations.

21.6 General Requirements for Insurance Coverage & Policies

Policies of insurance required under this Section shall be provided by companies that may lawfully issue such policy and have an A.M. Best rating of at least A-“VII” or a Standard and Poor’s rating of at least A, unless prior written approval is obtained from the Commissioner.

Policies of Insurance required under this Section shall be primary and non-contributing to any insurance or self-insurance maintained by the City or RIPA.

Licensee shall assume any deductible amount or self-insured retention with regard to any insurance required under this Section.

21.7 Proof of Insurance

(a) Certificates of Insurance in a form authorized by New York State Insurance Law 502, for all insurance required in this Section, except Liquor Law Liability Insurance, must be submitted to the Commissioner no later than 30 days prior to the Term. If applicable, a Certificate of Insurance for Liquor Liability Insurance must be submitted no later than 10 calendar days prior to the Circus.

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

- (i) C-105.2 Certificate of Workers’ 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 Section other than Workers’ Compensation, Employers’ Liability, and Disability Benefits insurance, Licensee shall submit one or more Certificates of Insurance. All such Certificates of Insurance shall (i) certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits; and (ii) be accompanied by the provision(s) or endorsement(s) in Licensee’s Commercial General Liability policy/ies by which the City and RIPA have been made Additional Insureds, as required herein. All such Certificates of Insurance shall be

accompanied by a duly executed “Certification by Insurance Broker or Agent” in the form (Exhibit M) required by the Commissioner.

(d) The Commissioner’s acceptance or approval of a Certificate of Insurance or any other matter does not waive Licensee’s obligation to ensure that insurance fully consistent with the requirements of this Section is secured and maintained, nor does it waive Licensee’s liability for its failure to do so.

21.8 Miscellaneous

Licensee shall be required to provide a complete copy of any Commercial General Liability policy required by this Article 21 in the event of a claim against the City that the City believes should be covered under such Commercial General Liability policy for which both the insurer has not provided the City with a defense thereunder and the Licensee has failed to provide a defense and failed to indemnify the City.

(a) Licensee may satisfy its insurance obligations under this Section 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) Licensee shall be solely responsible for the payment of all premiums for all policies and all deductibles or self-insured retentions to which it is subject, whether or not the City or RIPA is an insured under the policy.

(c) Where notice of loss, damage, occurrence, accident, claim or suit is required under a policy maintained in accordance with this Section, Licensee shall notify in writing all insurance carriers that issued potentially responsive policies of any such event relating to any operations of the Circus under this License (including notice to Commercial General Liability insurance carriers for events relating to Licensee’s own employees) no later than twenty (20) days after receiving the claim or suit or otherwise becoming aware of a loss, damage, occurrence, or accident which may result in a claim. For any policy where the City and/or RIPA is an Additional Insured, such notice shall expressly specify that “this notice is being given on behalf of the Named Insured as well as the City of New York and Randall’s Island Park Alliance, Inc., as Additional Insured.” Such notice shall also contain the following information, to the extent known and available: 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 Law Department
c/o Insurance Claims Specialist
Affirmative Litigation Division
100 Church Street
New York, NY 10007

Randall’s Island Park Alliance, Inc.
c/o Aimee Boden, President
24 West 61st Street, 4th Floor
New York, NY 10023

General Counsel
Department of Parks and Recreation
The Arsenal
830 5th Avenue
New York, NY 10065

21.9 Licensee's failure to secure and maintain insurance pursuant to this Article 21 shall constitute a material breach of this License. Such breach shall not be waived or otherwise excused by any action or inaction by the City or RIPA at any time.

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

21.11 All of the above insurance policies shall include a waiver of subrogation, in favour of the City or RIPA, its subsidiaries, affiliates, employees, officers, directors and agents.

21.12 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 Section, each party shall at all times fully cooperate with regard to such potential or actual claim.

21.13 Licensee shall reasonably require subcontractors to procure insurance with regard to any operations under this License and, if possible Licensee shall reasonably ensure that such entity also include the City and RIPA as Additional Insureds on their Commercial General Liability insurance.

INVESTIGATIONS

22.1 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 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.

22.2 (a) 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

(b) 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;

(c) (i) 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.

(ii) 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 paragraph e) below without the City incurring any penalty or damages for delay or otherwise.

(d) 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.

(e) The Commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (i) and (ii) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (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 (d) 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 (c) (i) 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.

(f) **(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.

(g) 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 License 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.

CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE

23.1 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.

23.2 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:

23.3 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

23.4 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.

23.5 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.

23.6 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.

WAIVER OF TRIAL BY JURY

24.1 Licensee hereto waives trial by jury in any action, proceeding, or counterclaim brought by the City or RIPA against Licensee in any matter related to this License. .

PROCUREMENT OF AGREEMENT

25.1 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.

25.2 For a breach of violation of such representations or warranties, the Commissioner shall have the right to annul this License without liability, 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 for by law or pursuant to this License.

CUMULATIVE REMEDIES - NO WAIVER

26.1 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.

SEVERABILITY: INVALIDITY OF PARTICULAR PROVISIONS

27.1 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.

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.

EMPLOYEES

29.1 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.

INDEPENDENT STATUS OF LICENSEE

30.1 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 or employees of the City, or of any department, agency, or unit thereof, 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.

ALL LEGAL PROVISIONS DEEMED INCLUDED

31.1 Each and every provision of law required to be inserted in this License shall be and is inserted herein. Every such provision is to be deemed to be inserted herein, and 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 amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party hereunder.

JUDICIAL INTERPRETATION

32.1 Should any provision of this License Agreement 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 conclusion 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.

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PAYMENTS AND NOTICES

33.1 Any license fees, charges or sums payable by Licensee to City shall be made to the New York City Department of Parks and Recreation: The Arsenal, 830 Fifth Avenue, New York, NY 10065. Any license fees, charges or sums payable by Licensee to RIPA shall be made to Randall's Island Park Alliance: 24 West 61st Street, 4th Floor New York, NY 10023. Where provision is made herein for notice to be given in writing, the same shall be given by hand delivery or by mailing a copy of such notice by certified mail, return receipt requested, addressed as follows:

To Parks: General Counsel
NYC Parks & Recreation
830 Fifth Avenue, Room 313
New York, NY 10065
(212) 360-1314 Telephone
(212) 360-1373 Fax

To Licensee: Senior Vice President,
Cirque du Soleil Touring Shows
8400 2nd Avenue
Montreal, Quebec H1Z4M6
(514) 722-2324 Telephone
(514) 723-7863 Fax

With a copy to: Vice President
Cirque du Soleil Business and Legal Affairs
8400, 2nd Avenue
Montreal, Quebec H1Z4M6
(514) 722-2324 Telephone
(514) 723-7617 Fax

To RIPA: Aimee Boden
President
Randall's Island Park Alliance, Inc.
24 West 61st Street, 4th Floor
New York, NY 10023

MODIFICATION OF AGREEMENT

34.1 This License 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 may be modified from time to time by agreement in writing, but no modification of this License shall be in effect until such modification has been agreed to in writing and duly executed by the party or parties affected by said modification.

COMPLIANCE WITH LAWS; LICENSES FOR INTELLECTUAL PROPERTY

35.1 Licensee shall comply and cause its employees and agents to comply with all applicable laws, rules, regulations and orders now or hereafter prescribed by Commissioner (except to the extent that such orders conflict with the terms and conditions of this License) and to comply with all applicable laws, rules, regulations and orders of any City, state or federal agency or governmental entity having jurisdiction over operations of the License and the Licensed Premises and/or Licensee's use and occupation thereof, including but not limited to Section 24-216 of the New York City Administrative Code, as applicable, and the New York State Sanitary Code Part 18, Public Functions with Attendance of Over 5,000 People. Licensee shall not use or allow, to the extent within its control, the Licensed Premises or any portion thereof, to be used or occupied for any unlawful purpose or use during the Term of this License.

Licensee shall be responsible for obtaining any necessary licenses for intellectual property used at the Licensed Premises and for the payment of any and all fees or royalties to ASCAP, BMI or such other entity as may be required for music or music programming.

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

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

**RANDALL'S ISLAND PARK ALLIANCE,
INC.**

By: _____

By: _____
Aimee Boden, Preident

Dated: _____

Dated: _____

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**APPROVED AS TO FORM
CERTIFIED AS TO LEGAL AUTHORITY**

Acting Corporation Counsel

CIRQUE DU SOLEIL AMERICA, INC.

By: _____
Jacques Marois
Senior Vice President,
Touring Shows

Dated: _____

AND

By: _____
Sylvain Guimond
Touring Sites Development Director,
Touring Shows

Dated: _____

STATE OF NEW YORK

ss:

COUNTY OF NEW YORK

On this _____ day of _____, before me personally came to me known, and known to be the of the New York City Department of Parks and Recreation, and the said person described in and who executed the forgoing instrument and she acknowledged that she executed the same in her official capacity and for the purpose mentioned therein.

Notary Public

STATE OF NEW YORK

ss:

COUNTY OF NEW YORK

On this _____ day of _____, before me personally came Aimee Boden to me known, and known to be the President of Randall’s Island Park Alliance, Inc., and the said person described in and who executed the forgoing instrument and she acknowledged that she executed the same in her official capacity and for the purpose mentioned therein

Notary Public

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PROVINCE OF QUEBEC, CANADA

ss:

PROVINCE OF QUEBEC, CANADA

On this _____ day _____, 2009 before me personally came Jacques Marois, who, being duly sworn by me did depose and say that he executed the foregoing instrument and acknowledged that he executed the same for the purposes mentioned therein.

Notary Public

PROVINCE OF QUEBEC, CANADA

ss:

PROVINCE OF QUEBEC, CANADA

On this _____ day of _____, 2009 before me personally came Sylvain Guimond, who, being duly sworn by me did depose and say that he executed the foregoing instrument and acknowledged that he executed the same for the purposes mentioned therein.

Notary Public

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EXHIBIT A

LICENSED PREMISES

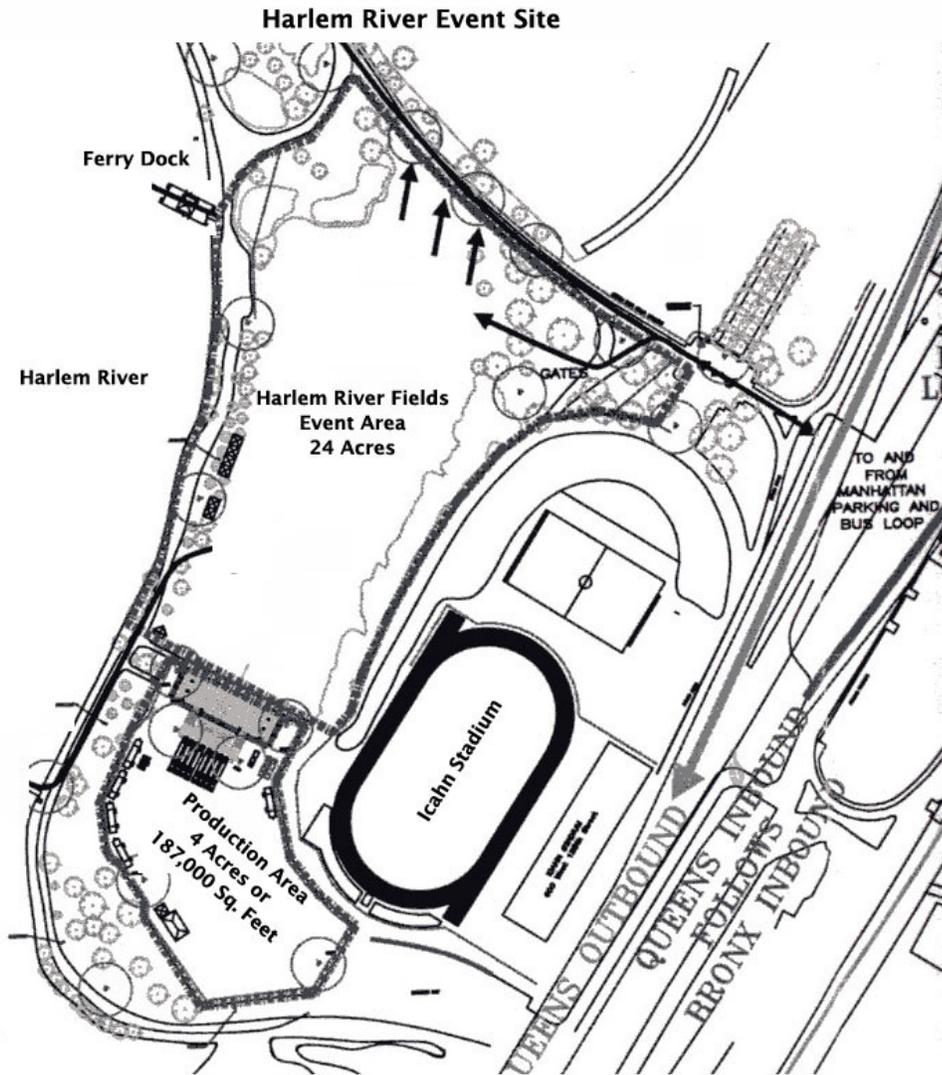


EXHIBIT B

OPERATIONS PLAN

In the event that the Operations Plan has been modified, the Final Schedule of the Operations Plan for all personnel (including the number, location and hours of operation) assigned to the Licenses Premises shall be provided by Licensee prior to the first day of the Occupation Period.

