

**VILLAGE OF NYACK
ROCKLAND COUNTY, NEW YORK**

REQUEST FOR PROPOSAL

FOR

**A LICENSE TO CONDUCT
A FOOD AND BEVERAGE OPERATION
AT THE NYACK VILLAGE MARINA,
IN NYACK, NEW YORK**

JENNIFER LAIRD-WHITE, MAYOR

JUNE 20, 2016



THIS REQUEST FOR PROPOSAL (“RFP”) CONSISTS OF 46 PAGES.

SUBMISSION OF A PROPOSAL WILL BE DEEMED ACKNOWLEDGEMENT

OF THE RECEIPT OF THE ENTIRE RFP PACKAGE. IF YOU FAIL TO

RECEIVE ANY PAGES, PLEASE CONTACT THE VILLAGE CLERK’S

OFFICE AT #(845) 358-0548 , EXT. 545, OR JENNIFER LAIRD-WHITE,

MAYOR AT (845) 358-0229

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LEGAL NOTICE

**NOTICE TO PROPOSERS
OF A REQUEST FOR PROPOSAL
FOR
A LICENSE TO CONDUCT
A FOOD AND BEVERAGE OPERATION
AT THE NYACK VILLAGE MARINA NYACK VILLAGE MARINA,
IN NYACK, NEW YORK**

NOTICE IS HEREBY GIVEN that proposals for **A LICENSE TO CONDUCT A FOOD AND BEVERAGE OPERATION AT THE NYACK VILLAGE MARINA, LOCATED IN NYACK, NY**, will be received by the Village Clerk of the Village of Nyack at the Nyack Village Village Hall, 9 North Broadway, Nyack, NY 10960, **until Friday, August 12, 2016, 11 A.M.**, at which time and place they will be publicly opened and read aloud.

The proposals shall be for **A LICENSE TO CONDUCT A FOOD AND BEVERAGE OPERATION AT THE NYACK VILLAGE MARINA** in accordance with specifications as contained in the proposal designated "License Agreement" contained in the RFP.

The Village of Nyack officially distributes bidding documents from the Village Clerk's Office. Copies of bidding documents obtained from any other source are not considered official copies. Only those Proposers who obtain bidding documents from the Village Clerk's Office are guaranteed to receive addendum information if such information is issued.

The Village reserves the right to waive any informality or reject any or all proposals should the best interest of the Village thereby be promoted.

Consistent with federal mandates, Requests for Proposals are solicited from any and all parties, including, but not limited to, minority businesses and enterprises operated and conducted by women.

This Request for Proposal ("RFP") is for services requiring special or technical skill, training or expertise. The services requested are not "purchase contracts" or "contracts for public works," as those phrases are used in bidding statutes.

Proposals may be delivered to the Village Clerk at the above address by mail or in person. Proposals need not be delivered in sealed form. It is the intention of the Village not to disclose any proposal submitted prior to the opening date and time. However, the Village cannot guarantee unintended disclosure of any proposal submitted in other than a sealed envelope, directed to the Village Clerk, with "**A LICENSE TO CONDUCT A FOOD AND BEVERAGE OPERATION AT THE NYACK VILLAGE MARINA**" clearly marked on the outside of the envelope. Unintended disclosure will not prevent the Village from determining an

award to a Proposer, including a Proposer whose proposal was so disclosed.

Proposals will be considered firm for at least forty-five (45) days after the opening date and time.

No Proposer may withdraw his/her/its proposal within forty-five (45) days after the date set for the opening therefor, but may withdraw his/her/its proposal at any time prior to the scheduled date for the opening of proposals.

BY ORDER OF THE VILLAGE BOARD OF THE VILLAGE OF NYACK, ROCKLAND COUNTY, NEW YORK

Dated: June 20, 2016

MARY E. WHITE, Village Clerk
of the Village of Nyack
9 North Broadway
Nyack, NY 10960
Tel. (845) 358-0548, ext. 545

PART I
REQUEST FOR PROPOSAL
FOR
A LICENSE TO CONDUCT
A FOOD AND BEVERAGE OPERATION
AT THE NYACK VILLAGE MARINA

1. NOTICE

NOTICE IS HEREBY GIVEN that proposals for **A LICENSE TO CONDUCT A FOOD AND BEVERAGE OPERATION AT THE NYACK VILLAGE MARINA** will be received by the Village Clerk's Office of the Village of Nyack, at the Nyack Village Hall, 9 North Broadway, Nyack, NY 10960 **until Friday, August 12, 2016, at 11 A.M.**, at which time and place they will be opened and read.

Proposals are solicited from any and all parties, including, but not limited to, minority businesses and enterprises operated and conducted by women.

2. NOT A COMPETITIVE BID

This Request for Proposal ("RFP") is for services requiring special or technical skill, training or expertise. The services requested are not "purchase contracts" or "contracts for public works", as those phrases are used in bidding statutes.

Therefore, the VILLAGE OF NYACK (hereinafter sometimes referred to as the "VILLAGE") is not subject to competitive bidding procedures in making this RFP or determining an award to a Proposer who responds to this RFP.

3. RECEIPT OF PROPOSALS

Proposals may be delivered to the Village Clerk's Office at the above address by mail or in person.

Proposals need not be delivered in sealed form. It is the intention of the VILLAGE not to disclose any proposal submitted prior to the opening date and time. However, the VILLAGE cannot guarantee unintended disclosure of any proposal submitted in other than a sealed envelope, directed to the Village Clerk, with "**LICENSE TO CONDUCT A FOOD AND BEVERAGE OPERATION AT THE NYACK VILLAGE MARINA**" clearly marked on the outside of the envelope. Unintended disclosure will not prevent the VILLAGE from determining an award to a Proposer, including a Proposer whose proposal was so disclosed.

Proposals will be considered firm for at least forty-five (45) days after the opening date and time.

4. PREPARATION OF PROPOSAL

(a) Proposals must be submitted on the prescribed form in quadruplicate. All blank spaces for proposed prices must be filled in, in ink, in both words and numerical figures, with the unit price for the item or the lump sum for which the proposal is made.

(b) Any proposals may be withdrawn prior to the above scheduled time for the opening of proposals or authorized postponement thereof. Any proposal received after the opening date and time specified will not be considered. No Proposer may withdraw a proposal within forty-five (45) days after the actual date of the opening thereof.

5. QUALIFICATIONS OF PROPOSER

(a) Only qualified Proposers, which term hereinafter may apply equally to persons providing a service, who have adequate experience, finances, equipment and personnel will be considered in determining the award.

(b) The VILLAGE may make such investigations as the VILLAGE deems necessary to determine the ability and qualifications of the Proposer to perform the work. The Proposer shall furnish to the VILLAGE all such information and data for this purpose as the VILLAGE may request. The VILLAGE reserves the right to reject any Proposal if the evidence submitted by, or investigation of, such Proposer fails to satisfy the VILLAGE that such Proposer is properly qualified to carry out the obligations of the Proposal and to complete the work required to be completed therein. Conditional Proposals (other than as called for herein) will not be accepted.

6. ADDENDA AND INTERPRETATIONS

No interpretation of the meaning of the specifications shall be made to any Proposer orally. Each and every request for such interpretations shall be in writing, addressed to the Village Clerk, and shall be submitted by **10:00 AM on July 21, 2016**. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the RFP, which, if issued, will be mailed to all prospective Proposers (at the respective addresses furnished for such purpose) not later than **5:00 PM on July 29, 2016**. Failure of any Proposer to receive any such addendum or interpretation shall not relieve any Proposer from any obligation under his/her/its Proposal submitted. All addenda so issued shall become part of the License Agreement.

7. FEDERAL AND STATE LAWS AND REGULATIONS

All applicable federal, state and municipal laws and rules and regulations shall apply to the License Agreement, and they are deemed to be included herein, the same as though fully set forth

herein.

8. AWARD OF LICENSE AGREEMENT

(a) An award will be made to the highest responsible and responsive Proposer. However, the VILLAGE reserves the right to waive technical non-compliance with a proposal if the deviation is minor or not substantial and if, in the opinion of the Village Board or Village Attorney, it is in the best interests of the VILLAGE to do so. The VILLAGE reserves the right to reject any and all proposals.

(b) Any conditions set forth in a Proposer's proposal will be deemed a counter-offer and may render the proposal non-responsive.

(c) Only the Proposer who is awarded the License Agreement in response to this RFP will be notified in writing by the Village Clerk's Office.

(d) Acceptance of the VILLAGE of a proposal shall constitute a contract between the VILLAGE and the successful Proposer.

(f) A written License Agreement will be executed by the successful Proposer, in form and substance as annexed (Part IV) to this RFP.

9. OBLIGATION OF PROPOSER

At the time of the opening of Proposals, each Proposer will be presumed to have inspected, to have read and to be thoroughly familiar with the proposed License Agreement and these specifications (including all addenda). The failure or omission of any Proposer to receive or examine any form, instrument or document, shall, in no way relieve any Proposer from any obligation with respect to his/her/its Proposal.

10. CONVICTION OF A CRIME

If the LICENSEE, or any officer, director or any individual or entity holding a controlling interest of the LICENSEE (defined as five percent or more, or, in the case of a corporation, any stockholder owning five percent or more of the outstanding shares) is convicted of a crime, excluding Class B and Unclassified Misdemeanors (as defined under the New York State Penal Law and their equivalent in any sister state or under Federal Law), related to the subject matter of the License Agreement, or if a related or affiliated company, partnership or corporation is convicted of a crime, excluding Class B and Unclassified Misdemeanors (as defined under the New York State Penal Law and their equivalent in any sister state or under Federal Law) related to the subject matter of the License Agreement, after the License Agreement is fully executed, the VILLAGE shall have the right to terminate this License Agreement without penalty. An "affiliated company" as used herein means any affiliate which is a partnership, corporation,

proprietorship, association or similar entity, an “affiliate” means any individual partnership, corporation, proprietorship, association or other entity (1) in which a 50% or greater ownership interest (as defined below) is directly or indirectly held by the LICENSEE or any of its management personnel (as defined below) or directors, (2) which directly or indirectly holds 50% or more of the ownership interest in the LICENSEE, (3) in which an aggregate 20% or greater ownership interest is directly or indirectly held by one or more shareholders (or partners or proprietors, in the case of a partnership or proprietorship) which or who in the aggregate hold a 20% or greater ownership interest in the LICENSEE, or (4) which, whether by contract or otherwise, directly or indirectly controls, is controlled by or is under common control with the LICENSEE. An “ownership interest” means the ownership, whether legally or beneficially, of the stock of or assets employed by a corporation, of a partnership interest in or assets employed by a partnership or of a similar interest in or assets employed by any other entity. “Management personnel” means executive officers and all other persons, whether or not officers or employees, who perform policy-making functions similar to those of executive officers.