- 1) **Number and location of staffed first-aid rooms, indicating the level of qualifications of personnel staffing such rooms:**
 - One staffed first-aid room near Gate 1 [Emergency Entrance - Staff Entrance] located inside an office trailer in a separate room with a separate entrance. The level of qualifications of the personnel provided by the security company will be locally hired Emergency Medical Technicians[EMT's].

- 2) **Number and location of ambulances available on standby:**
 - One ambulance on stand-by at the site planned at this time.

- 3) **Number and location of security personnel assigned for the Circus: Cirque du Soleil – KURIOS, North American Tour** has one full time Security Supervisor on tour that bases out of a Security Office, located at Gate 1. Licensee has hired a National Security provider. They will provide a supervisor and two guards [one (1)guard at Gate 1 and the other that roams around Gate 2, the main public entrance] on three eight-hour shifts per day [24 hours – 7 days]. Three more guards are added during the shows, one at Door 3, one at Door 4, and the third at the front main public entrance. There is a total of six security personnel during shows (which include the Licensee employee).

- 4) **Location and number of personnel assigned to a designated lost and found office:**
 - Inquiries by phone must be made at the Licensed Premises Receptionist located in the Tour Services office-trailer. In person: at the Security Office located at Gate 1 during the hours 9:00 A.M. to 11:00 P.M., Tuesdays through Sundays. This is handled by Licensee Security. During a show, two security guards and two ushers do a general search during intermission and after each show and turn in items found at the Security Office.

EXHIBIT D

NEW YORK CITY 2016 PERFORMANCE SCHEDULE

PERFORMANCE SCHEDULE (from 2016-09-29 to 2016-11-27)

Date	Day	1rst Performance	Performance Status	2nd Performance	Performance Status
2016-09-29	Thu	7:30 PM Dress Rehearsal	Scheduled		
2016-09-30	Fri	8:00 PM Premiere (833)	Scheduled		
2016-10-01	Sat	4:30 PM Regular (834)	Scheduled	8:00 PM Regular (835)	Scheduled
2016-10-02	Sun	1:30 PM Regular (836)	Scheduled	5:00 PM Regular (837)	Scheduled
2016-10-03	Mon				
2016-10-04	Tue	8:00 PM Regular (838)	Scheduled		
2016-10-05	Wed	8:00 PM Regular (839)	Scheduled		
2016-10-06	Thu	8:00 PM Regular (840)	Scheduled		
2016-10-07	Fri	4:30 PM Option	Scheduled	8:00 PM Regular (841)	Scheduled
2016-10-08	Sat	4:30 PM Regular (842)	Scheduled	8:00 PM Regular (843)	Scheduled
2016-10-09	Sun	1:30 PM Regular (844)	Scheduled	5:00 PM Regular (845)	Scheduled
2016-10-10	Mon				
2016-10-11	Tue	8:00 PM Regular (846)	Scheduled		
2016-10-12	Wed	8:00 PM Regular (847)	Scheduled		
2016-10-13	Thu	4:30 PM Option	Scheduled	8:00 PM Regular (848)	Scheduled
2016-10-14	Fri	4:30 PM Option	Scheduled	8:00 PM Regular (849)	Scheduled
2016-10-15	Sat	4:30 PM Regular (850)	Scheduled	8:00 PM Regular (851)	Scheduled
2016-10-16	Sun	1:30 PM Regular (852)	Scheduled	5:00 PM Regular (853)	Scheduled
2016-10-17	Mon				
2016-10-18	Tue	8:00 PM Regular (854)	Scheduled		
2016-10-19	Wed	8:00 PM Regular (855)	Scheduled		
2016-10-20	Thu	4:30 PM Option	Scheduled	8:00 PM	Scheduled

				Regular (856)	
2016-10-21	Fri	4:30 PM Regular (857)	Scheduled	8:00 PM Regular (858)	Scheduled
2016-10-22	Sat	4:30 PM Regular (859)	Scheduled	8:00 PM Regular (860)	Scheduled
2016-10-23	Sun	1:30 PM Regular (861)	Scheduled	5:00 PM Regular (862)	Scheduled
2016-10-24	Mon				
2016-10-25	Tue				
2016-10-26	Wed	8:00 PM Regular (863)	Scheduled		
2016-10-27	Thu	8:00 PM Regular (864)	Scheduled		
2016-10-28	Fri	4:30 PM Regular (865)	Scheduled	8:00 PM Regular (866)	Scheduled
2016-10-29	Sat	4:30 PM Regular (867)	Scheduled	8:00 PM Regular (868)	Scheduled
2016-10-30	Sun	1:30 PM Regular (869)	Scheduled	5:00 PM Regular (870)	Scheduled
2016-10-31	Mon				
2016-11-01	Tue	8:00 PM Regular (871)	Scheduled		
2016-11-02	Wed	8:00 PM Regular (872)	Scheduled		
2016-11-03	Thu	4:30 PM Option	Scheduled	8:00 PM Regular (873)	Scheduled
2016-11-04	Fri	4:30 PM Option	Scheduled	8:00 PM Regular (874)	Scheduled
2016-11-05	Sat	4:30 PM Regular (875)	Scheduled	8:00 PM Regular (876)	Scheduled
2016-11-06	Sun	1:30 PM Regular (877)	Scheduled	5:00 PM Regular (878)	Scheduled
2016-11-07	Mon				
2016-11-08	Tue	8:00 PM Regular (879)	Scheduled		
2016-11-09	Wed	8:00 PM Regular (880)	Scheduled		
2016-11-10	Thu	4:30 PM Option	Scheduled	8:00 PM Regular (881)	Scheduled
2016-11-11	Fri	4:30 PM Regular (882)	Scheduled	8:00 PM Regular (883)	Scheduled
2016-11-12	Sat	4:30 PM Regular (884)	Scheduled	8:00 PM Regular (885)	Scheduled
2016-11-13	Sun	1:30 PM Regular (886)	Scheduled	5:00 PM Regular (887)	Scheduled
2016-11-14	Mon				
2016-11-15	Tue	8:00 PM Regular (888)	Scheduled		
2016-11-16	Wed	8:00 PM Regular (889)	Scheduled		
2016-11-17	Thu	4:30 PM Option	Scheduled	8:00 PM	Scheduled

				Regular (890)	
2016-11-18	Fri	4:30 PM Option	Scheduled	8:00 PM Regular (891)	Scheduled
2016-11-19	Sat	4:30 PM Regular (892)	Scheduled	8:00 PM Regular (893)	Scheduled
2016-11-20	Sun	1:30 PM Regular (894)	Scheduled	5:00 PM Regular (895)	Scheduled
2016-11-21	Mon				
2016-11-22	Tue				
2016-11-23	Wed	8:00 PM Regular (896)	Scheduled		
2016-11-24	Thu	8:00 PM Regular (897)	Scheduled		
2016-11-25	Fri	4:30 PM Regular (898)	Scheduled	8:00 PM Regular (899)	Scheduled
2016-11-26	Sat	4:30 PM Regular (900)	Scheduled	8:00 PM Regular (901)	Scheduled
2016-11-27	Sun	1:30 PM Regular (902)	Scheduled	5:00 PM Regular (903)	Scheduled

*The Performance Schedule is subject to change as per Section 6.1(e) of the License Agreement.

EXHIBIT E

LOAD-IN/LOAD-OUT OPERATIONS SCHEDULE

- 1) **Site Preparation/Construction:**
 - 12th September to 20th September 2016
 - Working hours: 8AM to 5PM

- 2) **Marking:**
 - 12th September to 21st September 2016
 - Working hours: 8AM to 6PM

- 3) **Infrastructure setup:**
 - 21st September to 29th September 2016
 - Working hours: 7:30AM to 6PM

- 4) **Performance Period:**
 - 29th September to 27th November 2016 (See full Show Schedule in Exhibit D)

- 5) **Tear-down:**
 - 27th November 2016
 - Working hours: 8PM to 12 Midnight

 - 28th November and 29th November 2016
 - Working hours: 7:30AM to 7PM

- 6) **Site restoration:**
 - 30th November to 9th December 2016

*The Load-In/Load-Out Schedule is subject to change as per Section 6.1(e) of the License Agreement.

EXHIBIT F
UTILITIES AND SERVICES

Connections' Specifications:

- City water service connection location via existing fire hydrant or water coper line located adjacent to the Licensed Premises. Licensee shall install at its cost the appropriate meter.

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EXHIBIT G

PRE- APPROVED MATERIALS

- Diesel used for generators is delivered by fuel tanks on site and kept in the generators' tanks (double tanks).

- Propane tanks.
 - 2 X 20Lbs for BBQ
 - 15 X 33Lbs for forklifts
 - 1 X 500Lbs for staff kitchen

- Welding equipment (i.e. oxy-acetylene-argon), paints, lubricant solvents, used oil stored in recycling containers and removed by local recycling firms, cleaning products - household & industrial (typically water based).

- Fuel, lubricants, and fluids used for forklifts, tractors and other heavy machinery are stored in their original commercial containers on shelves in the trucks "belly box" (i.e. box welded under the truck).

- Aerosols, lubricants and fluids used in connection with show act.

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EXHIBIT H

PRICE LIST

FOOD / MERCHANDISE/CONCESSIONS STAND OPERATIONS **& TICKETS PRICES**

SALE OF MERCHANDISE

Souvenir items are sold on display in a retail-type environment, cash-registers are manned by staff in this area and barkers also walk around with merchandise items for sale before the show, at intermission and after the show.

Food and Beverages:

- Food and Beverages in Concession Tents: Snack Bar Items are sold at counter and paid at cash registers.
- Barkers offer for sale Food and Beverages items on-site and in the Big Top (i.e. ice cream, water etc.)
- Sale of food and beverages also takes place in outside areas (as identified on Site Plan). Beer and wine can also be sold at counters.
- Food and Beverages in VIP Tent: Catering service of finger food items, non-alcoholic and alcoholic beverages are served by waiters.

FOOD AND PRICE LIST

Menus of food services and price range:

- Sodas, bottled water, coffee, tea, juice: from \$3 to \$6
- Beer, wine, sparkling wine: from \$7.50 to \$9.50
- Popcorn, candy, chocolate, cotton candy, nachos, hot dogs, pretzels, ice cream: from \$3 to \$7
- Sandwiches, salads and desserts: from \$5 to \$13.50

TICKET PRICES

Tier 1	Adult	Child	Sn St
VIP Experience	\$255	245	250
Premium	\$130	\$120	125
Level 1	\$97	\$87	92
Level 2	\$80	\$70	75
Level 3	\$66	\$56	61
Level 4	\$54	\$44	49

Tier 5	Adult	Child	Sn St
VIP Experience	\$200	190	195
Premium	\$175	165	170
Level 1	\$120	110	115
Level 2	\$97	87	92
Level 3	\$80	70	75
Level 4	\$66	56	61

EXHIBIT I

LIST OF LICENSEE'S PROPOSED SPONSORS NEW YORK CITY 2016

Presenting



In association with



Officials



Affiliated Partner



Suppliers



*Sponsors are subject to change as per Section 9.17(c) of the License Agreement.

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EXHIBIT J

PARKING FACILITIES

* Please note that lot and space availability may vary depending on bridge construction and other park uses

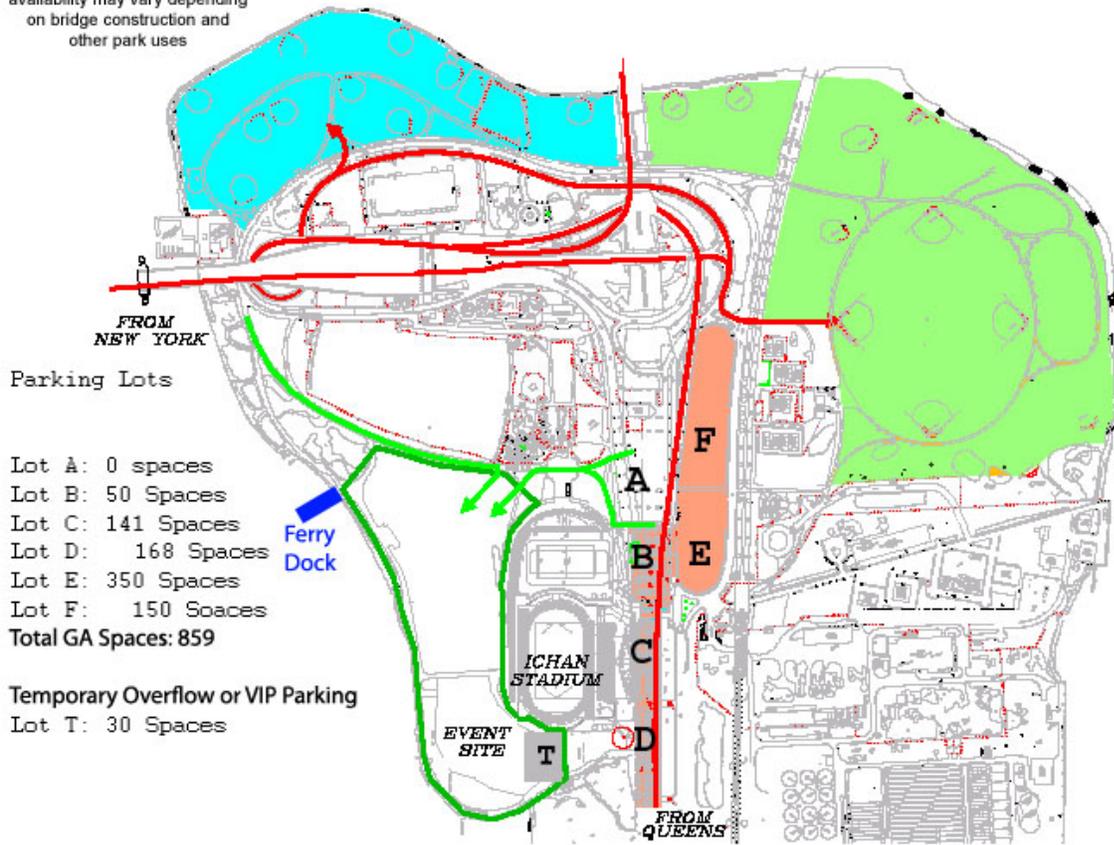


EXHIBIT K

SITE IMPROVEMENT PLAN

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EXHIBIT L
Intentionally Omitted

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EXHIBIT M

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.

EXHIBIT N

Transportation Information for Cirque du Soleil

Buses:

The M35 bus runs to the Island from the NW corner of 125th Street and Lexington Ave. Transfer is available from the Lexington Avenue 4, 5 or 6 trains at 125th Street.

Driving:

All automobile access is via the RFK Triborough Bridge. **If navigating with GPS, please use “20 Randall’s Island Park, New York, NY 10035” as your destination.**

Please note below, there is a new ramp to Randall’s Island off of the RFK Triborough Bridge from both the Bronx and Manhattan.

From Manhattan:

If paying with E-ZPass at toll: Stay left at toll plaza for the exit ramp to Randall’s Island, immediately after the toll plaza.

If paying cash at toll: Stay right for the exit to Randall’s Island, about a half-mile past toll plaza.

From Queens:

Stay right for the exit to Randall’s Island, immediately after the toll plaza.

From the Bronx:

Once on the Bridge continue toward Queens. After the Queens toll plaza, bear right for the Randall’s Island exit (about 200 yards).

Pedestrian/Bicycle

Randall’s Island Park offers approximately eight miles of **pedestrian** and **bicycle** pathways, accessible from points in Manhattan, the Bronx and Queens.

The **103rd Street Footbridge** in Manhattan is open to pedestrians and cyclists 365 days per year, 24 hours per day and is accessible at the East River Esplanade at 103rd Street and FDR Drive. Take the 4/6 train to 103rd Street or the M15 bus to either 100th or 102nd Street. Walk east along 102nd Street to FDR Drive. Then, walk one block north directly onto the crossover leading into the Footbridge. Alternatively, take the M106 across town to FDR Drive and walk three blocks south. On Randall’s Island, the Footbridge is accessible at the southwest corner of the Island.

The **Bronx Shore Footbridge** at the Park's northern end is slated to open in 2015 alongside the new South Bronx Connector to 132nd Street.

Pedestrian walkways on all three spans of the RFK Triborough Bridge connect the Park to Manhattan, the Bronx and Queens.

Manhattan: 125th Street and 2nd Avenue to just behind the Golf Center

Bronx: Cypress Avenue and Bruckner Boulevard to the Bronx Shore Fields

Queens: Hoyt Avenue and 28th Street, adjacent to the Astoria Boulevard N/Q station, to mid-Island, adjacent to the Central Fields

Parking:

Accessible parking will be available on Randall's Island, for a fee.

EXHIBIT O
Rider for VIP Tent or Area

VIP TENT OR AREA ACCESS

- 1) Licensee shall provide VIP Tent(s) or Area(s) and shall indicate their location on the Site Plan. Parks must approve the location of any such VIP Tent(s) or Area(s).
- 2) The VIP Tent(s) or Area(s) shall open when the Event begins and close when the Event ends.
- 3) The Ticket Distribution Plan shall set forth how VIP tickets will be collected. Only attendees holding the appropriate level of VIP ticket will be allowed to enter the VIP Tent(s) or Area(s). Such attendees may freely enter and exit the VIP Tent(s) or Area(s) during the Event.

EXHIBIT P

RELEASE

I, the undersigned, a duly authorized representative of _____ (the "Owner"), acknowledge having inspected the licensed premises (the "**Licensed Premises**") licensed to Cirque du Soleil America, Inc. ("**Cirque**") according to the License Agreement between the Owner and Cirque dated _____ (the "**Agreement**") and declare that the Licensed Premises have been returned to the Owner by Cirque in a satisfactory condition in accordance with the terms and conditions of the Agreement. Therefore, the Owner hereby waives all claims it may have against Cirque in respect to the return condition of the Licensed Premises.

SIGNED on this _____ day of _____

OWNER (print): _____

By: _____

(Print name)

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NYC Parks

Robert Garafola
Deputy Commissioner
for Management, Budget,
and Public Programs

T 212.360.1302

E robert.garafola@parks.nyc.gov

**City of New York
Parks & Recreation**

The Arsenal
Central Park
New York, NY 10065
www.nyc.gov/parks

MEMORANDUM

TO: Hon. Gale Brewer, President of the Borough of Manhattan
Mr. Angel D. Mescain, District Manager, Manhattan Community Board 11

FROM: Eitan Adler, Revenue Senior Project Manager *EA*

SUBJECT: Notice of Joint Public Hearing, December 7, 2015: Intent to Award as a
Concession the Operation of a Circus at the Harlem River Event Site at Randall's
Island Park, Manhattan to Cirque du Soleil America, Inc.

DATE: November 20, 2015

NOTICE OF A JOINT PUBLIC HEARING of the Franchise and Concession Review Committee and the New York City Department of Parks and Recreation to be held on Monday, December 7, 2015 at 22 Reade Street, Borough of Manhattan, commencing at 2:30 p.m. relative to:

INTENT TO AWARD as a concession the operation of a circus at the Harlem River event site at Randall's Island Park, Manhattan, for a potential one-year term, to Cirque du Soleil America, Inc. ("Cirque" or "Licensee") Compensation to the City will be as follows: Licensee shall pay to Randall's Island Park Alliance (RIPA) a lump sum license fee of three hundred and thirty thousand United States dollars (US \$330,000.00) for the occupation of the Licensed Premises and the presentation of no more than seventy-five (75) performances of its Circus show entitled Kurios. Licensee shall also pay to RIPA a license fee of four thousand and four hundred United States dollars (US \$4,400.00) for every optional performance above seventy-five (75) performances of its Circus show entitled Kurios.

A draft copy of the agreement may be reviewed or obtained at no cost, commencing Friday November 20, 2015 through Monday, December 7, 2015, between the hours of 9 am and 5 pm, excluding weekends and holidays at the NYC Department of Parks and Recreation, located at 830 Fifth Avenue, Room 313, New York, NY 10065.

Individuals requesting Sign Language Interpreters should contact the Mayor's Office of Contract Services, Public Hearings Unit, 253 Broadway, 9th Floor, New York, NY 10007, (212) 788-7490, no later than SEVEN (7) BUSINESS DAYS PRIOR TO THE PUBLIC HEARING.
TELECOMMUNICATION DEVICE FOR THE DEAF (TDD) 212-504-4115

CITY OF NEW YORK

FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No. 2)

RESOLVED, that the Franchise and Concession Review Committee authorizes the New York City Department of Parks and Recreation (“Parks”) to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a Sole Source License Agreement (“Agreement”) with the Alley Pond Environmental Center, Inc. regarding an environmental center, at Alley Pond Park, Queens.

BE IT FURTHER RESOLVED, that Parks shall submit the Agreement it proposes to enter into with the Alley Pond Environmental Center, Inc. to the Franchise and Concession Review Committee for approval.

**THIS IS A TRUE COPY OF THE RESOLUTION ADOPTED BY THE
FRANCHISE AND CONCESSION REVIEW COMMITTEE ON**

**December
9th, 2015**

Date: _____

Signed: _____

Title: Director of the Mayor's Office of Contract Services

CONCESSION AGREEMENT PRE-SOLICITATION REVIEW MEMORANDUM COVER SHEET
 (Complete and attach a CPSR Memorandum only if the selection procedure will be other than Competitive Sealed Bids)

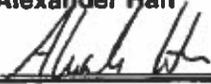
AGENCY: New York City Department of Parks & Recreation ("Parks")	CONCESSION TITLE/DESCRIPTION: Sole Source License Agreement with the Alley Pond Environmental Center, Inc. regarding the maintenance and operation of an environmental center, providing Parks appropriate programs in ecology and conservation to the public and Parks appropriate activities at Alley Pond Park, Queens.
# VOTES required for proposed action = 4 <input type="checkbox"/> N/A	CONCESSION IDENTIFICATION # Q1-O
SELECTION PROCEDURE (* City Chief Procurement Officer approval of CPSR required)	
<input type="checkbox"/> Competitive Sealed Bids (CSB) <input type="checkbox"/> Competitive Sealed Proposals (CSP)*	
<input checked="" type="checkbox"/> Different Procedure * (<input checked="" type="checkbox"/> Sole Source Agreement <input type="checkbox"/> Other _____)	
<input type="checkbox"/> Negotiated Concession*	
Recommended Concessionaire: Alley Pond Environmental Center, Inc. <input checked="" type="checkbox"/> EIN <input type="checkbox"/> SSN # 11-2405466 Attach Memo(s)*	
CONCESSION AGREEMENT TERM Initial Term: To be negotiated Renewal Option(s) Term: To be negotiated Total Potential Term: To be negotiated	ESTIMATED REVENUE/ANTICIPATED BUSINESS TERMS (Check all that apply) <input type="checkbox"/> Additional description attached <input type="checkbox"/> Annual Minimum Fee(s) \$ _____ <input type="checkbox"/> % Gross Receipts _____ % <input type="checkbox"/> The Greater of Annual Minimum Fee(s) of \$ _____ v. _____ % of Gross Receipts <input checked="" type="checkbox"/> Other formula To be negotiated
LOCATION OF CONCESSION SITE(S)* <input type="checkbox"/> N/A Address: 228-06 Northern Boulevard; Douglaston, NY 11362 Borough: Queens C.B. 11 Block # 7570, Lot # 200 *Attach additional sheet	
CONCESSION TYPE (Check all that apply)	
> Significant Concession: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES Basis: <input checked="" type="checkbox"/> Total potential term =>10 years <input type="checkbox"/> Projected annual income/value to City >\$100,000 <input type="checkbox"/> Major Concession	
> Major Concession: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES - Award will be subject to review and approval pursuant to Sections 197-c and 197-d of NYC Charter.	
NOTIFICATION REQUIREMENTS	
Subject concession will be awarded by CSB or CSP. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
If YES, check the applicable box(es) below:	
<input type="checkbox"/> The subject concession is a Significant Concession and the Agency has/will complete its consultations with each affected CB/BP regarding the scope of the solicitation at least 30 days prior to its issuance.	
<input type="checkbox"/> The subject concession is a Significant Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1-10 of the Concession Rules.	
<input type="checkbox"/> The subject concession has been determined not to be a Major Concession and the Agency has sent/will send written notification of such determination to each affected CB/BP at least 40 days prior to issuance of the solicitation.	
<input type="checkbox"/> The subject concession has been determined not to be a Major Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1-10 of the Concession Rules.	
If NO, check the applicable box below:	

- The Agency certifies that each affected CB/BP has received/will receive written notice at least 40 days in advance of the FCRC meeting at which the agency will seek approval to use a different selection procedure.
- The Agency certifies that based on exigent circumstances it has requested/will request unanimous approval of the FCRC to waive advance written notice to each affected CB/BP.
- The Agency certifies that each affected CB/BP will receive written notice that the concession was determined to be non-major along with a summary of the terms and conditions of the proposed concession upon publication of a Notice of Intent to Enter into Negotiations. The agency further certifies that it will send a copy of this notice to the members of the Committee within five days of the notice to each affected CB/BP.

AUTHORIZED AGENCY STAFF

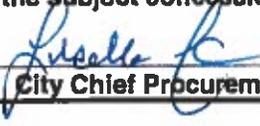
This is to certify that the information presented herein is accurate.

Name Alexander Han Title Deputy Director of Concessions

Signature  Date 10/30/2015

CITY CHIEF PROCUREMENT OFFICER

This is to certify that the agency's plan presented herein will comply with the prescribed procedural requisites for the award of the subject concession.

Signature  Date 11/6/15
City Chief Procurement Officer

CONCESSION PRE-SOLICITATION REVIEW MEMORANDUM

A. DETERMINATION TO UTILIZE OTHER THAN COMPETITIVE SEALED BIDS N/A

Instructions: Attach copy of draft RFP or other solicitation document, and check all applicable box(es) below.

The Agency has determined that it is not practicable or advantageous to use Competitive Sealed Bids because:

- Specifications cannot be made sufficiently definite and certain to permit selection based on revenue to the City alone.
- Judgment is required in evaluating competing proposals, and it is in the best interest of the City to require a balancing of revenue to the City, quality and other factors.
- The agency will be pursuing a negotiated concession for the reasons listed in section (B)(3)(b)
- Other (Describe):

The New York City Department of Parks and Recreation ("Parks") will be pursuing a Sole Source License Agreement ("Agreement") pursuant to Section 1-16 of the Concession Rules ("different procedure") for the reasons listed in section (B)(2).

B. DETERMINATION TO USE OTHER THAN COMPETITIVE SEALED PROPOSALS N/A

1. *Briefly summarize the terms and conditions of the concession. Add additional sheet(s), if necessary.*

To be determined at a later date - when/if the Franchise and Concession Review Committee ("FCRC") approves the use of a different procedure to negotiate a Sole Source License Agreement ("Agreement") with the Alley Pond Environmental Center, Inc. ("APEC") regarding the maintenance and operation of an environmental center ("Center"), providing Parks appropriate educational and informational programs in ecology and conservation to the public, and Parks appropriate activities, at Alley Pond Park, Queens.