PART II

SPECIFICATIONS

GENERAL INFORMATION

The Village of Nyack manages and operates the NYACK VILLAGE MARINA. The Marina has heretofore been maintained by the Village. A restaurant located at the Marina was previously operated by the third party tenant.

1. SCOPE OF LICENSE

It is the intent of the VILLAGE to grant a license to operate the restaurant/food/bar service facility at the VILLAGE’s NYACK VILLAGE MARINA, located at 11 Burd Street, Nyack, New York. Said license shall be limited to the exclusive right and privilege of purveying food and beverages at the existing facilities previously operated by the VILLAGE’s tenant at the aforementioned address as the “Riverclub, Inc”, and will be operated in the future, as per, pursuant to and as prescribed in the License Agreement (Part IV of this RFP), which License Agreement sets forth all of the rights, privileges, responsibilities, obligations and duties of the VILLAGE and LICENSEE; and, if there is a conflict between any terms or provisions of the License Agreement and any other term or provision contained within Part I, Part II or Part III of the RFP, the License Agreement (Part IV) shall control, govern and dictate the mode and manner of performance under the License Agreement and the rights, privileges, responsibilities, obligations and duties of the parties.

MARINA ALTERNATIVE

Additionally, the Village of Nyack owns a 35 (approximately) slip Marina located directly

adjacent restaurant building located on the premises. Responders may submit a response which includes the management of the Marina under the terms of the License Agreement. If any response includes the use/management of the Marina, complete details of that proposal shall be attached to the response, including but not limited to details on the management and operation of the Marina.

Included with all Proposals, the VILLAGE requires a statement of history, which statement must include a **minimum of 5 years** experience in the food service/restaurant/bar/marine (if applicable) industry, catering operations and marketing of their product. Principals and corporate officers must be listed. The VILLAGE may conduct credit and criminal background checks on these individuals prior to final selection.

2. PRE-PROPOSAL INSPECTION:

The VILLAGE will hold a pre-submittal meeting for all interested parties. This will include one (1) staffed walk-through inspections of the facilities at NYACK VILLAGE MARINA on **July 15, 2016 at 1:00 PM**. It is strongly recommended that all Proposers attend the walk-through inspection. All questions must be presented at the time of the walk-through and there will be no further opportunity for a formal walk-through with Village staff. An effort will be made to record and share with all persons receiving this Request for Proposal, the questions and answers discussed verbally during the walk-through. Except as provided herein, questions asked of the Village must be in writing and responses will be shared with all persons attending or receiving this Request for Proposal. **It is the intent of the Village to accommodate all additional inquiries for access to the premises, however, additional access will be made by appointment only by contacting the Village Administrator at 845-358-3581.**

Proposers should make arrangements with Village Administrator or Village of Nyack Clerk for a pre-bid inspection of the premises to be licensed. Failure to make such pre-bid inspection may render a Proposal non responsive.

3. TERM

The term of the License Agreement shall commence on the **1st day of September, 2016**, and continue until the **31st day of August, 2021**, with an option for the LICENSEE to renew the License Agreement for **two (2) additional five (5) year terms**, with License Fees in amounts mutually agreeable to the VILLAGE and LICENSEE, which **two (2) 5-year renewal options** shall only take effect upon and if consented to by the VILLAGE, which consent shall not be unreasonably withheld.

Alternative terms and additional fee schedules (if applicable) for the License Agreement may proposed by the Licensee in its response to the RFP. “Alternative terms”, if any, shall not constitute conditions to the License

Agreement or License Fees, but may offer alternative terms based upon a responder's assessment of the existing restaurant structure and/or Marina.

The Village of Nyack understands that alternative License terms and fees may be necessary and appropriate based upon the responder's plan for the operation of the facility. Therefore, if alternative terms to those set forth herein are submitted, they will be accepted and evaluated in accordance with the review process set forth herein.

4. SCHEDULE OF OPERATIONS

The License Agreement shall remain in effect for twelve months during each and every year of the term, as described in the License Agreement herein. LICENSEE may, at its option, remain open up to the limits established under the New York State Liquor Authority License.

The restaurant/bar/catering facility operate as a catering facility and/or restaurant and bar for the general public, in accordance with the guidelines as described in the License Agreement.

5. MENU

(a) Restaurant and Bar Customer Service

The LICENSEE shall maintain customer service as a top priority. The LICENSEE must provide restaurant and bar employees and staff who are experienced, professional, friendly, well dressed and courteous to the general public. All employees and staff must maintain a neat and clean appearance, exercise good public relations skills, respond to customer complaints and questions, have good wait-person manners and conduct themselves in a high standard that is acceptable to the Village. The LICENSEE shall also maintain a good working relationship with the Village Marina operations staff.

(b) Restaurant and Bar Expectations

Pursuant to the license relationship with the VILLAGE, the VILLAGE intends to seek a concessionaire arrangement with an individual, or business entity, to provide food and beverage concession services to the general public and boaters visiting the NYACK VILLAGE MARINA.

The VILLAGE is desirous in providing the following typical daily food service schedule of breakfast, lunch and dinner menu opportunities at NYACK VILLAGE MARINA:

- Hot and Cold Menu Items;
- Hot and Cold Beverages, including draft, canned and bottled beer and wine, coffees, teas, etc.;
- Soups and Salads;
- Snacks;
- Small group dinner and special event menu service indoor and/or outdoor;

- Off site catering may also occur;

A sample menu with price list shall be provided with the Proposal.

6. LIQUOR LICENSE

The successful Proposer must obtain a valid liquor license in compliance with the rules and regulations of the New York State Liquor Authority.

7. EQUIPMENT

The NYACK VILLAGE MARINA restaurant and bar are equipped with some equipment, furnishings, furniture, tools, utensils, appliances, machinery and fixtures for operation, which shall be maintained, replaced and/or repaired by the LICENSEE at its sole cost and expense. LICENSEE shall install and maintain, at its own cost and expense, any additional equipment, furnishings, furniture, tools, utensils, appliances, machinery or fixtures of commensurate quality only after approval of the VILLAGE. Such units shall remain the property of the VILLAGE.

The LICENSEE must obtain and keep current all licenses, certifications and permits necessary to run an indoor and outdoor food service/restaurant/bar facility at the NYACK VILLAGE MARINA . **The LICENSEE must demonstrate a minimum of five (5) years of food service management in an equivalent restaurant/bar operation.** The LICENSEE must provide all necessary staffing to prepare and provide the menu listed and who shall adhere to current State and County Department of Health regulations and standards. All merchandise and supplies necessary for the production of the menu must be kept stocked at all times.

The LICENSEE shall be responsible for the maintenance, repair and/or replacement of all restaurant, bar, kitchen, and food preparation equipment, furnishings, furniture, tools, utensils, appliances, machinery and fixtures supplied by the VILLAGE, including all cooking production equipment, fixtures and furniture within the restaurant/bar. All such equipment, etc., will be inventoried and in acceptable operating condition when the LICENSEE commences operation; and during the term of the License Agreement, all said equipment, etc., shall be kept clean, fully operational and show no signs of visual or structural damage.

8. STAFFING

LICENSEE shall provide adequate experienced staffing, who shall be recruited with Nyack Village residents being given a preference in hiring.

9. BEVERAGES

The VILLAGE reserves the right to invoke “client privilege” as to the purveying of soft drinks.

The VILLAGE may contract with a beverage distributor, thus obligating the LICENSEE to offer these beverage products, which may be exclusive as to other similar soft drink brands.

(a) **Limitations**

The LICENSEE shall have the exclusive right to sell food and beverages and operate food and beverage concessions within the boundaries of the NYACK VILLAGE MARINA. The LICENSEE may be required to provide additional facilities to provide food and beverages at the Marina outside of the main building facility if requested by the VILLAGE. The LICENSEE may be required to operate a food and beverage cart on the NYACK VILLAGE MARINA (see Alternate “Marina Proposal” below).

10. SELECTION PROCESS

Deadline for Proposals: All Proposals (in quadruplicate) must be received by the Village Clerk, no later than 11 A.M. on Friday, August 12, 2016. Any Proposal received after that time will be rejected.

REVIEW PROCESS

The VILLAGE will review LICENSEE candidate qualifications and rank them using the following general factors, as well as other information contained in the respective Proposals:

A. All Proposals will be reviewed to determine compliance with the requirements as specified in the RFP. Only Proposals which, in the opinion of the Village, meet the requirements of the RFP will be further evaluated.

B. Proposals, which pass preliminary review, will be evaluated on how well the Proposal meets the needs of the VILLAGE as described in the Proposer’s response to the RFP. It is important that the responses be clear and complete so that the VILLAGE can adequately understand all aspects of the Proposal.

C. The VILLAGE will select those it deems to be the top Proposals for further review. The Proposer’s submitting the top Proposals shall make a personal presentation to the VILLAGE, which presentations will be evaluated as well. Further, as part of the presentation, the VILLAGE reserves the right to request additional financial information from those Proposers making personal presentations.

D. A final decision to award the License Agreement will be made by the Village Board of the Village of Nyack, who will authorize the Mayor to execute the License Agreement, and any other instruments related thereto, with the final selected Proposer.

E. The award of a License Agreement by the Village Board to the successful Proposer will be Notice of Acceptance. The award of a License Agreement will bind the

Proposer to furnish the service in accordance with the terms and provisions set forth herein, responses to questions, the Proposer's Proposal, other representations made, as well as all other terms and conditions of the License Agreement in its final form.

PART III

LICENSEE'S PROPOSAL

Opening Date: _____ Time: _____

Location: VILLAGE OF NYACK
Village Hall
9 North Broadway
Nyack, New York 10960

NOTICE: Proposals must be submitted on this form. In order to avoid "non-responsiveness", there must remain annexed hereto, upon submission, all of the attached Parts I - IV. In addition, one copy of each addendum received by Proposer must be annexed hereto upon the submission of this Proposal.