2. *Briefly explain the basis for the determination not to solicit Competitive Sealed Proposals.*

APEC, a nonprofit environmental education organization, is dedicated to educating children and adults in the New York metropolitan area, protecting and preserving Alley Pond Park, open spaces and waterbodies, and advocating for sustainable environmental policies and practices. Since 1976, APEC has maintained and operated the one-story building located within Alley Pond Park at 228-06 Northern Boulevard as a Center for the benefit of the public, providing programs in environmental education and information.

APEC was founded in the early 1970s by a small group of forward-thinking elementary school teachers, convinced that Earth's ecology should be a vital part of children's education in the public schools. They formed a committee to persuade school authorities to add the subject to the curriculum but after being unsuccessful, they turned to Parks for help in finding a site where a Center for environmental education could be created. In 1976, a former concession building in Alley Pond Park fronting Northern Boulevard was identified with acres of precious wetlands behind the building filled with debris and in dire need of preservation. The tremendous efforts of the committee's commitment to clean up, set up and make the Center operational, with much volunteer help provided by community activists, was rewarded in 1979 with a National Environmental Study Area designation.

APEC entered into a License Agreement with Parks in 2006 to maintain and operate the Center. That underlying agreement expired in 2011 and was renewed through extension letters, the most recent of which has an expiration of June 30, 2016.

Today, the Center is open to the public seven days a week. In addition to continuing to maintain and operate the Center, APEC also anticipates continuing to use the parkland located south of the Center including trails ("the Grounds") as a site for environmental education. The Grounds traverse ponds, salt marshes, forests and meadows where visitors can see shore birds, migrating flocks, and a variety of small animals. Admission is free seven days a week, and the Grounds are open from dawn to dusk. Educational, nature-oriented programs are offered for all ages from 18 months to seniors. APEC hosts birthday parties that enhance environmental education in an entertaining way. Today, over 60,000 school children, preschoolers and adults enjoyed the pleasures of APEC.

APEC anticipates charging fees for certain activities, the net proceeds of which shall be used solely for the maintenance and operation of the Center and the other activities of the Licensee contemplated by this Agreement. Such revenue generating activities may include fees from special events, family programs, Parks appropriate educational programs, and memberships; as well as the sale of postcards, books, brochures, souvenirs, bird seed, and honey from the apiary. APEC may also sell additional products related to the use of and functions performed at the Center, provided that such operations are consistent with the purposes set forth in the Agreement.

Given APEC's commitment to maintaining and operating the Center as an environmental educational resource for all New Yorkers and visitors, Parks believes that it is in the best interest of the City to negotiate a Sole Source License Agreement with APEC, rather than proceed with a competitive solicitation process.

3a. ***Briefly explain the selection procedure that will be utilized.***

Parks is requesting FCRC authorization to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a Sole Source License Agreement with APEC which will go before the FCRC on December 9, 2015 ("Step 1"). Once negotiated and if determined by Parks to be a significant concession, Parks and the FCRC will hold a joint public hearing on the proposed Agreement before presenting it to the FCRC for "Step 2" approval at a second public meeting. If Parks determines the concession to be non-significant, Parks will present the fully negotiated Agreement with APEC to the FCRC and request the required FCRC authorization to enter into the Agreement directly (without the need for an initial joint public hearing).

3b. ***If the selection procedure is a negotiated concession, check the applicable box:*** N/A

The Agency made a determination that it is not practicable and/or advantageous to award a concession by competitive sealed bidding or competitive sealed proposals due to the existence of a time-sensitive situation where a concession must be awarded quickly because:

- The agency has an opportunity to obtain significant revenues that would be lost or substantially diminished should the agency be required to solicit the concession by competitive sealed bids or competitive sealed proposals and the diminished revenue does not relate only to the present value of the revenue because of the additional time needed to solicit competitive sealed bids or competitive sealed proposals; *[Explain]*
- An existing concessionaire has been terminated, has defaulted, has withdrawn from, or has repudiated a concession agreement, or has become otherwise unavailable; *[Explain]*
- The agency has decided, for unanticipated reasons, not to renew an existing concession in the best interest of the City and requires a substitute/successor concessionaire. *[Explain]*
- DCAS is awarding a concession to an owner of property adjacent to the concession property, or to a business located on such adjacent property, and has determined that it is not in the best interest of the City to award the concession pursuant to a competitive process because of the layout or some other characteristic of the property, or because of a unique service that can be performed only by the proposed concessionaire. *[Explain]*

Approved by CCPO: _____ **on** __/__/__.

4. If the agency has/will request unanimous FCRC approval to waive advance written notice to affected CB(s) that a selection procedure other than CSB or CSP will be utilized, explain the exigent circumstances. N/A



NYC Parks

Robert Garafola
Deputy Commissioner
for Management, Budget
and Public Programs

T 212.360.1302 E robert.garafola@parks.nyc.gov

City of New York
Parks & Recreation

The Arsenal
Central Park
New York, NY 10065
www.nyc.gov/parks

MEMORANDUM

TO: Hon. Melinda Katz, President of the Borough of Queens
Susan Seinfeld, District Manager, Queens Community Board #11

FROM: Philip Abramson, NYC Parks Director of Revenue Communications *PA*

SUBJECT: Notice of Intent to Seek Franchise and Concession Review Committee Approval to Utilize a Different Procedure to Negotiate a Sole Source License Agreement with the Alley Pond Environmental Center, Inc. Regarding the Maintenance and Operation of an Environmental Center, Providing Parks Appropriate Programs in Ecology and Conservation to the Public and Parks Appropriate Activities at Alley Pond Park, Queens.

DATE: October 30, 2015

Pursuant to Section 1-16 of the Concession Rules of the City of New York, this is to notify the Queens Borough President and Queens Community Board 11 that the New York City Department of Parks and Recreation is seeking Franchise and Concession Review Committee ("FCRC") approval to utilize a different procedure to negotiate a Sole Source License Agreement with the Alley Pond Environmental Center, Inc. regarding the maintenance and operation of an environmental center, providing Parks appropriate programs in ecology and conservation to the public and Parks appropriate activities at Alley Pond Park, Queens.

This concession has been determined not to be a major concession as defined in Chapter 7 of the Rules of the City Planning Commission.

If you have any questions or comments, please feel free to contact Philip Abramson, NYC Parks Director of Revenue Communications, by phone at (212) 360-3426 or via email at philip.abramson@parks.nyc.gov.

Thank you.

FRANCHISE AND CONCESSION REVIEW COMMITTEE

December 9, 2015

(Cal. No. 3)

RESOLVED, that the Franchise and Concession Review Committee (“FCRC”) authorizes NYC & Company, Inc. (“NYC & Company”) on behalf of the New York City Department of Small Business Services (“SBS”) to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, for SBS to enter into a non-exclusive, Sole Source License Agreement (“License Agreement”) with Royal Animals Ltd. (“Royal Animals”) for the non-exclusive use of city-owned trademarks on merchandise. The License Agreement will provide for a license term beginning on the date Royal Animals receives written notice from NYC & Company and terminating on December 31, 2018 with an option for the City to renew the License Agreement on substantially the same terms and conditions for two (2) years. For each license year of the initial term, Royal Animals shall pay licensing fees equal to six percent (6%) of Net Sales (as defined in the License Agreement) with an Advance of twenty five hundred dollars (\$2,500) to be paid on or before January 1, 2016 and a nine thousand five hundred dollar (\$9,500) Guarantee that shall be paid on or before December 31, 2018.

THIS IS A TRUE COPY OF THE RESOLUTION ADOPTED BY THE
FRANCHISE AND CONCESSION REVIEW COMMITTEE ON

December 9th, 2015

Date: _____

Signed: _____

Title: Director of the Mayor's Office of Contract Services

CONCESSION AGREEMENT RECOMMENDATION FOR AWARD MEMORANDUM COVER SHEET

(Attach, in the following order, applicable CRFA Memo, Responsibility Determination Form, approved CPSR Cover Sheet and, if the selection procedure was not CSB, the CPSR Memo and CCPO Memo (if applicable))

AGENCY: NYC & Company, Inc. on behalf of NYC Department of Small Business Services	RECOMMENDED CONCESSIONAIRE Name: Royal Animals Ltd. Address: 1040 First Avenue, Suite176 New York, NY 10022 Telephone # (212) 223-0551 <input checked="" type="checkbox"/> EIN <input type="checkbox"/> SSN #26-4828711 Not-for-Profit Organization <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Certified by DSBS as M/WBE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	CONCESSION TITLE/ DESCRIPTION: Non-exclusive use of City-Owned Trademarks on Merchandise CONCESSION I.D.# NYCCO-2014-014
# VOTES required for proposed action = 4 <input type="checkbox"/> N/A		

LOCATION OF CONCESSION SITE(S*) Address _____ N/A
 *Attach additional sheet **Borough** _____ **C.B.** _____ **Block #** _____ **Lot #** _____

SELECTION PROCEDURE
 (*CCPO approval of CRFA required)

Competitive Sealed Bids
 Competitive Sealed Proposals* (FCRC approved Agency request to deviate from final recommendation of the Selection Committee on ___/___/___.)
 Different Selection Procedure: * (Sole Source Agreement Other _____)
 > FCRC approved different selection procedure on 5/14/2014.
 Negotiated Concession*

CONCESSION AGREEMENT TERM

Initial Term: From Notice to proceed To 12/31/18
Renewal Option(s) Term: From 1/1/19 To 12/31/20
 From ___/___/___ To ___/___/___

Total Potential Term: 5 Years *

* >20 years – FCRC unanimously approved term on ___/___/___

ANNUAL REVENUE
 (Check all that apply)
 Additional sheet (s) attached

Annual Fee(s) \$ _____
 % Gross Receipts _____%
 The Greater of Annual Minimum Fee(s of \$_____ v. _____% of Gross Receipts
 Other For each license year of the initial term, Royal Animals, Ltd. shall pay licensing fees equal to six percent (6%) of Net Sales (as defined in the License Agreement)

An Advance of twenty five hundred dollars (\$2,500) to be paid on or before January 1, 2016 and a nine thousand five hundred dollar (\$9,500) Guaranteed Minimum Royalty that shall be paid on or before December 31, 2018.

NOTIFICATION REQUIREMENTS

Subject concession was awarded by CSB or CSP. YES NO
If YES, check the applicable box(es) below:

The subject concession is a Significant Concession and the Agency completed its consultations with each affected CB/BP regarding the scope of the solicitation by ___/___/___, which was at least 30 days prior to its issuance.

The subject concession is a Significant Concession and the Agency included this concession in the Agency's Plan and completed consultations with each affected CB/BP pursuant to §1-10 of the Concession Rules.

The subject concession was determined not to be a Major Concession and the Agency sent notification of such determination to each affected CB/BP by ___/___/___, which was at least 40 days prior to issuance of the solicitation.

If NO, check the applicable box below:

The Agency certifies that each affected CB/BP received written notice by 4/4/2014, which was at least 40 days in advance of the FCRC meeting on 5/14/2014 at which the agency sought and received approval to use a different selection procedure.

- The Agency certifies that each affected CB/BP received written notice on __/__/__, at the time that a notice of intent to enter into negotiations was published for the subject concession, and provided a copy of such notification to the members of the Committee within five days on __/__/__.
- The Agency certifies that based on exigent circumstances the FCRC unanimously approved waiver of advance written notice to each affected CB/BP on __/__/__.

Law Department approved concession agreement on __/__/__

Award is a major concession. YES NO

If YES, award was approved pursuant to Sections 197-c and 197-d of the NYC Charter as follows:

- CPC approved on __/__/__
- City Council approved on __/__/__ or N/A

AUTHORIZED AGENCY STAFF

This is to certify that the information presented herein is accurate and that I find the proposed concessionaire to be responsible and approve of the award of the subject concession agreement.

If the concession was awarded by other than CSB or CSP, additionally check the applicable box below:

- The concession was approved by the FCRC on __/__/__.
- The concession was not subject to the approval of the FCRC because it has a term of <30 days and is not subject to renewal.

Name _____ **Title** _____

Signature _____ **Date** __/__/__

CERTIFICATE OF PROCEDURAL REQUISITES

This is to certify that the agency has complied with the prescribed procedural requisites for award of the subject concession agreement.

Signature _____ **Date** __/__/__

City Chief Procurement Officer

**RECOMMENDATION FOR AWARD OF CONCESSION AGREEMENT MEMORANDUM:
CONCESSION AGREEMENT AWARDED BY OTHER THAN CSB OR CSP**

SUMMARY OF PROPOSED CONCESSION USE (Attach Proposed Agreement)

NYC & Company, Inc. ("NYC & Company") on behalf of the New York City Department of Small Business Services ("SBS") intends to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, for SBS to enter into a Sole Source License Agreement ("License Agreement") with Royal Animals Ltd. ("Royal Animals") for the non-exclusive use of city-owned trademarks on pet apparel and accessories. Royal Animals produces unique, high-end pet apparel and accessories and has an established customer base along with specific distribution channels that we currently do not have access to. This proposed non-exclusive license agreement will not bar opportunities for other types of pet apparel and accessories from other manufacturers.

***Instructions:** Provide all information requested below; check all applicable boxes.*

A. SELECTION PROCEDURE

Sole Source

Other *Describe:*

B. NEGOTIATIONS

***Instructions:** Describe the nature of negotiations conducted, including negotiations with respect to the amount of revenue offered.*

NYC & Company/SBS negotiated with Royal Animals that for each license year of the initial term, Royal Animals shall pay licensing fees equal to six percent (6%) of Net Sales (as defined in the License Agreement) with an Advance of twenty five hundred dollars (\$2,500) to be paid on or before January 1, 2016 and a nine thousand five hundred dollar (\$9,500) Guarantee that shall be paid on or before December 31, 2018.