TO THE VILLAGE OF NYACK:

A. The undersigned * _____, acknowledging that he/she is an (officer) (member) (partner) (principal) of the Proposer and he/she has carefully examined the Request for Proposal, offers to furnish and deliver to the VILLAGE, in strict conformity with each and every provision of the Request for Proposal, all of the items awarded.

B. The Proposer is a (corporation) (limited liability company (partnership) (sole proprietorship) (other specify: _____). State where formed: _____.

C. The undersigned hereby designates the following address as the office for the purpose of receiving any written notice permitted or required to be served upon the Proposer by any provision of the Request for Proposal, including, without limitation, Notice of Award of the Proposal:

** _____

* Strike the three inapplicable capacities. If the Proposer is a foreign corporation, it must agree to accept service of process as provided herein (see paragraph 4).

** This information must be supplied by Proposers, corporate and otherwise, and shall include the Proposer's **telephone number**.

D. (Paragraphs “D” and “E” shall bind only those corporate Proposers that are not organized and existing under the laws of the State of New York). If the Proposer is a foreign corporation or limited liability company, Proposer must submit a certificate that it is authorized to do business in the State of New York and in the County of Rockland.

E. The undersigned, a foreign corporation or limited liability company, agrees: that personal service of process in any civil action, lawsuit or legal proceeding instituted by the VILLAGE against the undersigned arising out of this RFP or License Agreement may be made by certified mail return receipt requested (“CMRRR”), addressed to the undersigned at the address referred to in paragraph “C” of this Proposal, above, unless a different address within the State of New York be specified below, in which event, service of process, via CMRRR, as aforesaid, may be made only at the address specified below or at such other mailing address within the State of New York as is substituted therefor by the undersigned by notice in writing to the VILLAGE.

F. By submission of this proposal, the undersigned, and each person signing on behalf of the undersigned certify, under penalty of perjury, that:

(1). The License Fees in this proposal have been arrived at independently, without collusion, consultation, communication or agreement, for the purpose of restricting competition as to any matter relating to such

License Fees with any other Proposer or with any competitor;

(2). Unless otherwise required by law, the License Fees which have been quoted in this proposal have not been knowingly disclosed by the undersigned, and will not knowingly be disclosed by the undersigned, prior to opening the Proposal by the VILLAGE, directly or indirectly, to any other Proposer or to any competitor;

(3). No attempt has been, or will be, made by the undersigned to induce any other person, partnership, limited liability company or corporation to submit or not submit a Proposal for the purpose of restricting competition.

(4). No officer, agent, owner, principal, Member or employee of the Proposer is personally interested, directly or indirectly, in the Request for Proposal or the compensation to be paid thereunder, and

(5). No representation, statement or statements, oral or in writing, has induced Proposer to enter into the Request for Proposal excepting only those contained in Parts I – IV hereof or made part hereof by its terms.

G. I hereby acknowledge receipt of the following addenda set forth below

Addendum No.	Date of Receipt
_____	_____
_____	_____
_____	_____
_____	_____

H. It is understood by the undersigned that the monetary figures set forth in paragraph "I" (License Fee Schedule) are for the purpose of facilitating the comparison and evaluation of Proposer proposals, and that the Committee shall also consider other factors in evaluation the Proposals (as described in Part III "Specifications") in determining the award of the License Agreement.

I. LICENSE FEE SCHEDULE: Proposer must quote an annual License Fee to be paid to the VILLAGE for use and operation of the facility for each and every year of the proposal. Proposed License Fees are to be filled out both in words and numerical figures.

In case of any discrepancy, the price in words will generally be taken as the proposed License Fee.

ALL PROPOSALS SHALL INCLUDE PAYMENT OF ALL ANNUAL TAXES ASSESSED ON THE PREMISES.

COMMENCING MAY 1, 2016, AND FOR EACH YEAR THEREAFTER, THE PROPOSED LICENSE FEE IS AS FOLLOWS:

	NUMERIC AMT.	AMT. IN WORDS
09/1/2016 – 08/31/2017:	\$ _____	_____
09/1/2017 – 08/31/2018:	\$ _____	_____
09/1/2018 – 08/31/2019:	\$ _____	_____
09/1/2019 – 08/31/2020:	\$ _____	_____
09/1/2020 – 08/31/2021:	\$ _____	_____

____-year renewal option period:

	NUMERIC AMOUNT	AMOUNT IN WORDS
09/1/2021 – 08/31/2022:	\$ _____	_____
09/1/2022 – 08/31/2023:	\$ _____	_____
09/1/2023 – 08/31/2024:	\$ _____	_____
09/1/2024 – 08/31/2025:	\$ _____	_____
09/1/2025 – 08/31/2026:	\$ _____	_____

____-year renewal option period:

	NUMERIC AMOUNT	AMOUNT IN WORDS
09/1/2026 – 08/31/2027:	\$ _____	_____
09/1/2027 – 08/31/2028:	\$ _____	_____
09/1/2028 – 08/31/2029:	\$ _____	_____
09/1/2029 – 08/31/2030:	\$ _____	_____
09/1/2030 – 08/31/2031:	\$ _____	_____

[IF APPLICABLE, INSERT ALTERNATIVE TERM PROPOSAL HERE (ATTACH ADDITIONAL SHEETS IF NECESSARY)]:

J. The proposal made by the foregoing shall be irrevocable for forty-five (45) days or such greater period after the date on which the VILLAGE opens the same as set forth in paragraph “1” of the RFP.

K. Proposer does hereby certify that no officer, partner, director, Member or any person holding an ownership interest (defined as owning five percent [5%] or more of the LLC, Member or corporate stock shares) has been convicted of a crime, excluding Class B and Unclassified Misdemeanors (as defined under the New York State Penal Law and their equivalent in any sister state or under Federal Law).

L. The attached Request for Proposal embodies the minimum requirements of the VILLAGE: Proposers are encouraged to offer additional or supplementary services or incentives to the VILLAGE.

IN WITNESS WHEREOF, the undersigned has caused this proposal to be signed and delivered as of the date first herein set forth and agrees to furnish the services, carry-out the License Agreement and perform the work in accordance with all the terms, provisions and conditions of the Request for Proposal.

DATE: _____

FEDERAL TIN/EIN# _____

(print the legal name of Corporation, Limited Liability Company, individual or firm, and any d/b/a name, above)

By: _____

(print name and title/position above)

Sworn to before me this _____ day of _____, 2016

Notary Public

PART IV

LICENSE AGREEMENT

THIS AGREEMENT, made as of the ____ day of September, 2016, between the VILLAGE OF NYACK, a Municipal Corporation with principal offices at Village Hall 9 North Broadway, Nyack, NY 10960 (hereinafter referred to as “VILLAGE”) and _____, with its principal place of business at _____ (hereinafter referred to as “LICENSEE”).

WITNESSETH:

1. DESCRIPTION AND LOCATION

The VILLAGE hereby grants to the LICENSEE, and LICENSEE hereby accepts from the VILLAGE, a license to operate the restaurant facility, bar and food service concessions at the VILLAGE’s NYACK VILLAGE MARINA, in Nyack , NY. Said concessions shall be limited to the exclusive right and privilege of selling food and beverages at the existing facilities owned by the VILLAGE at said MARINA, which shall be limited to the main restaurant building at NYACK VILLAGE MARINA formerly commonly known as “The River Club” and appurtenant areas (hereinafter referred to as “the Licensed Premises,” “the Licensed Facilities” or “the Facilities”). In addition, LICENSEE shall be permitted to use the Facilities as both a restaurant and catering room for weddings, parties , etc. [Additional terms for Marina operation may be negotiated, if applicable].

2. TERM

The term of this License Agreement shall commence on the 1st day of September, 2016 and continue until the 31st day of August, 2021, with an option for the LICENSEE to renew this License Agreement for two (2) additional five (5) year terms at an annual License Fee as set forth in ¶ “4(a)” herein, which two (2) 5-year renewal options shall only be exercised, and become effective, with the consent of the VILLAGE, which consent shall not be unreasonably withheld.

[This section may be amended based upon the proposals received by the Village].

(a) During the term of this License Agreement, the performance of the LICENSEE shall be subject to review by the Village Board as to the operation of the restaurant and maintenance of the Licensed Facilities. In the event of a finding by the Village Board of uncured material breaches, defaults or violations by the LICENSEE, the Village Board shall have the right to revoke, terminate and/or cancel this License Agreement, subject to the provisions herein. LICENSEE shall be entitled to no less than ten (10) days notice of any breach, default or violation, with the right to cure within said ten (10) day period.

(b) Regardless of the title of this Agreement as a “License Agreement,” and the copious references to the “LICENSEE,” “License,” “Licensed Premises,” etc., the parties acknowledge, understand and agree that this is a license **AT WILL OR BY SUFFERANCE**, and not a license nor a lease, and that **NO TENANCY OR LANDLORD-TENANT RELATIONSHIP EXISTS** between the VILLAGE and the LICENSEE; and this License Agreement is, therefore, revocable and/or terminable by the VILLAGE, at will, and the VILLAGE reserves the right to revoke, terminate and/or cancel this License Agreement whenever, in the discretion of the Village Board, the Village Board finds that the LICENSEE has failed to cure a breach, default or violation of the License Agreement.

(c) The VILLAGE’s award of this License Agreement is specifically conditioned and contingent upon LICENSEE obtaining a New York State Liquor Authority liquor license to operate the restaurant bar and purvey alcoholic beverages from the restaurant, or that LICENSEE will have such liquor license on or before **November 30, 2016**.

(d) In no event shall LICENSEE purvey alcoholic beverages without a valid liquor license.

3. HOURS OF OPERATION

(a) LICENSEE agrees to operate the said concessions in accord with Board of Health Regulations for the accommodation of the general public and to keep same open during such seasons, for such hours of the day and in such manner as the VILLAGE shall reasonably prescribe and in accordance with the Specifications herein.

(b) The LICENSEE may operate for twelve months during each and every year of the term of the License Agreement, and the Licensed Premises hours of operation shall be at the option of the LICENSEE **but the licensed premises shall close no later than 1:00 am**.

(c) The restaurant may operate as a catering facility and/or restaurant for the general public.