C. BASIS FOR AWARD (If sole source award, attach the offer; if other than a sole source award, attach the three highest rated offers, if applicable.)

The agency determined that award of the concession is in the best interest of the City because:

Royal Animals produces unique, high-end pet apparel and accessories and has an established customer base along with specific distribution channels that we would not have access to otherwise. Royal Animals has been an official Licensee of the City for the last two years through an administrative fee agreement, which is designed to test the popularity of a product in the marketplace before either side commits to a large contract. Over the two years of their initial agreement Royal Animals had success both in sales and in the reception of their products. This proposed non-exclusive license agreement will not bar opportunities for other types of pet apparel manufacturers.

D. PUBLIC HEARING N/A – Subject award NOT a significant concession]

1. Publication & Distribution of Public Hearing Notice

Subject concession is a **Citywide** concession and Agency hereby certifies that a notice containing a summary of the terms and conditions of the proposed concession and stating the time, date and location of the public hearing was published once in the City Record on ___/___/___, which was not less than 15 days prior to the hearing date or a shorter period approved by the CCPO and was given to each affected CB-BP and the Committee Members on ___/___/___, which was not less than 15 days prior to the hearing date. Agency also published a public hearing notice twice in the two newspapers indicated below. A copy of each such notice was sent to each affected CB-BP by ___/___/___.

- _____, a NYC citywide newspaper on ___/___/___ and ___/___/___
- _____, a NYC citywide newspaper on ___/___/___ and ___/___/___

OR

Subject concession is **NOT a Citywide** concession and Agency hereby certifies that a notice containing a summary of the terms and conditions of the proposed concession and stating the time, date and location of the public hearing was published once in the City Record on ___/___/___, which was not less than 15 days prior to the hearing date or a shorter period approved by the CCPO and was given to each affected CB-BP and the Committee Members on ___/___/___, which was not less than 15 days prior to the hearing date. Agency additionally published a public hearing notice and summary of the terms and conditions of the proposed agreement twice in two newspapers indicated below. A copy of each such notice containing a summary of the terms and conditions of the proposed agreement was sent to each affected CB-BP by ___/___/___.

- _____, a NYC local newspaper published in the affected borough(s) on ___/___/___ and ___/___/___.
- _____, a NYC local newspaper published in the affected borough(s) on ___/___/___ and ___/___/___.

2. Public Hearing Date, Exception to Public Hearing Requirement

A Public Hearing was conducted on ___/___/___.

OR

The Agency certifies that the total annual revenue to the City from the subject concession does not exceed one million dollars and a Public Hearing was not conducted because, pursuant to §1-13(q)(2) of the Concession Rules, the Agency gave notice of the hearing and did not receive any written requests to speak at such hearing or requests from the Committee that the Agency appear at the hearing. Furthermore, the Agency certifies that it published a notice in the City Record canceling such hearing on ___/___/___ and sent a copy of that notice to all Committee Members.

LICENSE AGREEMENT

AGREEMENT made this _____ day of _____, 2015, by and between the City of New York (the “City” or “Licensor”), acting by and through the New York City Department of Small Business Services with its principal place of business located at 110 Williams Street, 2nd Floor, New York, NY 10038, and Royal Animals Ltd, a New York corporation organized and existing under the laws of the State of New York with its principal place of business located at 1040 First Avenue, Suite 176 New York, NY 10022, (hereinafter “Licensee”).

IN CONSIDERATION OF the mutual promises, covenants and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION I (License)

Subject to the limitations, terms and conditions set forth herein, Licensor hereby grants to Licensee a limited, revocable non-exclusive license to use the trademarks and service marks listed in Exhibit 1 hereto (individually and/or collectively the “Property”) solely in the manner approved in advance in writing by Licensor during the Term in connection with the manufacture, advertising, promotion, sale, and offering for sale of the products listed in Exhibit 2 (individually and/or collectively the “Licensed Products”) in the United States, its territories and possessions and Canada (“Territory”). The Territory for sale and offering for sale of the products on the internet shall be allowed worldwide.

The license granted herein shall be personal in nature, and it is expressly understood and agreed that Licensee has no right to sublicense, assign, convey or transfer in any manner to any other person or entity any rights granted to it hereunder. Any attempt by Licensee, or anyone acting on its behalf, to sublicense, assign, convey or otherwise transfer the license granted herein shall be null and void and shall be grounds for immediate termination of this License Agreement by the City. All sales of Licensed Products pursuant to this License Agreement shall be made by or through Licensee, who agrees to account to Licensor for all sales in the Territory. The City hereby appoints as its agent for all purposes under this License Agreement NYC & Company, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York and having an address at 810 Seventh Avenue, 3rd Floor, New York, NY 10019 (“NYC & Company”).

SECTION II (Express Conditions and Limitations)

The license granted herein is subject to the following express conditions and limitations:

(a) Licensee agrees to use the applicable trademark and copyright notices as directed by Licensor (™, ® or ©), as well as any additional notations directed by Licensor in connection with the first and most prominent usages of the Property on or in connection with all Licensed Products, hang tags, and packaging: “All New York City logos and marks depicted herein are the property of the City of New York and may not be reproduced without written consent. © 2015 (or other year of initial publication). City of New York. All rights reserved.” Licensee agrees to display the applicable notices and notations as directed by the City on all web sites, displays, advertising, sales brochures, and other promotional materials for each Licensed Product (hereinafter the “Promotional Materials”): “All New York City logos and marks depicted herein are the property of the City of New York and may not be used or reproduced without prior written consent. © 2015 (or other initial year of publication). City of New York. All rights reserved.” Any shortened version of such notices may be used only with the City’s prior written approval.

(b) Licensee agrees that it will not use the Property in any advertising, promotion, sale, or offering for sale of the Licensed Products except as depicted in Exhibit 2 hereto, or as approved by the City in advance in writing.

(c) Information labels which include the statements set forth in Exhibit 3, attached hereto and made a part hereof, shall be affixed to the Licensed Product, or to the packaging for the Licensed Product. The City may, from time to time after consultation with Licensee, amend the language of the labels upon written notice thereof to Licensee. Licensee shall purchase such hangtags, holograms and/or adhesive labels that identify and authenticate the Licensed Product ("Product Authentication Materials") as required by the City from the City's authorized supplier of Product Authentication Materials. Such Product Authentication Materials shall be displayed in connection with Licensed Products sold or offered for sale by Licensee in a form and location specified by the City.

(d) The Property shall not be used in connection with the trademarks, service marks, trade names, corporate names, or personal names of any third party, except with the prior written consent of the City.

(e) The Property shall not be used by Licensee or any entity or individual controlled directly or indirectly by Licensee as or as any part of its corporate name, trade name, fictitious name, "d/b/a," symbol, logo, or other identifier.

(f) The Licensed Product and Licensee's manufacture, sales, promotion, marketing and selling of the Licensed Product shall be in full compliance (at Licensee's sole cost and expense) with all applicable federal, state and local statutes, rules, regulations and orders. If Licensee is required to or chooses to recall or remove the Licensed Product to maintain conformity to any such statutes, rules, regulations or orders, Licensee shall bear all costs, expenses and charges caused by or related to such recall or modification.

(g) No license is granted hereunder for the use of the Property for any purpose other than upon or in connection with the Licensed Product. Unless specifically approved in writing by Licensor (such permission not to be unreasonably withheld by Licensor), no license is granted hereunder for the manufacture, sale or distribution of Licensed Products to be used for publicity purposes, in combination sales, as giveaways, or to be disposed of under similar methods of merchandising. In the event that Licensee desires to sell Licensed Products for additional purposes, Licensee acknowledges and agrees that it must first seek and obtain a separate license therefore from the City, and that the user thereof must also obtain a separate license from Licensor for such use of the Licensed Products. Licensee acknowledges that such separate license may be withheld for any reason.

(h) Licensee may manufacture, promote, advertise, sell, and offer for sale the Licensed Product only in the form approved by the City.

(i) Subject to the City's prior written approval in the City's sole discretion, Licensee agrees to adhere to such quality and ethical standards as may be provided by the City from time to time. The current quality control guidelines and ethical standards in effect are attached hereto as Exhibit 4 and 5.

(j) Subject to the City's prior written approval in the City's sole discretion, Licensee shall sell the Licensed Products in the Territory. The City may object to the continued sale of any Licensed Products that the City determines in its sole discretion to be inconsistent with the goodwill and reputation represented by the Property, or otherwise not in the best interests of the City.

(k) Licensee agrees and acknowledges that its license extends only to the Territory, and that it has no rights in the Property or to export, sell or authorize or permit the sale of any Licensed Products or other products or services bearing or otherwise associated with the Property outside the Territory, or any such proposed or potential sales that Licensee reasonably knows or should know would occur outside the Territory.

(l) Except to the extent that exclusive rights are explicitly granted hereunder, the parties agree and acknowledge that the City reserves the right to use itself or license to others the right to use the Property on any products or services, including those specifically defined as Licensed Products under this License Agreement.

(m) Co-Op Budget – Licensee will provide NYC & Company with a minimum of five (5) units per year to be used, in their sole discretion, as promotional products.

**SECTION III
(Term)**

This License Agreement shall become effective upon written notice from NYC & Company to Licensee (the "Effective Date") and shall continue through December 31, 2018 (the "Initial Term"), unless sooner terminated pursuant to the terms and conditions of this License Agreement. Licensor shall have the option in its sole discretion of renewing this License Agreement on substantially the same terms and conditions for a period of two years (together with the Initial Term, the "Term"). Nothing herein shall be construed as obligating Licensor to exercise its renewal option.

**SECTION IV
(License Years)**

For purposes of administering this License Agreement and of computing royalty payments owing from Licensee to the City hereunder, the term "License Year" shall apply to each calendar year during the Term.

**SECTION V
(Royalties)**

In each License Year of this License Agreement, for products bearing solely the Property (or the Property with the Licensee's marks) Licensee shall pay to NYC & Company for the license granted herein a royalty equal to Six percent (6%) of Net Sales. In the event the parties wish to co-brand the Property and the Licensee's marks with any additional marks, the parties shall mutually agree to co-brand and mutually agree to the co-brand royalty in an amendment to this Agreement. The term Net Sales means the gross invoice price billed to purchasers of Licensed Products (whether sold by Licensee or any person or entity acting on behalf of Licensee) less only promotional allowances, taxes, freight and handling charges, manufacturing, importation and duties incurred by the Licensee and such other discounts as may be approved in writing by NYC & Company, and any actual and adequately documented returns. Net Sales shall include insurance proceeds received by Licensee in payment for Licensed Products. Licensed Products shall be considered sold (and therefore included in Net Sales and subject to royalty payments) when they are billed, invoiced, shipped, or paid for, whichever occurs first. No costs incurred in the sale, offering for sale, promotion, or advertisement of the Licensed Products shall be deducted, nor shall deductions be made for any other discounts or uncollectible accounts. Sales of Licensed Product made other than in an arm's length transaction shall be deemed to have been made at the regular wholesale price for such Licensed Products.

**SECTION VI
(Guaranteed Minimum Royalty)**

Notwithstanding any other royalty payment requirements of this License Agreement, including those set forth above, Licensee shall pay to NYC & Company guaranteed minimum royalties and an advance in the amounts and on the dates set forth below:

Advance will be payable as follows:

On or before January 1, 2016: Twenty Five Hundred Dollars (\$2,500)

Guaranteed Minimum:

The following total Guaranteed Minimum Royalties, inclusive of the applicable Advance set forth above, as follows:

On or before December 31, 2018: Nine Thousand Five Hundred Dollars (\$9,500)

For the avoidance of doubt, any amount accrued prior to the Effective Date will not be included in the Guaranteed Minimum Royalties..

All Guaranteed Minimum Royalty payments shall be nonrefundable and shall be made whatever the Net Sales of the Licensed Products have been or are for any of the License Years, and shall be applied to and credited as advances against Licensee's liability for royalties while the License Agreement is in effect. No carry over of excess earned royalty (over the Guaranteed Minimum Royalty) or deficiency of earned royalty (under the Guaranteed Minimum Royalty) into subsequent license renewal terms shall be allowed.

SECTION VII

(Royalty Payments, Accounting and Statements)

Licensee shall furnish to NYC & Company the following no later than thirty (30) days after the end of each calendar quarter (beginning with the calendar quarter in which the initial shipment of Licensed Products covered by this License Agreement is made) complete and accurate statements in a format approved by NYC & Company and certified in writing to be accurate by an officer of Licensee, itemized by (a) product item number; (b) City Agency and/or specific trademark associated with such Agency (e.g., FDNY, NYPD) and showing the net number of units sold inclusive of returns, item description and Average Sales price of the Licensed Products sold by Licensee during the preceding quarter. Such statements shall be furnished to NYC & Company whether or not any Licensed Products have been sold during the preceding quarter.

The receipt or acceptance by NYC & Company or the City of any statements furnished pursuant to this License Agreement or any royalties paid hereunder (or the cashing of any royalty checks paid hereunder) shall not preclude NYC & Company or the City from questioning the correctness of such statement or payment at any time. In the event any inconsistencies or mistakes are discovered in such statements or payments, they shall immediately be rectified and the appropriate payments made by Licensee. In the event of an overpayment by Licensee, Licensee may deduct such mutually verified overpayment from any earned royalty or guaranteed minimum royalty payment due with the next regular quarterly royalty statement and payment. In the event no further royalty payments would be forthcoming after discovery and mutual verification of the payment, then Licensee shall receive a refund of such overpayment within thirty (30) days after its written request for a refund is received by NYC & Company.

In the event that Licensee fails to make any payments, including, advances, guaranteed minimum royalty, earned royalty and audit findings, within sixty (60) days from when such payments are due under this License Agreement, interest shall be charged at an annual rate of eighteen percent (18%), or the maximum rate allowed by law, whichever is lower. All payments made hereunder shall be in United States currency drawn on a United States bank. Licensee shall keep accurate books of account and records covering all transactions related to this License Agreement for at least six (6) years after termination of this License Agreement.

SECTION VIII

(Audit Rights)

The City or its authorized agent shall have the right during business hours upon five (5) business days advance notice to examine and request copies of Licensee's books, records, and accounts and all other documents and materials in the possession or under the control of Licensee relating to the sale of the Licensed Product or this License Agreement to such extent as may be necessary to determine the accuracy or inaccuracy of any royalty statements submitted by Licensee to Licensor. Licensee shall segregate its records and agrees that such audit may be used as a basis for settlement of charges under this License Agreement. The City may also at any time select any independent accounting firm to review Licensee's books, records and accounts, and to check shipments and verify the account (hereinafter referred to as the "Audit"). In the event that the Audit reveals any

underpayment by Licensee to Licensor, Licensee shall remit payment for the amount shown to be due within fifteen (15) days, of receipt of official audit report plus a late charge in the amount of eighteen percent (18%) per annum, or the maximum rate allowed by law whichever is lower, on all amounts shown to be owing by Licensee. In the event that the Audit determines that Licensee has underpaid by an amount equal to five percent (5%) or more of the total amount shown to be due to Licensor for the period audited, Licensee shall reimburse Licensor or its agent for all costs and expenses of the Audit. In addition, if the discrepancy is an amount equal to five percent (5%) or more and a discrepancy or underpayment of 5% or more had been found in at least one prior instance, Licensor may terminate this License Agreement by giving Licensee notice within sixty (60) days after receipt of the audit report disclosing the discrepancy. Licensee shall retain all books of account and records relating to this License Agreement for at least six (6) years after the termination or expiration of this License Agreement, and any renewals thereof and Licensor's right to audit such records during the duration of this License Agreement and for six (6) years thereafter. The parties acknowledge and agree that the powers, duties, and obligations of the Comptroller of the City of New York pursuant to the provisions of the New York City Charter shall not be diminished, compromised, or abridged in any way.

SECTION IX (No Assignment)

This License Agreement is personal to Licensee and may not be assigned in whole or in part by Licensee without the prior written consent of the City, which may be withheld in the sole discretion of the City. Any attempted or purported assignment or other transfer, sublicense, mortgage or other encumbrance of this License Agreement by Licensee without the prior written approval of the City shall be null and void and grounds for immediate termination of this License Agreement by the City.

SECTION X (Trademark Ownership)

(a) Licensee agrees that by virtue of this License Agreement it does not and shall not claim any right, title, or interest in the Property or any part thereof (except the right to use them in accordance with this License Agreement), and that any and all uses thereof by Licensee shall inure to the benefit of the City. The City acknowledges that the Licensee's products that are owned intellectual property of the Licensee (on which the Property is incorporated along with Licensee's trademarks) remains the intellectual property of the Licensee. Licensee acknowledges the City's sole right, title, and interest in and to, and ownership of the Property and the validity of the trademarks and service marks that are part of the Property and the City's rights therein. Licensee agrees that it will not raise or cause to be raised any challenges, questions, or objections to the validity, registrability, or enforceability of the Property, to this License Agreement or to the validity of the Property and the City's rights therein, and shall not contest such right and title, nor do or permit to be done any act or omission which will in any way impair the rights of the City with respect to such Property. Any violation of this paragraph shall constitute an immediate breach of this License Agreement and cause for immediate termination by the City.

(b) Licensee agrees to reasonably assist the City in protecting the City's rights to the Property, including but not limited to reporting to the City any infringement or imitation of the Property of which Licensee becomes aware. The City shall have the sole right to determine whether to institute litigation with respect to such infringements, as well as the sole right to select counsel. The City may commence or prosecute any claims or suits for infringement of the Property and keep the entire amount of any recovery. If the City brings an action against any infringement of the Property, Licensee shall cooperate with the City and lend whatever assistance is necessary, subject to being reimbursed for its reasonable and pre-approved out-of-pocket expenses.

(c) If claims are made against the City, NYC & Company, or Licensee with respect to the use of the Property in connection with the Licensed Products, then the parties agree to consult with each other on a suitable course of action. In no event shall Licensee, without the prior written consent of the City, have the right to acknowledge the validity of the claim of such party, to obtain or seek a license from such party, or to take any other action which might impair the ability of the City to defend or otherwise contest the claim of such party. The City shall have the right to participate at its own expense in the defense of any claims or suit instituted against Licensee with respect to the use by Licensee of the Property.

(d) Licensee agrees to make modifications requested by the City in Licensee's use of the Property or to discontinue use of the Property on the Licensed Products which are involved, if the City, in its sole discretion, determines such action to be necessary or desirable to resolve or settle a claim or suit or to eliminate the threat of a claim or suit by any party.

SECTION XI (Goodwill)

(a) Licensee recognizes and acknowledges that the Property and the City's name and reputation are the exclusive property of the City and that they communicate to the public, worldwide, a reputation for high standards of quality and service, which reputation and goodwill have been and continue to be unique to the City. Licensee further recognizes and acknowledges that the Property has acquired secondary meaning in the mind of the public. The Property shall not be used in connection with any illegal, illicit or immoral purpose or activity, or in any manner which would be inconsistent with or damaging to the City's name and reputation. The City shall have the right to terminate this License Agreement immediately, upon written notice, in the event that any part of the Property is used by Licensee in connection with any illegal, illicit or immoral activity. In addition, in the event that any part of the Property is used by Licensee in any way which, in the reasonable judgment of the City, is inconsistent with or damaging to the City's name or reputation, the City shall so notify Licensee in writing and this License Agreement shall terminate unless Licensee immediately takes all necessary steps to promptly cease and halt all such uses.

(b) Licensee shall use the Property only in the manner specified by the City. Licensee acknowledges and agrees that all use of and goodwill in the Property shall inure to the sole benefit of the City. Licensee shall not attempt to register the Property alone or as part of any other trademark, service mark, trade name, or corporate identifier (including without limitation its own trademark), nor shall Licensee use, adopt as its own, or attempt to register any marks, names, domain names, designations, or indicia that are the same as or similar to the Property.

(c) Licensee agrees that it will apply the proper notations on all Licensed Products, tags, labels, package inserts, containers, packaging, advertising, promotional and display materials or the like containing the Property as set forth in Exhibits 2 and 3 hereto.

(d) If Licensee desires to develop any new or different design for any mark, symbol, logo character or other element included within the Property **or related to the Property**, Licensee shall first obtain the City's written approval, and in any event all such designs shall be fully subject to the provisions of this paragraph and owned in full by the City. Any such approved modifications to the Property art work or other materials (the "Amended Property") conceived under or resulting from this License Agreement, including but not limited to copyrighted materials and trademarks, trade names, service marks, service names and trade dress and the like associated with the Amended Property only, whether developed by Licensee or on behalf of Licensee shall be considered "work made for hire" within the meaning of 17 U.S.C. §101 and is the exclusive property of the City upon creation. In the event that such materials that are Amended Property are deemed not to be a work made for hire, Licensee hereby irrevocably assigns to the City its entire right, title, and interest in and to such work Amended Property and any derivative works thereof (including without limitation all rights of copyright). Licensee agrees to execute any documents as may be deemed necessary or desirable by the City to register in its own name, record, confirm, clarify, or otherwise cause the foregoing assignment of rights in the Amended Property to the City to have full legal effect worldwide. For the avoidance of doubt, any of Licensee's intellectual property preexisting this Agreement, or otherwise owned by the Licensee, or created separately from this Agreement and not related to the Property or the Amended Property shall remain the property of Licensee.

(e) Licensee acknowledges that, from time to time and without notice to Licensee, it may be necessary or desirable for the City to modify certain elements of the Property in connection with the Licensed Products, to include additional elements to the Property, or to discontinue use of some or all of the elements of the Property. Accordingly, the City does not represent or warrant that the Property or any elements thereof will

be maintained or used in any particular fashion. Any new elements or modifications to existing elements used by the City following the execution of this License Agreement may be included in, or deleted from (as applicable), the Property at the sole discretion of the City. Licensee agrees to comply with the City's written request to include such elements as, or to delete such elements from, the Property in future units of the products within a reasonable period of time from Licensee's receipt of such written request.

(f) The City shall have the right, but shall not be under any obligation, to use the Property, Licensed Products, and/or the name of Licensee so as to give the Property, and/or the Licensed Products full and favorable prominence and publicity. The City shall be under no obligation whatsoever to use or continue using the Property, the Licensed Products and/or the name of Licensee in connection with its products or services.

SECTION XII (Termination Rights)

Without prejudice to any other rights, the City has the right to terminate this License Agreement upon thirty (30) days written notice to the Licensee, if Licensor determines that this License Agreement should be terminated without cause. Upon termination without cause of this License Agreement pursuant to this paragraph, Licensee shall only be liable to Licensor for earned royalties and the Guaranteed Minimum Royalties payments shall not be applicable.

Without prejudice to any other rights, the City has the right to terminate this License Agreement upon written notice to Licensee, effective immediately, at any time that any of the following occurs:

(a) If Licensee shall cease to manufacture and sell the Licensed Products for any reason (except for a cause beyond the control of Licensee, including "acts of God"), for a period of three (3) consecutive months or more.

(b) If Licensee shall fail to make any payment due hereunder or to deliver any of the statements herein referred to, or breaches any other obligation hereunder, and if such default shall continue for a period of thirty (30) days after written notice of such default is sent by the City to Licensee. Licensee shall pay interest on the unpaid balance thereof from and including the date such payment becomes due until the date the entire amount is paid in full at a rate equal to the prime rate being charged in New York, New York, by Citibank as of the close of business on the date the payment first becomes due plus five percent (5%) (or the maximum rate which legally can be paid by Licensee, if lower).

(c) If Licensee defaults on any obligation that is secured by a security interest in any Licensed Product, Licensee shall immediately and automatically no longer have the right to sell or otherwise transfer Licensed Products or otherwise use the Property until it notifies the City of the occurrence of such default on any such obligation, and Licensor notifies Licensee that Licensor has elected to waive its right to terminate this License Agreement.

(d) If Licensee makes any assignment for the benefit of creditors, or files any petition under Title 11, United States Code, or files in bankruptcy or is adjudicated as bankrupt or insolvent, or if any trustee in bankruptcy or insolvency is appointed under the laws of the United States or of any State. No assignee for the benefit of creditors, custodian, receiver, trustee in bankruptcy, sheriff or any other officer of the court or official charged with taking over custody of Licensee's assets or business may continue this License Agreement or exploit the Property if this License Agreement terminates pursuant to this paragraph. Notwithstanding, if, pursuant to Title 11, United States Code, or any amendment or successor thereto, a trustee in bankruptcy or Licensee, as debtor, is permitted to assume this License Agreement and does so and, thereafter, wishes to assign this License Agreement to a third party, and that assignment complies with Title 11 of the United States Code, the trustee or Licensee shall notify Licensor of same. Said notice shall set forth the name and address of the proposed assignee, the proposed consideration for assignment and all other relevant details of the assignment. Such notice shall be deemed to grant the Licensor the option to have this License Agreement assigned to such assignee for such consideration, or its equivalent in money and upon such terms as specified in the notice. The option may be

exercised by written notice to the trustee or Licensee by Licensor within fifteen (15) days from Licensor's receipt of the notice, or within such shorter time as may be deemed appropriate by the court in a bankruptcy proceeding. If Licensor fails to give notice to the Licensee or trustee within said period, the Licensee or trustee may execute the assignment to the entity referred to in the notice for the consideration and on the terms specified therein. Nothing contained herein shall be deemed to preclude or impair any rights Licensor may have as a creditor in any bankruptcy proceeding.

(e) If Licensee violates the non-assignment or change in controlling interest provisions of this License Agreement.

(f) If Licensee fails to sell Licensed Products within six months of the date of this License Agreement.

Upon termination for cause of this License Agreement, pursuant to this paragraph, all royalties earned and all applicable guaranteed minimum royalties (prorated at a rate of \$334 per month if the License is terminated before the end of a Calendar year) shall become immediately due and payable.

SECTION XIII (Post Termination)

Upon the expiration of this License Agreement (but not upon termination pursuant to Section XII), Licensee shall be permitted ninety (90) days to sell its remaining inventory of Licensed Products (unless terminated without cause pursuant to the first paragraph of Section XII above, in which case Licensee shall be permitted one hundred twenty (120) days to sell its remaining inventory). Sales under this section shall require payment of royalties and all other duties and obligations of Licensee under this License Agreement shall remain in force during the sell-off period. At the end of such sell-off period, or upon termination pursuant to any other provision this License Agreement Licensee shall immediately discontinue manufacture, promotion, advertisement, and sale of Licensed Products. In addition, upon expiration or termination of this License Agreement for any reason, Licensee shall destroy or alter under Licensor's supervision, all molds, dies, prints or other equipment within its control used to manufacture the Licensed Products and Promotional Materials so that such equipment no longer can be used to manufacture products or promotional materials bearing, displaying, or otherwise including the Property and shall provide Licensor with a letter confirming depletion or destruction of such inventory. Licensee acknowledges and agrees that its failure to cease manufacture, sale, advertising, or promotion of the Licensed Products upon expiration or termination of this License Agreement will result in immediate and irreparable harm to Licensor. Licensee further acknowledges and admits that Licensor has no adequate remedy at law for Licensee's failure to cease manufacture, sale, advertising, or promotion of the Licensed Products upon termination or expiration of this License Agreement, except as expressly provided for above. Licensee acknowledges that, in the event of any such failure by it to cease manufacture, sale, advertising, or promotion of the Licensed Products, Licensor shall be entitled to seek equitable or injunctive relief against Licensee's failure, in addition to any and all other remedies at law that are available to Licensor.