(d) On weekends and holidays, no functions, that involve twenty-one (21) or more patrons, are to commence **prior to** 12:00 noon (other than for necessary preparations), but any such event or function scheduled to commence prior to 2:00 P.M., that involve twenty-one (21) or more patrons, must utilize valet parking to areas of municipal parking designated by the VILLAGE. This includes, but is not limited to, weddings, bar mitzvahs, lunches, brunches, etc. In the event that the LICENSEE commences an event or function **prior to** 12:00 noon, that involve twenty-one (21) or more patrons, the LICENSEE shall pay, as liquidated damages to the VILLAGE, the sum of Two Thousand Dollars (\$2,000.00) for each and every violation of this

sub-paragraph. In the event that the LICENSEE shall fail to pay liquidated damages in accordance with the provisions of this sub-paragraph, then, after ten (10) days written notice to cure from the VILLAGE to the LICENSEE, demanding payment of such liquidated damages, the License Agreement may be revoked, terminated and/or canceled after the expiration of said ten (10) day cure period if said liquidated damages are not fully paid to the VILLAGE.

4. PAYMENT

(a) The LICENSEE shall pay to the VILLAGE, as compensation to the VILLAGE for the LICENSEE’s right and privilege of operating under this License (“License Fee”), on the first day of each month, in advance, in consecutive equal monthly installments, commencing June 1, 2016, the following total sums for each respective yearly period:

	Amount.
09/1/2016 – 08/31/2017:	\$ _____
09/1/2017 – 08/31/2018:	\$ _____
09/1/2018 – 08/31/2019:	\$ _____
09/1/2019 – 08/31/2020:	\$ _____
09/1/2020 – 08/31/2021:	\$ _____

____-year renewal option period:

	AMOUNT
09/1/2021 – 08/31/2022:	\$ _____
09/1/2022 – 08/31/2023:	\$ _____
09/1/2023 – 08/31/2024:	\$ _____
09/1/2024 – 08/31/2025:	\$ _____
09/1/2025 – 08/31/2026:	\$ _____

...

[This section may be amended based upon the proposals received by the Village].

(b) LICENSEE shall provide the VILLAGE with numbered contracts for catering as they are received and executed by LICENSEE.

5. BUILDING & LOCATION AT VILLAGE MARINA

The VILLAGE will provide, for the use of the LICENSEE, the premises at the NYACK VILLAGE MARINA as are commonly referred to as the “Riverclub “Restaurant” and “Bar.” Any additions, renovations or alterations to same must be approved by the VILLAGE. If approved by the VILLAGE, such additions, renovations or alterations shall be at the sole cost and expense of the LICENSEE, and shall become the sole property of the VILLAGE and the end of the term of the License. VILLAGE approval shall not be unreasonably withheld, conditioned or delayed.

The LICENSEE shall, during said operating periods of time, supply and have available for sale, food and beverages, both non-alcoholic and alcoholic, of high quality at prevailing prices, and in sufficient quantities to meet the demands of the general public and those persons enjoying and using the Restaurant and the NYACK VILLAGE MARINA. Variance from the aforesaid schedule of hours of operation shall require the approval of the VILLAGE. The LICENSEE shall keep the food and beverage service facilities open during the entire year on the days and during the hours set forth above for the purpose of servicing the general public and those using the NYACK VILLAGE MARINA and other recreational facilities in the NYACK VILLAGE MARINA area. The LICENSEE represents that he shall install, provide and maintain sufficient and proper equipment to operate said facilities. The LICENSEE further agrees to clean and maintain, in a sanitary, neat and attractive condition, the entire restaurant area, including the restrooms.

6. MAINTENANCE OF LICENSED PREMISES

(a) LICENSEE shall, at its sole cost and expense, maintain the cooling and heating systems (including, but not limited to, the HVAC unit), and that portion of the buildings assigned to LICENSEE, in full and complete repair to the reasonable satisfaction of the VILLAGE during the term of this License Agreement, exclusive of structural repairs. “Structural repairs” shall be defined as and be limited to the load bearing capacity of the walls, roof and floors.

(b) The LICENSEE further agrees to clean and maintain in a sanitary, neat and attractive condition, all facilities operated by LICENSEE, including all restrooms in the food and beverage service facilities.

(c) LICENSEE agrees to remove and dispose of litter and refuse upon the premises operated by LICENSEE, and arising from the sales and services supplied therein, and store same in containers properly screened from view from the grounds adjacent to the premises, so that the said grounds surrounding the premises shall, at all times, be in a clean, neat, attractive, orderly and sightly condition. LICENSEE further agrees to broom sweep the porches and all entrance ways to the premises and keep same in a clean, neat, attractive, orderly and sightly condition. All

refuse, garbage, waste and litter of all kinds shall be properly stored before disposal, as aforesaid.

(d) LICENSEE shall empty grease traps located in the food and beverage service facilities, and shall contract with an approved carter to remove and dispose of cooking grease from all grease dumpsters, and in accordance with all applicable State, County and Local Laws.

(e) LICENSEE shall recycle all paper, plastic, metals and glass and shall contract with a private hauler for this purpose.

(f) VILLAGE agrees that it will use due diligence in the removal of snow and ice from the parking lot, roads and driveway adjacent to the Licensed Premises, so as to permit access to the said premises, but the VILLAGE will not be responsible for any damages caused by its inability or failure to remove snow or ice. LICENSEE shall be responsible to remove all snow and ice from all sidewalks, walkways, entranceways and porches appurtenant to the Licensed Premises, and to apply as necessary, salt and/or sand to all areas.

(g) The LICENSEE, upon the expiration, revocation or termination of the License Agreement, or upon LICENSEE's surrendering or vacating of possession/occupancy, shall return the Licensed Premises, and all of the Village-Owned Equipment, Machinery, Fixtures, Appliances and Utensils set forth in "Appendix 1" annexed hereto and made a part hereof (hereinafter referred to as "Village-Owned Equipment"), in the same or better condition as when LICENSEE first entered into occupancy, except for normal wear and tear and any renovations or alterations made to the Licensed Premises with the VILLAGE's approval. LICENSEE shall be solely responsible for maintaining, servicing, and keeping in good repair and condition, all of the Village-Owned Equipment, and replacing same, in like kind and quality, if irreparably damaged, lost or stolen.

(h) LICENSEE agrees and acknowledges that LICENSEE was given ample and full opportunity to inspect the Licensed Premises, and agrees and acknowledges that all buildings, structures, land, improvements and appurtenances of the Licensed Premises, and all Village-Owned Equipment, are licensed by LICENSEE, and accepts all of same, in an "AS IS" condition, without warranty or representation by the VILLAGE, express or implied. LICENSEE further agrees and acknowledges that the VILLAGE hereby expressly disclaims any and all warranties, whether express or implied, with respect to the Licensed Premises, including all buildings, structures, land, improvements and appurtenances of the Licensed Premises, and all Village-Owned Equipment, including, without limitation, any warranty of habitability, warranty of merchantability, or warranty of fitness for a particular use. LICENSEE hereby waives, gives up and relinquishes all rights to assert any claim, demand, or lawsuit of any kind with respect to the condition of the Licensed Premises, including all buildings, structures, land, improvements and appurtenances of the Licensed Premises, and all Village-Owned Equipment. The VILLAGE is not required, obligated or responsible to make any repairs, perform any maintenance or pay any costs or expenses concerning the Licensed Premises, including all buildings, structures, land, improvements and appurtenances of the Licensed Premises, and all Village-Owned Equipment.

(i) Contractual preventative maintenance and service agreements for the heating and cooling (HVAC) equipment, and the fire, burglar and smoke alarm system, for the Licensed Premises, shall be procured and kept current by the LICENSEE, at its sole cost and expense, with contractors reasonably acceptable to the VILLAGE and with copies provided to the VILLAGE.

7. EQUIPMENT

(a) The LICENSEE shall, at its sole cost and expense, furnish, provide and maintain in good usable condition, a sufficient amount of moveable equipment, including, but not limited to, bottle coolers, drink dispensers, refrigerators, freezers, umbrellas, utensils, dishes, stoves and such other equipment as may be necessary to properly furnish and provide the services herein provided for in a manner reasonably acceptable to the VILLAGE. LICENSEE may enjoy the use of the Village-Owned Equipment, on the site of the Licensed Premises and during the Term of this License Agreement, and shall be solely and exclusively responsible for maintaining, servicing, and keeping same in good repair and condition, and replacing same, in like kind and quality, if irreparable, destroyed, lost or stolen. To the extent permitted by a secured party, the LICENSEE shall provide, in any security agreement covering equipment in the premises herein, for the right of the VILLAGE to have the option, within thirty (30) days of notice of a default under said security agreement to remit the payments thereunder. Any such payments remitted by the VILLAGE relating to a security agreement shall be reimbursed by LICENSEE to the VILLAGE within fourteen (14) days of the VILLAGE's written demand of LICENSEE to remit same.

(b) LICENSEE shall not purchase any large equipment or trade fixtures, nor commence any work in connection with changing the color scheme, decorations and/or motif of the Licensed Premises prior to obtaining the consent of the VILLAGE, which consent shall not be unreasonably withheld or delayed.

(c) It shall be the LICENSEE's sole responsibility and obligation to provide all necessary equipment, fixtures, materials, supplies, tools, utensils, machinery, appliances and services to operate the business herein contemplated to be conducted upon the Licensed Premises; however, without detracting from the foregoing, LICENSEE may enjoy the use of the Village-Owned Equipment, on the site of the Licensed Premises and during the Term of this License Agreement, and shall be solely and exclusively responsible for maintaining, servicing, and keeping same in good repair and condition, and replacing same, in like kind and quality, if irreparable, destroyed, lost or stolen. Prior to installation of any fixtures, machinery, appliances or equipment, the LICENSEE shall provide the description of fixtures, machinery, appliances or equipment to be installed. Upon receipt of written approval from the VILLAGE, which shall not be unreasonably withheld or delayed, work may proceed. This shall also apply to furniture, furnishings, interior design, etc. The personal property now located on the Licensed Premises, the Village-Owned Equipment (or VILLAGE-approved replacements thereof), and all fixtures and equipment subsequently installed by the LICENSEE (except for moveable trade fixtures and leased equipment not part of the Village-Owned Equipment or replacements thereof), shall be

and become the property of and owned by the VILLAGE; and, upon termination, revocation and/or cancellation of the License Agreement, shall be returned to the VILLAGE in their present, or better, condition, or in the condition when installed, reasonable wear and tear excepted.

8. CLEANING PREMISES

(a) The LICENSEE shall furnish all labor, services, materials, supplies and equipment necessary to maintain, in a clean, orderly, attractive, sightly and inviting condition, reasonably satisfactory to the VILLAGE, all premises used and occupied by the LICENSEE in the operation and performance of this License Agreement, together with the appurtenant area surrounding the Licensed Premises, including the daily cleaning of the exterior and delivery and garbage disposal areas, and in accord with applicable laws, codes, rules and regulations of entities having jurisdiction over the premises.

(b) Maintenance schedule for the LICENSEE of the food and beverage service facilities at the NYACK VILLAGE MARINA, which shall be performed at the sole cost and expense of the LICENSEE, is as follows:

(i) Repaint interior ceilings and walls, lounge area, restaurant, dining areas, kitchen area, hallways and stairways, every two (2) years.

(ii) Wipe down, clean and seal all woodwork annually.

(iii) Commercially clean all carpet areas and window coverings annually.

(iv) LICENSEE shall be obligated to keep and maintain all carpeting in the Licensed Premises in an inviting, attractive, sightly and clean condition and state of repair during the term of the License Agreement.

(c) The LICENSEE shall take good care of the Licensed Premises and shall, at the LICENSEE's sole cost and expense, make all repairs, replacements and perform all maintenance, at the end or other expiration, revocation and/or cancellation of the term, shall deliver the Licensed Premises in good order and condition, damages by the elements and normal wear and tear excepted.

9. EMPLOYEES

(a) The LICENSEE shall, at its sole cost and expense, provide a sufficient number of staff and employees to serve the general public promptly and efficiently. All such employees shall be clad in neat, sightly and clean uniforms.

(b) The LICENSEE, and its officers, staff and employees, shall not use the Licensed

Premises herein as a dwelling or residence in any manner whatsoever; and no animals shall be kept or harbored on the Licensed Premises.

10. NON-DISCRIMINATION PROVISION

The LICENSEE agrees to and accepts the provisions of §296 of the Executive Law of the State of New York.

11. QUALITY AND PRICE

The LICENSEE agrees and warrants that all merchandise, supplies, beverages and food purveyed, pursuant to this License Agreement, shall be of good and sound quality. The LICENSEE shall submit to the VILLAGE the LICENSEE's basic menu (exclusive of daily specials), and a list or schedule of merchandise, supplies, beverages and food to be offered for sale pursuant to this License Agreement, and the prices to be charged for such items. Any changes in this basic menu or in said prices shall be printed, framed and displayed, at the expense of LICENSEE, in a place and manner reasonably designated by the VILLAGE.

12. MANAGER, PERSONNEL

LICENSEE shall provide the VILLAGE OF NYACK CLERK with the names and addresses of the LICENSEE's owners, partners, Members, principals, or controlling stockholders. During the term of this License Agreement, at least one of the LICENSEE's current controlling principals, owners, partners, Members or stockholders shall maintain a controlling interest in LICENSEE, which _____ current _____ principals, _____ etc., _____ are: _____ . In addition, any change in the ownership, or any other corporate or LLC change, shall be reported to the VILLAGE in the same manner as is presently required by the New York State Liquor Authority, and any failure to do so on the part of the LICENSEE shall be grounds for immediate revocation, termination and/or cancelation of this License Agreement, after the expiration of the applicable cure period.

13. PERMITS

The LICENSEE, at its sole cost and expense, shall obtain and keep in effect all licenses and permits which shall be required by Federal, State, County and/or Local Law to operate the food and beverage service facilities and operations addressed in this License Agreement. Copies of all such licenses and permits shall be submitted to the VILLAGE's Superintendent of Parks and Recreation.

14. LICENSE AT WILL OR BY SUFFERANCE

(a) Regardless of the title of this Agreement as a "License Agreement," and the

copious references to the “LICENSEE,” “License,” “Licensed Premises,” etc., the parties acknowledge, understand and agree that this is a license **AT WILL OR BY SUFFERANCE**, and not a license nor a lease, and that **NO TENANCY OR LANDLORD-TENANT RELATIONSHIP EXISTS** between the VILLAGE and the LICENSEE; and this License Agreement is, therefore, revocable and/or terminable by the VILLAGE, at will, and the VILLAGE reserves the right to revoke, terminate and/or cancel this License Agreement whenever, in the discretion of the Village Board, the Village Board finds that the LICENSEE has failed to cure a breach, default or violation of the License Agreement. During the term of this License Agreement, LICENSEE shall have use of the Licensed Premises, except as herein provided; and LICENSEE has the privilege to occupy the Licensed Premises, and to operate the License hereby granted to it, and to continue in possession thereof, only so long as each and every provision, term and condition set forth in this License Agreement is strictly, fully and properly complied with. In the event the LICENSEE defaults in the strict, timely and prompt performance of, or breaches or violates, any provision, term or condition of the License Agreement, after expiration of the applicable notice and cure period, the VILLAGE may shut-down, close-up, take possession and/or remove LICENSEE from occupancy of, the Licensed Premises, and the VILLAGE may use “self-help” without the necessity or requirement of a Warrant of Eviction or court order or judgment, as if LICENSEE were a squatter; and the License to the LICENSEE shall thereby be forfeited and this License Agreement shall be automatically revoked, cancelled and terminated. [This paragraph may be amended for Marina operation, if applicable].

(b) LICENSEE shall have no right, authority or power to sell, mortgage, assign or parcel out this License Agreement, or the food and beverage service concession hereby granted, or any interest therein, nor any right, power or authority to allow or permit any other persons or parties to have any interest or use any part of the premises for any purpose whatsoever, without the express prior written consent of the VILLAGE, which shall not be unreasonably withheld, it being the purpose of this License Agreement to grant such concession and privilege solely to the LICENSEE and, neither directly or indirectly, to any other person or party.

15. ALTERATIONS

(a) If any alterations, renovations, decorations, additions or improvements of the Licensed Premises are desired by LICENSEE, LICENSEE shall first submit plans and specifications to the VILLAGE for the VILLAGE’s review and approval. No alterations, renovations decorations, additions and improvements shall be made, or any such work commenced, without the LICENSEE first obtaining the VILLAGE’s written approval and consent, which consent shall not be unreasonably withheld or delayed. Any such alterations, renovations decorations, additions or improvements shall be made at the sole cost and expense of LICENSEE and shall become the property of, and owned by, the VILLAGE immediately upon their installation or annexation to the Licensed Premises, unless the same are moveable trade fixtures, or leased equipment that were not installed or annexed in replacement of any Village-Owned Equipment.

(b) The LICENSEE shall not permit any liens to be filed or recorded against the Licensed Premises for any labor or materials furnished to the LICENSEE, or performed at the Licensed Premises, in connection with any work, construction, alterations, renovations or improvements performed by, or at the direction of, the LICENSEE. LICENSEE covenants and agrees that if, because of any act or omission (or alleged act or omission) of LICENSEE, any mechanic's or other lien, charge or order for the payment of money or other encumbrance, shall be filed or recorded against VILLAGE, LICENSEE shall, at its sole cost and expense, cause the same to be satisfied or discharged of record or bonded within thirty (30) days after notice to LICENSEE of the filing or recording thereof.

(c) The LICENSEE agrees that it will make no changes or additions to the utility service and systems, such as water, electricity, oil heat, natural gas and associated plumbing and wiring, nor changes in present fixtures or equipment, including kitchen fixtures and equipment, nor will LICENSEE install any type of electrical motor or electrical heating device in and upon the Licensed Premises, without prior written consent of the VILLAGE, which consent shall not be unreasonably withheld. LICENSEE shall not change the decorations of the premises, either as to color or type of materials, without prior written consent of the VILLAGE, which consent shall not be unreasonably withheld.

(d) LICENSEE shall, before making any alterations, renovations additions, installations or improvements, at LICENSEE's sole cost and expense, obtain all permits, approvals, licenses and certificates required by any governmental or administrative agency. LICENSEE shall carry, and shall cause LICENSEE's contractors and subcontractors to carry, such Workers' Compensation, general liability, personal and property damage insurance, as the VILLAGE, State, County and/or Local Law may require. LICENSEE shall obtain and deliver to the VILLAGE written and unconditional waivers of mechanic's liens regarding the real property at which the Licensed Premises are located for all work, labor and services to be performed, and materials to be furnished, in connection with any work, construction, renovations or alterations performed at the Licensed Premises, signed by all contractors, material men, suppliers and laborers who are involved in such work. Notwithstanding the foregoing, if any mechanic's lien is filed against any real property of which the Licensed Premises forms a part, for any such work claimed to have been done or materials furnished to LICENSEE, the same shall be discharged by LICENSEE within ten (10) days thereafter, by payment or by LICENSEE, at his expense, filing a bond as may be permitted by law.

16. FIXTURES

All fixtures and all paneling, partitions, railings and like installations, installed or affixed in the Licensed Premises at any time, either by LICENSEE or the VILLAGE, shall, upon installation, become the property of, and owned by, the VILLAGE, and shall remain installed or affixed and be surrendered by LICENSEE upon the expiration or other termination of this License Agreement. Nothing in this paragraph shall be construed to give the VILLAGE title to, or to

prevent LICENSEE'S removal of, moveable trade fixtures and leased equipment that are not Village-Owned Equipment (or VILLAGE-approved replacements thereof), but, upon removal of any such moveable items from the Licensed Premises, or, upon removal of other installations or fixtures as may be permitted or required by the VILLAGE, LICENSEE shall immediately, at LICENSEE's sole cost and expense, repair and restore the Licensed Premises to the condition existing prior to installation, and repair any damage to the Licensed Premises caused or created by such removal. All installations or fixtures or personalty permitted or required to be removed by LICENSEE, at the termination, revocation or expiration of the Term, remaining in the Licensed Premises, after LICENSEE's vacating of the Licensed Premises, shall be deemed abandoned and may, at the VILLAGE's election, either be retained and kept as VILLAGE owned property, or may be removed from the Licensed Premises and/or disposed of by the VILLAGE at LICENSEE's sole cost and expense.