SECTION XIV (Samples and Approvals)

(a) The Licensed Products shall meet or exceed the requirements imposed by any and all laws, regulations, government standards, guidelines, manufacturing codes, rules, and the like applicable to the Licensed Products. Without limiting the foregoing, no Licensed Products shall be manufactured from any flammable, explosive, toxic, or otherwise inherently dangerous materials or substances, nor designed so as to constitute any inherent danger to the consumer. Further, Licensee agrees that the Licensed Products shall be of a standard of quality at least as high as that of the product samples initially approved by Licensor so as to be suited to their exploitation and to the protection and enhancement of the Property and the goodwill pertaining thereto.

(b) The Licensed Products shall be manufactured in accordance with the manufacturing specifications, protocol, safety, and quality standards that have been reviewed and approved in writing by Licensor ("Specifications"), which, once approved, shall be deemed to be a part of this License Agreement. Licensor may

amend such Specifications from time to time and shall provide Licensee with reasonable notice of such changes so that the Licensed Products may be adjusted to meet such changed quality standards, if required.

(c) The Specifications shall include at least the following information (and other information which Licensor requests regarding particular Licensed Products): (i) a description of the materials used in the Licensed Products, the materials' dimensional tolerances, performance and durability requirements, specifications that enable the materials to meet governmental regulatory requirements (if any) and such other appropriate information that will accurately describe the Licensed Products and their expected performance during use by the consumer; and (ii) a quality assurance plan that is used to assure the continuing acceptable quality of the Licensed Products. The plan shall include a description of the quality controls observed in the Licensed Products' manufacture, and the procedures followed to audit and verify continued quality and conformance to specifications of the Licensed Products, as well as applicable laws and regulations.

(d) The Specifications shall be provided to Licensee's suppliers and manufacturers of the Licensed Products, and Licensee shall require its suppliers and manufacturers to comply with the Specifications. Licensor shall have the ability to inspect Licensee's facilities and warehouses and those of its suppliers and manufacturers at any time with or without prior notice to assure Licensee's compliance with this paragraph.

(e) Licensee agrees to submit, at the Licensor's advance written request and at no cost to Licensor (i) initial sketches and/or design concepts; (ii) finished artwork or final proofs; (iii) prototypes or pre-production samples; and (iv) a minimum of one (1) and maximum of Five(5) final production samples (the "Samples") of the Licensed Products (and any variations thereof), as well as initial samples of subsequent production run(s) if such subsequent production run(s) vary in any manner from prior runs, for Licensor's inspection, testing, analysis and approval prior to any sale or shipment of the Licensed Products. If requested by Licensor in writing, such samples (together with the Specifications) shall be submitted by Licensee to an independent laboratory or other test facility approved in writing by Licensor. All costs associated with such inspection, testing and analysis shall be borne by Licensee, and the results of such inspection, testing and analysis shall be submitted to Licensor for its approval. Licensee shall also provide a maximum of Five (5) samples of the Licensed Product to Licensor in accordance with this paragraph at reasonable intervals of no less than once every twelve (12) months during the Term upon advance written request, with such additional inspection, testing and analysis as Licensor may require in the manner set forth in this paragraph for purposes of product review and quality control.

(f) Licensor shall use reasonable efforts to communicate its written approval or disapproval within twenty (20) days of receipt of Samples of the Licensed Products. Any Samples not expressly approved shall be deemed disapproved. If Licensor does not approve the Samples of the Licensed Products, the reasons for disapproval shall be communicated to Licensee. After the Samples are approved pursuant to this paragraph, Licensee shall not depart therefrom in any material respect without Licensor's prior written consent.

(g) Licensee shall adhere to Licensor's graphic and packaging standards and guidelines in the use of the Property and shall use the materials depicted in Exhibit 3 hereto, which have been approved by Licensor. To the extent that Licensee wishes to amend or alter the graphics depicted in Exhibit 3, Licensee shall submit to Licensor for Licensor's prior written approval all tags, labels, package inserts, containers, packaging, advertising, promotional, display or sales materials or the like containing or referring to the Property. Licensor shall use reasonable efforts to communicate its written approval or disapproval within twenty (20) business days of its receipt of items under this paragraph. Any materials not specifically approved shall be deemed disapproved. If Licensor does not approve an item under this paragraph, the reason for such disapproval shall be communicated to Licensee.

(h) Licensee shall at its own cost handle all product warranty and/or guarantee issues, responses and compliance requirements, as well as all consumer inquires or complaints (collectively, "Consumer Inquiries") relative to any of the Licensed Products. Licensor shall forward to Licensee for handling any and all such Consumer Inquiries that Licensor receives. Upon written request by Licensor, Licensee shall advise Licensor in writing of the manner in which it handled any Consumer Inquiry. In addition upon advance written request,

Licensee shall provide Licensor with a quarterly report (submitted with royalty reports pursuant to Section VII hereto) containing all data and information regarding Consumer Inquiries handled during the quarter.

(i) Licensee shall immediately advise Licensor of any product recall considerations or deliberations and provide Licensor with the right to attend and have input into such deliberations. Licensor shall have the ability to declare a product recall of such Licensed Products as Licensor determines in good faith after consulting with Licensee that any product recall is necessary for reasons of public health, safety, welfare or damage to reputation or good will. Licensee shall have in place a tracking program and use best efforts to ensure the effectiveness of any such recall. Licensee shall bear any and all costs related to any product recall of the Licensed Products using the Property whether voluntary, required by a governmental authority or the Licensor.

(j) Licensee agrees not to use child labor in the manufacture of or otherwise in connection with any Licensed Products. The term "child" shall refer to a person younger than the local legal minimum age for employment or the age for compelling compulsory education, but in no case shall any children younger than fifteen (15) years of age (or fourteen (14) years of age where local law allows) be used to manufacture, package or sell the Licensed Products. In addition, Licensee agrees to comply with all applicable minimum wage, overtime, occupational safety and health and environmental protection laws in the manufacture and packaging of Licensed Products. Licensee shall perform all obligations under this License Agreement in accordance with applicable provisions of federal, state and local laws, rules and regulations as are in effect from time to time.

SECTION XV (Purchase Rights)

Licensor shall have the right to purchase from Licensee, at Licensee's lowest available wholesale price, such number of royalty-free units of any Licensed Product as Licensor may from time to time specify in a written notice to Licensee.

SECTION XVI (Indemnification)

Licensee hereby agrees to be solely responsible for and to indemnify, defend and hold harmless Licensor, NYC & Company, their affiliates and respective officers, agents, and employees, and to hold each of them harmless from and against any claims, judgments, demands, causes of action, damages, losses, costs and expenses, including but not limited to reasonable attorneys' fees, which may be made or asserted by third persons in connection with the manufacture, design, sale, offering for sale, advertising, promotion or use of the Licensed Products, including those based on Licensee's use of the Property authorized by this License Agreement. Such indemnification shall further extend to Licensee's failure to comply with the terms of this License Agreement and Licensee's unauthorized use of any patent, process, idea, method or device, or unfair trade practice, false advertising, trademark, copyright infringement or the like in connection with the manufacture, design, sale, advertising, promotion or use of the Licensed Products. Licensor hereby agrees to indemnify, defend and hold Licensee harmless from and against any claims, judgments, demands, causes of action, damages, losses, costs and expenses which may be brought by a third party against Licensee arising out of or relating to Licensor's representation of ownership of the Property or authority to enter into this Agreement. Licensee and Licensor expressly agrees that their obligations hereunder shall survive and continue beyond any termination or expiration of this License Agreement.

SECTION XVII (Existing Licenses)

Licensee hereby acknowledges that Licensor has previously granted and may continue to grant licenses to third parties for the use of the Property.

**SECTION XVIII
(Insurance)**

Licensee agrees to carry commercial general liability insurance, including but not limited to product liability coverage, with insurer(s) having an A.M. Best rating of at least A- / "VII" or a Standard and Poor's rating of at least A, and licensed to transact business where such insurance is issued, in an amount of at least one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) aggregate, and to include NYC & Company and the City, together with their officials and employees, as additional insureds under such policy with coverage at least as broad as the most recent editions of both Insurance Services Office (ISO) Form CG 2026 and ISO Form CG 2037. Each year such insurance is required, Licensee shall provide NYC & Company and the City with a Certificate of Insurance, accompanied by either a duly executed "Certification by Insurance Agent or Broker" in the form required by the Licensor, or certified copies of all policies referenced in such Certificate of Insurance, evidencing the required limits of coverage and identifying NYC & Company and the City as additional insureds with coverage pursuant to or at least as broad as the most recent editions of both ISO Form CG 2026 and ISO Form CG 2037 under all such policies. Such insurance shall be maintained for at least six (6) years after the last date of sale by Licensee of any Licensed Product. In the event that Licensee fails at any time to carry insurance as required herein, Licensee shall immediately notify Licensor thereof and Licensor shall have the right to terminate this agreement immediately. Whenever notice of occurrence, claim or suit to an insurance company is required under any such policy, Licensee shall provide timely notice thereof on behalf of both NYC & Company and the City and shall promptly send a copy of such notice(s) to both NYC & Company and the City. The copy of such notice to NYC & Company shall be sent to the address set forth in section XXII below and the copy to the City shall be sent to c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007. The existence of such insurance shall in no way limit Licensor's or NYC & Company's rights under this agreement, at law or in equity, including the right to be indemnified as set forth in this agreement.

**SECTION XIX
(Governing Law)**

This License Agreement shall be construed in accordance with the laws of the State of New York, notwithstanding conflicts of laws principles. By execution of this License Agreement, Licensee consents to submit to the jurisdiction of the courts of the State of New York located in New York City and the federal courts located therein.

**SECTION XX
(No Partnership or Joint Venture)**

Nothing in this License Agreement or in the course of performance under this License Agreement shall be construed to constitute a partnership or joint venture. Licensee shall have no right to obligate or bind Licensor in any manner whatsoever (nor shall Licensee hold itself out to any third party as being so authorized) and nothing contained herein nor in the course of performance hereunder shall give or is intended to give any right of any kind to any third party.

**SECTION XXI
(No Manufacturers, Importers, or Sublicensees)**

Licensee shall provide Licensor with a list of the names and addresses of Licensee's manufacturers, importers and distributors and will notify Licensor of any change in such list. From time to time, Licensor may request that Licensee provide the names of its suppliers and/or authorized importers of the Licensed Products, and Licensee agrees to provide such information upon the request of Licensor. Licensee may sublicense rights under this License Agreement ("Sublicense") only with the prior, written approval of the Licensor, which may be withheld in Licensor's sole discretion. Each and every Sublicense granted under this License Agreement shall contain such provisions as Licensor may require.

SECTION XXII
(Notices)

All notices required to be given under the terms of this License Agreement, or which either party hereto may desire to give to the other, shall be in writing and sent by mail to the following addresses:

If to Licensor:

NYC & Company
810 Seventh Ave.
New York, NY 10019
ATTN.: Bryan X. Grimaldi
Chief Operating Officer & General Counsel

With a copy to:

New York City Department of Small Business Services
110 Williams Street, 2nd Floor
New York, NY 10038

Additional copy to:

New York City Law Department
100 Church Street, 6th Floor
New York, NY 10007
ATTN.: Katherine Winningham

If to Licensee:

Royal Animals
1040 First Avenue, Suite 176
New York, NY 10022
Attn: Susan Traub

SECTION XXIII
(Confidentiality)

Except as otherwise required by law, Licensee agrees to, and shall cause its affiliates, agents, representatives, accountants, employees, officers and directors to: (i) treat and hold as confidential all information, reports or data, prepared, assembled, used or that Licensee comes to obtain under this License Agreement, and (ii) prior to publication, not disclose or provide access to such confidential information to any individual or organization without the prior written approval of Licensor. In the event that Licensee or Affiliate, agent, contractor, representative, employee, officer, or director of Licensee, becomes legally compelled to disclose confidential information of Licensor, Licensee must provide Licensor with prompt written notice of such requirement so that Licensor may seek a protective order or other remedy or waive compliance with this Article XXIII. In the event that such protective order or other remedy is not obtained, or compliance with this Article XXIII is waived, Licensee agrees to furnish only that portion of such confidential information which is legally required to be provided and exercise its reasonable best efforts to obtain assurances that confidential treatment will be accorded such information. Notwithstanding the foregoing, this Article XXIII shall not apply to any information that, at the time of disclosure, (i) was available publicly and not disclosed in breach of this License

Agreement, (ii) was known to the receiving party without breach of an obligation of confidentiality or (iii) was learned from a third party who was not under an obligation of confidentiality. The parties agree and acknowledge that remedies at law for any breach of the obligations under this Article XXIII may be inadequate and that in addition thereto Licensor and NYC & Company are entitled to seek equitable relief, including injunction and specific performance, in the event of any such breach.

In the event that Licensee believes that specific information it submits to Licensor or NYC & Company pursuant to this Agreement should be treated confidentially by Licensor or NYC & Company, Licensee shall so advise the party receiving the information in a writing identifying the specific information. Licensor and NYC & Company agree to treat information so designated as confidential proprietary information of Licensee, consistent with legal requirements.