The LICENSEE shall maintain the interior and exterior of the Licensed Premises and shall be responsible for all non-structural repairs. The LICENSEE shall be responsible for structural repairs to the extent of one thousand dollars (\$2,500.00). Structural repairs in excess of one thousand dollars (\$2,500.00) shall be the responsibility of the VILLAGE unless structural damage is caused by the act or neglect of the LICENSEE, in which case such repair shall be the responsibility of the LICENSEE.

17. DESTRUCTION OF PREMISES

LICENSEE agrees that should any building or structure upon the Licensed Premises be fifty percent (50%) or more, or totally, destroyed by fire, hazard or casualty, or any other cause whatsoever, so as to prevent the operation of this License Agreement to the satisfaction of the VILLAGE, the VILLAGE shall be under no obligation to repair or restore the building or structure. Should less than fifty percent (50%) of the building or structure be destroyed by fire, hazard or casualty, or any other cause whatsoever, except if any such fire, hazard or casualty is caused by or a consequence of LICENSEE's negligence, carelessness, recklessness or intentional act or omission, so as to prevent the operation of this License Agreement, the VILLAGE shall restore and shall repair, at its sole cost and expense, the building or structure so damaged, or terminate this License Agreement and reimburse LICENSEE for any actual capital expenditures made by LICENSEE (with the VILLAGE's prior written consent), such capital expenditures not to include the cost or expense of fixtures and interior improvements made by LICENSEE, as LICENSEE is required to insure itself for such loss. In the event the VILLAGE elects to repair or restore the damage, the repaired, rebuilt or newly constructed buildings or structures shall be a least equal in stability, permanency of construction, usefulness and value to the buildings or structures in existence immediately prior to the damage or destruction. Further, should the VILLAGE elect to make such repairs or rebuilding, LICENSEE shall be obligated to restore the interior and fixtures at least equal in stability, permanency of construction, usefulness and value to the buildings or structures in existence immediately prior to the damage or destruction. Upon the failure of LICENSEE to make any such restorations and repairs, the VILLAGE may, as agent of the LICENSEE, repair such damage or perform such restorations, at the sole cost and expense

of said LICENSEE, first utilizing the proceeds of LICENSEE's fire, casualty or hazard insurance policy.

18. INFLAMMABLES

LICENSEE shall not use, or permit the storage of, any illuminating oils, lubricating oils or other oils, oil lamps, turpentine, benzine, naphtha or other similar flammable substances or explosives of any kind, or any substance or materials prohibited in the standard policies of fire, casualty or hazard insurance companies in the State of New York. The LICENSEE shall not permit any persons to do anything in the Licensed Premises, or bring anything into the Licensed Premises, or permit anything to be brought into the Licensed Premises or to be kept therein, which will, in any way, increase the rate of fire, casualty or hazard insurance on the Licensed Premises, nor use the Licensed Premises or any part thereof, nor suffer or permit its use for any business activity or purpose which would cause or result in an increase in the rate of fire, casualty or hazard insurance on the Licensed Premises, and the LICENSEE agrees to pay, on demand by the VILLAGE, any such insurance premium increase.

19. SANITATION

LICENSEE shall keep the Licensed Premises clean, sanitary and neat at all times, including the fumigating, disinfecting and deodorizing of same, and all refuse and garbage shall be kept in closed containers. LICENSEE further covenants and agrees that all purveying of food and beverages shall be made within the Licensed Premises or upon the porches and patios appurtenant thereto, and it is understood and agreed that no purveying shall be made in other areas, unless agreed to by the parties in writing, upon application of the LICENSEE to the VILLAGE. LICENSEE further agrees to broom sweep all the steps, porches, entrance ways, sidewalks and walkways, appurtenant to the Licensed Premises, in a clean, neat, orderly, unobstructed and safe condition. All refuse, garbage, water and litter of all kinds shall be properly stored before disposal. The cost and expense of removal and disposal of garbage, waste and refuse shall be the sole responsibility of the LICENSEE, and provided by carters licensed in Orangetown, NY. The location of dumpster(s) shall be approved by the Village.

20. INSPECTION

LICENSEE agrees that, during normal business hours, unimpeded access will be given to representatives of the VILLAGE, the County and/or State Departments of Health, and any other VILLAGE, Federal, State or County officials having jurisdiction for inspection purposes. LICENSEE further agrees that, if notified by VILLAGE, or its representatives, in writing, that any part of the Licensed Premises, or the facilities thereof, is unsatisfactory pursuant to the terms of this License Agreement, LICENSEE will remedy the same within a reasonable length of time.

The LICENSEE agrees that the VILLAGE, and the VILLAGE's officers, officials or agents and other VILLAGE representatives, shall have the right to enter into and upon the Licensed

Premises, or any part thereof, at all reasonable hours for the purpose of inspecting or examining the same, or making such repairs, restorations, renovations or alterations therein, as may be necessary for the safety, conservation or preservation thereof.

21. WAIVER OF DAMAGE

LICENSEE hereby waives and relinquishes any and all claims, demands or entitlements for compensation or reimbursement for any and all expenses, costs, losses or damages sustained or incurred by reason of any defect, deficiency or impairment of the Village-Owned Equipment, or electrical, plumbing, heating, air-conditioning or HVAC apparatus, systems, equipment, fixtures, machinery, appliances or wiring furnished for, or existing at, the Licensed Premises, or by reason of any loss of any natural gas or heating oil supply, water supply, air-conditioning, heat or electric current, which may occur, from time to time, from any cause, or for any loss resulting from fire, water, hazard, tornado, explosion, civil commotion or riot, or any Act of God. The VILLAGE is exempt and excused from any and all liability, culpability or responsibility for any damage, loss or injury to person or property caused by, or resulting from, steam, electricity, natural gas, heating oil, water or any leak or flow from, or into, any part of the Licensed Premises or from any damage, loss or injury resulting or arising from any other cause or happening whatsoever, unless said damage, loss or injury is caused by or as a result of the negligence of the VILLAGE. LICENSEE hereby releases and discharges the VILLAGE, its agents, officers, officials and employees, from any and all demands, claims, suits, actions and causes of action arising from any of the causes aforesaid, and LICENSEE agrees to indemnify, defend and hold the VILLAGE harmless therefor, including attorney's fees, if any.

22. COMPLIANCE WITH LAW

LICENSEE agrees to comply with all Federal, State, County and Local Laws, rules and regulations, and orders of the VILLAGE, affecting the Licensed Premises in regard to all matters.

23. INSURANCE

The LICENSEE shall not enter into or upon, or take possession or occupancy of, the Licensed Premises, until it has obtained all insurance policies and endorsements required under this paragraph, and until such policies of insurance have been approved by the VILLAGE, which consent shall not be unreasonably withheld.

(a) Workers' Compensation Insurance - The LICENSEE shall procure and maintain, during the Term of this License Agreement, Workers' Compensation Insurance for its entire staff and employees, in coverage amounts and containing such endorsements in compliance with New York State laws, rules and regulations and naming the VILLAGE as an additional insured thereunder.

(b) General Liability and Property Damage Insurance - The LICENSEE shall procure

and maintain during the Term of this License Agreement such general liability and property damage insurance as shall protect LICENSEE and the Licensed Premises from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from activities, performance or operations, or lack or failure thereof under this License Agreement. The coverage amounts of such insurance shall be as follows: General Liability Insurance in a general aggregate amount of not less than two million dollars (\$2,000,000.00), and not less than two million dollars (\$2,000,000.00) on account of any one occurrence.

The LICENSEE shall furnish the above insurance to the VILLAGE and shall also name the VILLAGE as an additional insured in said policies.

(c) Insurance Covering Special Hazards: The following special hazards shall be covered by a rider and/or riders to the policy and/or policies herein elsewhere required to be furnished by the LICENSEE, or by separate policies of insurance, in amounts as follows: Automobiles and Automobile Trucks – limits shall be the same as required under General Liability Insurance as hereinbefore specified.

(d) Defense of Action or Suits: Neither the VILLAGE, nor any of its officers, officials, employees or agents, shall, in any manner, be answerable, liable or responsible for any loss or damages that may happen to the Licensed Premises, or to any part or parts thereof, or to any materials, equipment or other property that may be used therein, or placed upon the ground, during the performance or operation of the License Agreement, except as a result of the VILLAGE's negligence, or its acts or omissions. Neither the VILLAGE, nor any of its officers, officials, employees or agents, shall be in any manner answerable, liable or responsible for any injury or damages or compensation required to be paid under any present or future law, to any person or persons whatsoever, whether staff or employees of the LICENSEE or otherwise, or for damages to any property, whether belonging to the employees of the LICENSEE or otherwise, or for loss or damages to any property, whether belonging to the LICENSEE or others, occurring during, or resulting from, the performance or operation of the License Agreement. The LICENSEE shall properly guard against all injuries, loss and property damages. The LICENSEE shall indemnify, defend and save harmless the VILLAGE, its officers, officials, employees and agents against all such injuries, losses damages and compensation arising out of or resulting from LICENSEE's performance, operation, carrying out, execution or conducting any aspect of this License Agreement, or associated activities or business, whether by violation of statute, law, ordinance, regulation, order or decree or common law liability. The LICENSEE shall, from the commencement of the term of the License Agreement until completion, termination, revocation, cancellation or expiration thereof, maintain General Liability Insurance in the amounts hereinbefore stated for the protection of the LICENSEE and the VILLAGE, and shall furnish duplicates of the insurance policies to the VILLAGE, stamped by the insurer "Premium Paid." These policies shall be written by an insurance company or companies reasonably approved by the VILLAGE.

(e) The LICENSEE shall furnish the VILLAGE with satisfactory proof of coverage of the required insurance policies.

Each insurance policy and certificate shall have endorsed thereon:

“No cancellation of or change in the policy shall become effective until after ten (10) days’ written notice to the Village Attorney, Village of Nyack, 9 North Broadway, Nyack, NY 10960.”

(f) If, at any time, any of the said insurance policies shall, in the reasonable judgment of the VILLAGE, be or become unsatisfactory to the VILLAGE as to form or substance, or if a company issuing any such policies shall become unsatisfactory to the VILLAGE, and notification is given to LICENSEE in writing of same, LICENSEE shall promptly procure a new insurance policy, submit the same to the VILLAGE for approval, and submit a certificate thereof as hereinabove provided. Upon failure of LICENSEE to procure, furnish, deliver and maintain such insurance policies as above provided, this License Agreement may, if such policy or policies are not secured within ten (10) days after written notice to cure is given to LICENSEE, at the election of the VILLAGE, be forthwith declared cancelled, revoked or terminate, and the security deposit, letter of credit, bond or other monetary undertaking made by LICENSEE to the VILLAGE, securing the faithful performance of the LICENSEE under, and its compliance with, this License Agreement, shall thereupon be retained by the VILLAGE as liquidated damages. Failure of LICENSEE to procure and/or maintain any required insurance policies shall not relieve LICENSEE from any responsibility or liability under the License Agreement, nor shall the insurance requirements be construed to conflict with the obligations of LICENSEE concerning defense and indemnification. All required insurance policies must be in full force and effect and continued so during the Term of the License Agreement.

(g) The total amount of insurance coverage set forth in ¶23(b)(1) herein may be increased by the VILLAGE during the term of this License Agreement, or any renewal option Term hereof, if reasonably deemed in the best interest of the VILLAGE.

(h) The VILLAGE may replace, at the sole cost and expense of LICENSEE, any and all broken glass in and about the Licensed Premises. LICENSEE shall insure, and keep insured, all glass in the Licensed Premises for and in the name of the VILLAGE. Damage and injury to the Licensed Premises, caused by the carelessness, recklessness, negligence or improper conduct on the part of LICENSEE or the LICENSEE’s staff, agents and/or employees shall be repaired, restored or replaced as speedily as possible by the LICENSEE, at the LICENSEE’s sole cost and expense.

24. HOLD HARMLESS

The LICENSEE, in addition to any policies of insurance procured and maintained ~~under~~ pursuant to this License Agreement, agrees to defend, save, indemnify and hold harmless the VILLAGE,

and all of its agents, officials, officers, servants and employees, by reason of any claim, suit, action or causes of action, lawsuit or legal proceeding, regardless of origin or nature, arising out of the LICENSEE's performance, operation, carrying-out, execution or conducting of any aspect of this License Agreement, or associated activities or business, whether by violation of statute, law, ordinance, regulation, order or decree or common law liability, and whether or not a negligent act or omission is claimed, and the LICENSEE agrees to pay the VILLAGE for defending such suit, all costs, expenses and reasonable attorney's fees incurred therein, or, at the option of the VILLAGE, shall, at the LICENSEE's own expense, defend any and all such actions.

25. VIOLATIONS, BREACHES AND DEFAULTS

(a) Should LICENSEE or any of its owners, partners, Members, principals, or controlling stockholders, be convicted of a felony crime, the VILLAGE may terminate, revoke and/or cancel this License Agreement by notice, in writing, immediately effective on mailing, as though it were the time provided for the expiration of the Term hereof.

(b) Should the VILLAGE, in the discretion of the Village Board, determine that LICENSEE is not operating, carrying-out or performing the License Agreement in compliance with any the terms and provisions hereof, the Village Board shall give the LICENSEE ten (10) days' notice to cure, in writing, specifying in what manner the LICENSEE is not operating, carrying-out or performing, and/or the problems or conditions to be cured or corrected, which notice shall be delivered and/or sent to the LICENSEE, either via hand-delivery at (by any practical means) and/or U.S.P.S. First Class Mail to the LICENSEE's principal place of business (set forth in the first paragraph of this License Agreement) and the Licensed Premises. In the event the LICENSEE's deficiency, inadequacy, lack of and/or failure in operating, carrying-out or performing under the License Agreement, and/or the problems or conditions, are/is not corrected or cured within said ten (10) day cure period, the Village Board may adopt a Resolution to revoke, terminate and/or cancel the License Agreement. In the event said Resolution is adopted by the Board, a certified copy of the Resolution shall be delivered and/or sent to the LICENSEE, either via hand-delivery at (by any practical means) and/or U.S.P.S. First Class Mail to the LICENSEE's principal place of business (set forth in the first paragraph of this License Agreement) and the Licensed Premises and the License Agreement shall thereupon be revoked, cancelled and/or terminated, without further notice, as though it were the time provided for the expiration of the Term hereof. In the event this License Agreement is revoked, cancelled and/or terminated as aforesaid, all rights and privileges of the LICENSEE herein shall be forfeited without any claims for damages, compensation, refund of its investment, expenses or costs of improvements, if any, or any other claim whatsoever against the VILLAGE.

(c) In the event this License Agreement is revoked, cancelled and/or terminated as aforesaid, any property rightfully owned by LICENSEE within the Licensed Premises may be retained, held and used by the VILLAGE so as to operate the food and beverage services during the balance of the Term, and may be held, retained and used thereafter until all indebtedness of

LICENSEE hereunder, at the time of revocation, termination or cancellation of this License Agreement, is paid in full.

(d) Anything hereinabove to the contrary notwithstanding, in the event LICENSEE violates any Federal, County, State or Local law, statute, code, rule, regulation or ordinance affecting the License Agreement or the Licensed Premises, in regard to any and all matters, the VILLAGE may, in writing, notify (in the manner described in ¶25[b] herein) LICENSEE to remedy, cure, correct, clear-up or repair such violation, and, in the event the LICENSEE fails to cure, repair, correct, remedy, clear-up or comply, or has not diligently commenced compliance, with same, within ten (10) days after the VILLAGE's said delivery of said notice, the VILLAGE may enter the Licensed Premises and correct, repair, remedy, clear-up or cure the violative conditions, and the LICENSEE shall repay and reimburse the VILLAGE for all sums expended therefor. The VILLAGE shall have the absolute right to deduct said sums expended, including all labor costs, from the security deposit/bond provided for in ¶34(b) herein, and the LICENSEE shall have ten (10) days to replace said moneys deducted from the security deposit/bond. If said moneys for the security deposit/bond are not replaced within ten (10) days, same shall be a breach of, default under, or failure to comply with this License Agreement after the expiration of the ten (10) notice to cure period as per ¶25(b) herein.

(e) It is expressly understood and agreed that, in case the Licensed Premises shall be abandoned, deserted or vacated, or if default is made in the payment of the annual License Fee, or any part thereof as herein specified, or if, without the consent of the VILLAGE, the LICENSEE shall sell, assign, or mortgage this License Agreement, or if Licensee defaults, violates or breaches any of the covenants, provisions or terms of this License Agreement, on the part of the LICENSEE to be kept, complied with, followed, adhered to and/or performed, or if the LICENSEE shall violate any Federal, State, County or Local laws, statutes, ordinances, rules, orders, codes, regulations or requirements applicable to the Licensed Premises, or if the LICENSEE shall file, or there is filed against the LICENSEE, a petition in bankruptcy or receivership arrangement, or LICENSEE is adjudicated a bankrupt or makes an assignment for the benefit of creditors or takes advantage of any insolvency act, the VILLAGE may terminate, revoke and/or cancel this License Agreement and the Term hereof, on giving to the LICENSEE ten (10) days' notice to cure (as per ¶25[b] herein) of the VILLAGE's intention so to do, and setting forth in such notice the nature of the default, violation or breach and the opportunity for the LICENSEE to cure such default, violation or breach within such ten (10) day period. If the LICENSEE cures the default, violation or breach, as set forth in the notice within such ten (10) day period, then this License Agreement shall remain in full force and effect.

26. NOTICE

Where provision is made herein for notice to be given in writing, unless otherwise prescribed herein, the same shall be delivered and/or sent to the LICENSEE, either via hand-delivery at (by any practical means) and/or U.S.P.S. First Class Mail to the LICENSEE's principal place of business (set forth in the first paragraph of this License Agreement) and the Licensed Premises;

and delivered and/or sent to the VILLAGE via the same manner at or to VILLAGE Hall at the address set forth in the first paragraph of this License Agreement.

The failure of the VILLAGE to insist upon strict performance of any of the terms, provisions, agreements, conditions or covenants herein shall not be deemed a waiver of any rights, privileges or remedies that the VILLAGE may have, and shall not be deemed a waiver of any subsequent breach, violation or default in the terms, provisions, agreements, conditions and covenants herein contained. This Licensed Agreement may not be changed, modified, revised, cancelled or terminated orally.

The obligation and responsibility of LICENSEE to pay and remit the monthly installments of the annual License Fee hereunder, and to perform and comply with all of the other provisions, covenants, promises and agreements hereunder on part of LICENSEE to be performed or complied with, shall in no way be affected, impaired, waived, relieved or excused because the VILLAGE is unable to supply, or is delayed in supplying, any service expressly or impliedly to be supplied by the VILLAGE, or because the VILLAGE is unable to make, or is delayed in making, any repairs, restorations, additions, alterations or decorations, or because the VILLAGE is unable to supply, or is delayed in supplying, any machinery, appliances, equipment or fixtures, if the VILLAGE is prevented, hindered or delayed from so doing by reason of governmental preemption in connection with a national emergency or in connection with any rule, law, statute, code, order or regulation of any municipal department of any governmental or administrative agency, or by reason of the condition of supply and demand which have been, or are, affected by war or other emergency.

No diminution or abatement of the annual License Fee, or other compensation or reimbursement to LICENSEE, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs, restorations, alterations or improvements to the Licensed Premises, or to its appliances, machinery, appliances, equipment or fixtures, nor for any space taken to comply with any law, statute, rule, regulation, code, ordinance or order of a governmental or municipal agency, department or authority. In respect to the various "services," if any, herein expressly or impliedly agreed to be furnished or supplied by the VILLAGE to the LICENSEE, it is agreed that there shall be no diminution or abatement of the annual License Fee, or any other compensation or reimbursement to LICENSEE, for interruption or curtailment of such "service" when such interruption or curtailment shall be due to accident, alterations, restorations, construction or repairs desirable, or necessary, to be made, or to inability or difficulty in securing materials, supplies or labor for the maintenance of such "service," or to some other cause, not constituting gross negligence on the part of the VILLAGE. No such interruption or curtailment of any such "service" shall be deemed to be a breach, violation or default of this License Agreement by the VILLAGE. The VILLAGE shall not be required to furnish or supply, and the LICENSEE shall not be entitled to receive, any of such "services" during any period wherein the LICENSEE shall be in default, violation or breach in respect to the payment of any portion of the annual License Fee. Neither shall there be any abatement or diminution of the annual License Fee because of making of repairs, restorations, alterations, construction improvements or decorations to the

Licensed Premises after the date above fixed for the commencement of the Term, it being understood that the annual License Fee shall, in any event, commence to run at such date so above fixed.