The City or NYC & Company may be required, pursuant to the New York State Freedom of Information Law ("FOIL") (New York Public Officers Law Section 84 et seq.), to disclose information, or any portion thereof. In the event that disclosure is requested by a third party of materials designated by Licensee as confidential or proprietary information in accordance with this Section, the Licensor or NYC & Company will provide notice to Licensee and shall consult with Licensee to evaluate the extent to which such information may be withheld from disclosure under the provisions of FOIL.

Consistent with the requirements of FOIL, the final determination regarding disclosure shall be made by Licensor or NYC & Company in their sole discretion. In the event that Licensor or NYC & Company determines in its discretion that information may not be withheld, Licensor or NYC & Company, as appropriate will provide Licensee with prompt notice of intent to disclose in order that Licensee may invoke any rights or remedies to prevent disclosure to which it believes it may be entitled under the law.

Licensee expressly acknowledges and agrees that neither the Licensor nor NYC & Company will have any obligation or liability to Licensee in the event of disclosure of materials, including materials designated by Licensee as proprietary information, provided such disclosure is in accordance with this Section.

SECTION XXIV (Investigations)

A. The parties to this License Agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York or City of New York 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 of New York, the State of New York, 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 of New York, 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 of New York or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement,

lease, permit, contract, or license entered into with the City of New York, the State, or any political subdivision thereof or any local development corporation within the City of New York, then;

C. (i) 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 (5) days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

(ii) 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 paragraph E below without the City of New York incurring any penalty or damages for delay or otherwise.

D. 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 (5) years from the date of an adverse determination for any person, or any 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 of New York; and/or

(ii) The cancellation or termination of any and all such existing City of New York contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this License Agreement, 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 of New York 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 Licensor.

E. The commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (i) and (ii) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (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 of New York.

(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 D 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 C(i) 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 potential adverse impact a penalty will have on such person or entity.

F. (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 of New York, or otherwise transacts business with the City of New York.

(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.

G. In addition to and notwithstanding any other provision of this License Agreement the Commissioner or agency head may in his or her sole discretion terminate this License Agreement upon not less than three (3) 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 or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this License Agreement by Licensee, or affecting the performance of this License Agreement.

SECTION XXV (Miscellaneous)

A. No action at law or proceeding in equity by Licensee against Licensor or NYC & Company shall lie or be maintained upon any claim based upon this License Agreement or arising out of this License Agreement or in any way connected with this License Agreement unless Licensee has strictly complied with all requirements relating to the giving of notice and of information with respect to such claims, all as herein provided.

B. No action shall lie or be maintained against Licensor or NYC & Company by Licensee upon any claims based upon this License Agreement unless such action shall be commenced within one (1) year after the date of final payment hereunder, or within one (1) year of the termination or conclusion of this License Agreement, or within one (1) year after the accrual of the cause of action, whichever first occurs.

C. In the event any claim is made or any action is brought against Licensor or NYC & Company in any way relating to the Agreement herein on the basis of Licensee’s actions and in each case by a third party, Licensee shall diligently render to Licensor and NYC & Company without additional compensation any and all assistance which Licensor and NYC & Company may reasonably require of Licensee, subject to reimbursement for Licensee’s actual, reasonable, pre-approved expenses.

D. Either party shall report to the other party in writing within ten (10) business days of the date such party becomes aware of the initiation by or against it of any legal action or proceeding in connection with or relating to this License Agreement.

E. No claim whatsoever shall be made by Licensee against any officer, agent, or employee of Licensor or NYC & Company for, or on account of, anything done or omitted in connection with this License Agreement.

F. This License Agreement may be executed in two copies, each of which shall be deemed an original. This License Agreement contains the entire understanding between the parties with respect to the subject matter hereof and replaces and supersedes all prior agreements and understandings between the parties. This License Agreement may only be amended by a writing executed by all parties.

G. Headings used herein are for convenience only and shall not be considered part of this License Agreement. This Agreement has been negotiated by the parties hereto. No provision of this License Agreement shall be strictly construed against the drafter of the language concerned, but shall be interpreted applying the most reasonable interpretation under the circumstances, giving due consideration to the intentions of the parties at the time of contracting.

H. Licensee represents and warrants to Licensor that: (i) it is duly organized and validly existing under the laws of the State of New York, (ii) it has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; (iii) its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on its part; (iv) once executed and delivered, this Agreement will constitute its legal, valid and binding obligation, enforceable in accordance with its terms; (v) there are no legal or arbitral proceedings or any proceedings by or before any governmental or regulatory authority or agency, now pending or (to the knowledge of Licensee) threatened against Licensee which, if adversely determined, could have a material adverse effect on the financial condition, operations, business or prospects of Licensee; (vi) the execution and delivery of this Agreement and any related agreement to which it is party, the consummation of the transactions herein and therein contemplated and compliance with the terms and provisions hereof and thereof, will not conflict with or result in a breach of, or require any consent under, the charter, by-laws or partnership agreement, as applicable, of Licensee, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Licensee is a party or by which it is bound or to which it is subject, or constitute a default under any such agreement or instrument, or result in the creation or imposition of any lien upon any of the revenues or assets of Licensee pursuant to the terms of any such agreement or instrument.

I. Licensor represents and warrants to Licensee that: (i) it owns or represents all of the rights in and to the Property; (ii) Licensee's use of the Property as permitted herein will not conflict with or violate any rights of any third party (iii) subject to applicable law, it has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; and (iv) to the best of Licensor's knowledge, the execution of and delivery of this Agreement and any related agreement to which it is party, the consummation of the transactions herein and therein contemplated and compliance with the terms and provisions hereof and thereof, will not conflict with or result in a breach of, or require any consent under any agreement or instrument to which Licensor is a party or by which it is bound or to which it is subject, or constitute a default under any such agreement or instrument.

J. Each of the parties hereto shall use all reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things necessary, proper or advisable under applicable law, and to execute and deliver such documents and other papers, as may be required to carry out the provisions of this License Agreement and consummate and make effective the transactions contemplated by this License Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement as of the date and year first above written.

NEW YORK CITY DEPARTMENT OF SMALL BUSINESS SERVICES

By:

Its:

Date of Signature: _____

APPROVED AS TO FORM
CERTIFIED AS TO LEGAL AUTHORITY:

Acting Corporation Counsel

Royal Animals

By:

Its:

Date of Signature: _____

Exhibit I
The Property

Trademarks of the City of New York

Trademarks



Exhibit 2

Licensed Products

Pet Apparel and Accessories

Exhibit 3

Product Labels and Graphics

City Seal Hologram

All products must include a permanent copyright notice and trademark designation etched on the back of the product. It must read “© 2015[or current year] City of New York. All Rights Reserved.”

If too little room is available to accommodate this etching, individual decisions will be made in consultation with NYC & Company, which shall have the right of prior approval over the final version.

All packaging must include at least the copyright notice “© 2015 [or current year] City of New York. All Rights Reserved.”

Exhibit 4 Quality Control Guidelines

- 1.** All licensed products and related materials associated with NYC & Company's licensing program, including but not limited to packaging, print ads, advertising initiatives, point of purchase displays, story boards, scripts, molds, brochures, videos, DVDs, labels, hangtags, catalogs, sales sheets and all collateral materials must be submitted to NYC & Company for approval prior to any production.
- 2.** Each product submitted for approval must, at every stage, be accompanied by a completed approval form (see "Sample Product Approval Form").
- 3.** All prototypes of any items which utilize New York City ("City") trademarks must be submitted at each stage of production. Based on written approval, Licensee may proceed to the next step.
- 4.** Contracts will contain NYC & Company's entire sample submission/ approval process. The following brief steps will be required for all product submissions:
 - Initial sketches and/ or design concepts
 - Finished artwork or final proofs
 - Prototypes or pre-production samples
 - Production samples
- 5.** Licensees are required to submit all licensed products in each style and variation.
- 6.** Product submissions shall be reviewed and evaluated for:
 - Accuracy of logo representation
 - Proper use of Pantone colors
 - Proper use of trademark designations
 - General appearance and quality of product
 - NYC & Company policies and standards
- 7.** All approvals granted are conditioned upon FULL EXECUTION OF THE LICENSING AGREEMENT AND TIMELY PAYMENTS, or with the prior written permission of NYC & Company
- 8.** Each logo is distinctive and therefore must be used separately on licensed product and collateral materials. Logos may not be reversed and/ or turned to appear in an opposite direction.
- 9.** All hard goods must include a permanent copyright notice and trademark designation etched on the bottom or other approved location on the product.
- 10.** Licensees must indicate the size of, and the amount of times, they intend to utilize City logo(s), third party logo(s) and/or corporate identification(s) in relationship to the size of the City logo prior to the licensee's logo use on products.
- 11.** All products are required to utilize holograms, hangtags and/ or labels purchased from the City's exclusive on-product authentication products supplier.
- 12.** Licensee agrees to use the following notice, TM, ® or ©, as specified by the Licensor, in connection with the first most prominent usage of the Property on all Licensed Products, hang tags and packaging: "All New York City logos and marks depicted herein are the property of New York City and may not be reproduced without written consent. © 2015 [or other year of initial publication]. City of New York. All rights reserved." Licensee agrees to use the following notice, TM, ® or ©, in connection with all displays, advertising, sales brochures, instruction manuals and other promotional materials for each Licensed Product (hereinafter the "Promotional Materials"):

“All New York City logos and marks depicted herein are the property of the City of New York and may not be used or reproduced without prior written consent. © 2015 (or other initial year of publication). City of New York. All rights reserved.” If impracticable in a particular situation, a shortened version of such notices may be used with Licensor’s prior written approval.

13. Anytime a new factory is used to produce licensed merchandise, the licensee must have the vendor sign the City’s Ethical Standards Form (see attached). Any product approval form being submitted must list the factory name and factory contact information (foreign or domestic) where production of that particular item will occur. No product approvals will be given without this information.

Exhibit 5

Ethical Standards for the City of New York

The City of New York (“City”) is committed to conducting business in an ethical and responsible manner in all countries, and requires the same from all of its business partners. While the City recognizes that there are different legal and cultural environments in which factories operate throughout the world, these Ethical Standards for Vendors (“Standards”), set forth the basic minimum requirements all factories must meet in order to do business with the City.

These Standards apply to City rights holders of specific licensed products (“Licensees”) and factories that produce goods for the City (“Licensed Products”), including manufacturers, contractors and subcontracted manufacturers (hereinafter collectively referred to as “Vendors”). Under the agreement in place with each Licensee, the City has the right to approve all Vendors of Licensed Products. No Vendor will be approved and no currently approved Vendor will be retained who does not comply with these Standards. The City strongly encourages Vendors to exceed these Standards and promote best practices and continuous improvement throughout their factories.

Legal Requirements:

The City requires that its Vendors must operate in full compliance with all applicable laws and regulations of the countries in which they manufacture and compliance with all local environmental laws applicable to the workplace.

Forced Labor:

The City requires that its Vendors not use forced labor, including, but not limited to, prison, indentured, bonded or involuntary labor.

Child Labor:

Vendor agrees not to use child labor in the manufacture of or otherwise in connection with any Licensed Products. The term “child” shall refer to a person younger than the local legal minimum age for employment or the age for compelling compulsory education, but in no case shall any children younger than fifteen (15) years of age (or fourteen (14) years of age where local law allows) be used to manufacture, package or sell the Licensed Products. In addition, Vendor agrees to comply with all applicable minimum wage, overtime, occupational safety and health and environmental protection laws in the manufacture and packaging of Licensed Products.

Harassment or Abuse:

The City requires that its Vendors treat their employees with respect and dignity. Vendors must provide a work environment free of harassment, abuse or corporal punishment in any form. In addition, Vendors will not use monetary fines as a disciplinary practice.

Discrimination:

The City requires that its Vendors ensure that employment, including but not limited to hiring, salary, benefits, advancement, discipline or termination, is based solely on ability and not on any personal characteristics.

Health and Safety:

The City requires that its Vendors provide a safe and healthy working environment in accordance with applicable local law to prevent accidents and injury arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities. Vendors who provide residential facilities must ensure these facilities are also safe and healthy in accordance with applicable local laws.

Freedom of Association:

The City requires that its Vendors recognize and respect the legal right of employees to freely associate. Employees should not be subject to intimidation or harassment as a result of the peaceful exercise of their legal right to join or to refrain from joining any organization.

Compensation and Benefits:

The City requires that its Vendors pay employees at least the minimum compensation required by local law, and to provide all legally mandated benefits. In addition to their compensation for regular hours of work, employees shall be compensated for overtime hours at such premium rate as is legally required or, in those countries where such laws do not exist, at a rate at least equal to their regular hourly compensation rate.

Hours of Work:

The City requires that its Vendors ensure that, except in extraordinary business circumstances, on a regularly scheduled basis, employees shall (i) not be required to work more than the lesser of (a) sixty (60) hours per week or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture, and (ii) be entitled to at least one day off in every seven day period.

Communication:

The City requires that its Vendors take appropriate steps to ensure that the provisions of these Standards are communicated to employees.

Monitoring and Compliance:

The City requires that its Vendors maintain on file all documentation necessary to demonstrate compliance with the City's Standards. Vendors must allow the City and its designated agents (including third parties) to engage in announced and unannounced monitoring visits, including confidential employee interviews.

City Vendors are required to take necessary corrective actions to promptly remediate any noncompliance. The City reserves the right to ultimately terminate its business relationship and/or cancel existing orders with any Vendor who is unwilling or unable to comply with these Standards.