27. SURRENDER

(a) LICENSEE, at the expiration, or sooner termination, revocation or cancellation, of this License Agreement, shall quit and surrender possession and occupancy of the Licensed Premises, and all property thereon belonging to or owned by the VILLAGE, in as good condition as when taking possession thereof, reasonable wear and tear excepted.

(b) The VILLAGE shall have the option to purchase, at fair market value, all of LICENSEE's personal property purchased by LICENSEE since the commencement date of this License Agreement including, but not limited to, LICENSEE's furniture, moveable trade fixtures, furnishings, equipment, machinery, appliances and apparatus situated on the Licensed Premises and but not affixed to the Licensed Premises, at a price to be mutually agreed upon at the time of LICENSEE's surrender of the Licensed Premises.

28. FIXTURES, FURNITURE AND EQUIPMENT

(a) The LICENSEE acknowledges and agrees that the VILLAGE is the owner of all furniture, furnishings, fixtures, equipment, machinery, appliances, apparatus and personal property (i.e., the Village-Owned Equipment) presently at the Licensed Premises, including, but not necessarily limited to, all those items shown on the inventory sheet annexed hereto as "Appendix 1", and LICENSEE shall repair and maintain in satisfactory working condition, and be responsible for, all items listed on the annexed Appendix 1 (i.e., the Village-Owned Equipment), and shall surrender same to the VILLAGE in the same condition as they were at the commencement date of this License Agreement, reasonable wear and tear excepted, at the termination, revocation and/or cancellation of this License Agreement.

(b) In the event LICENSEE defaults on any security agreement relating to any furniture, fixture, tool, furnishing, apparatus, utensil, machinery, appliance and/or equipment (hereinafter sometimes referred to as "personal property") on the Licensed Premises, the LICENSEE shall pay to the VILLAGE the difference between the amount of the security agreement remaining unpaid and the value of said personal property. The VILLAGE shall have the right to assume the balance of the term of any existing lease or financing agreement for any such personal property.

(c) In the event that the option to purchase any of LICENSEE's own personal property herein is exercised by the VILLAGE pursuant to ¶27(b) herein, the aggregate sum of the mutually agreed upon value of the personal property shall be paid by the VILLAGE to the LICENSEE within ninety (90) days from the date of the termination, revocation or cancellation of the License Agreement. Title to said personal property shall immediately vest in the

VILLAGE. In the event that there are taxes, liens, security agreements or other encumbrances attached to said personal property at the date of termination, revocation or cancellation of this License Agreement, at the election of the VILLAGE, either the total amount thereof shall be deducted from any payments due LICENSEE from the VILLAGE, or the LICENSEE shall pay all such claims, liens, encumbrances or judgments and furnish satisfactory evidence thereof to the VILLAGE Attorney.

29. SIGNS

(a) The LICENSEE, at all locations now existing or hereafter used for the purpose of providing the LICENSEE's services specified in this License Agreement, shall erect suitable signs, approved by the VILLAGE land use board(s), where necessary, informing the public of the nature of the services provided at each such location and the name of the LICENSEE furnishing the service. The VILLAGE shall not unreasonably withhold, condition or delay approval of such signs.

(b) The LICENSEE shall place no sign or advertisement upon any property of the VILLAGE, or upon any vehicle operated by the LICENSEE under the provisions hereof, except such as shall have first been approved, in writing, by the VILLAGE; and the VILLAGE shall have the right, after ten (10) days notice, in writing, to the LICENSEE, to remove, at the sole cost and expense of the LICENSEE, any sign or signs that may be erected without the VILLAGE's consent.

(c) The LICENSEE shall have the right to install or erect such off-premises signs as the LICENSEE deems necessary, subject to the approval of the VILLAGE, and provided same is in conformity with all applicable laws. The VILLAGE shall not unreasonably withhold, condition or delay approval of such signs.

30. ORDINANCES, LAWS & REGULATIONS

The LICENSEE shall not permit, allow or suffer any gambling, nor improper or immoral conduct on the part of its officers, owners, principals, Members, controlling stockholders, staff or employees, at any time, upon the Licensed Premises; and shall not permit or allow hawking, or any other noises or disturbances designed to attract attention or to solicit trade, and shall abide by the code of the VILLAGE, the Charter of the County of Rockland and the laws, statutes, rules and regulations of the State of New York and of the United States, and the rules and regulations promulgated by the VILLAGE.

31. PERFORMANCE

The LICENSEE agrees well and truly to perform and faithfully observe and comply with any and all covenants, conditions, agreements, terms, promises and provisions prescribed herein. The

LICENSEE further agrees to defend and indemnify, and save and keep harmless, the VILLAGE, and its officers, officials, agents and employees, from and against all liability, liens, judgments, costs, claims, damages, costs and expenses of whatsoever kind, which may in any way be suffered by the VILLAGE, or its officers, officials, agents or employees, or which may accrue against or be charged to, or recovered from, the VILLAGE or its officers, officials, agents or employees, by reason or in consequence of the performance, execution or operation of, or as a result or in consequence of the privileges granted under, the License Agreement, or for or on account of any act or thing done or suffered or omitted to be done under the authority, or supposed authority, of such grant. Notwithstanding any other provision to the contrary, LICENSEE shall not be responsible for the acts or omissions of the VILLAGE, its agents, officials, officers and/or employees.

32. NO LIABILITY TO THE VILLAGE

The VILLAGE shall not be liable or responsible for any damage or injury to persons or property in the Licensed Premises other than in connection with the acts or omissions of the VILLAGE, its agents, officials, officers and/or employees. The LICENSEE agrees that all personal property upon the Licensed Premises shall be kept, stored, used and utilized at the risk of the LICENSEE, and the VILLAGE shall not be liable or responsible for any damage or casualty thereto or loss or theft thereof. The VILLAGE shall not be liable or responsible for any damages or losses incurred by the LICENSEE in connection with the operation of the Licensed Premises from theft, vandalism or otherwise.

33. RELATIONSHIP TO THE VILLAGE

The LICENSEE shall be legally considered an independent contractor and neither it, nor its staff or employees, shall, under any circumstances, be considered employees, servants or agents of the VILLAGE, and the VILLAGE shall, at no time, be legally liable or responsible for any negligence, carelessness or recklessness on the part of said LICENSEE, or its servants, employees or agents, resulting in either personal injury or property damage to any individual, business entity or firm or corporation.

34. INVESTMENT

(a) It is agreed between the parties that, as a condition precedent to operating this License Agreement, the LICENSEE agrees to invest a sufficient amount in furnishings, equipment, fixtures and kitchen facilities, so as to properly operate and perform under the License Agreement.

(b) The LICENSEE shall procure and furnish to the VILLAGE a letter of credit or bond, with a surety company authorized to do business in the State of New York, in the amount of One Hundred Thousand Dollars (\$100,000.00), or cash or similar security acceptable to the Director of the VILLAGE Finance Department, to insure the faithful performance of all terms,

provisions, promises, covenants and conditions of this License Agreement (hereinafter sometimes referred to as “security deposit” or “bond”). Said bond shall be delivered to the VILLAGE with full premium paid before commencement of this License Agreement or any operations by the LICENSEE, and shall be maintained in full force and effect for a period of six (6) months after the date of termination, revocation or cancellation of this License Agreement, and shall provide for a thirty (30) day prior written notice to the VILLAGE in the event of cancellation.

Said security is to be retained by the VILLAGE to insure LICENSEE’s total compliance with, and full and complete adherence to, this License Agreement. Should the LICENSEE fail to comply with each and every term, covenant, provision, promise, agreement and condition herein contained, said LICENSEE agrees, and hereby authorizes the VILLAGE, to use such bond or security deposit, or any part thereof, and apply same toward the payment of any breach, violation or default, including but not limited to, the liquidated damages described in ¶35 herein, and utility bills.

35. LIQUIDATED DAMAGES

(a) In the event of a breach, violation or default of this License Agreement that remains uncured, after any notice to cure period required by the License Agreement, it is hereby stipulated and agreed, by and between the parties, that this License Agreement shall be deemed cancelled, revoked and terminated, and the VILLAGE shall be entitled to the sum of One Hundred Thousand Dollars (\$100,000.00), as and for liquidated damages. Said sum shall be funded by the bond referenced in ¶34 above. The VILLAGE and LICENSEE agree, consent and acknowledge that the liquidated damages sum **IS NOT A PENALTY**, but, rather, intended to compensate the VILLAGE for the lost License Fee payments, and other golf course revenue, the VILLAGE may lose and be deprived of if LICENSEE breaches, violates or defaults, and this License Agreement is terminated, revoked or cancelled, which precise monetary losses or deprivation to the VILLAGE cannot be ascertained with certainty.

36. MISCELLANEOUS PROVISIONS

(a) LICENSEE agrees to abide by and comply with all reasonable rules and regulations that the VILLAGE may, from time to time, issue or adopt for the care, protection, general welfare, health safety and comfort of the occupants and visitors of VILLAGE’s golf courses.

(b) The failure of the VILLAGE to insist upon the strict performance of any of the provisions, terms, promises, conditions and covenants herein shall not be deemed a waiver of any rights, privileges or remedies that the VILLAGE may have, and shall not be deemed a waiver of any subsequent breach, violation or default of any such provisions, terms, promises, conditions or covenants herein contained.

(c) If any term, provision, covenant, promise or condition of this License Agreement, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this License Agreement shall not be affected thereby, and each remaining term, provision, covenant, promise and condition of this License Agreement shall be valid and remain in full force and effect.

(d) Six months prior to the expiration of the term of this License Agreement, LICENSEE shall provide a list of supplies and inventory, and all LICENSEE procured personal property, to the Superintendent of Parks and Recreation. The VILLAGE reserves the right to purchase said items at fair market value by notifying LICENSEE in writing no later than sixty (60) days after receipt of said list. All equipment, machinery, appliances, accoutrements, appurtenances and/or fixtures, attached or affixed to the Licensed Premises, shall become the property of the VILLAGE automatically upon such attachment or affixation of such items.

(e) Nothing herein contained shall be deemed or construed so as to create an automatic renewal of the Term of this License Agreement.

(f) The VILLAGE agrees that it will not operate, or permit the operation of, another food and/or beverage service or restaurant at the NYACK VILLAGE MARINA during the Term of this License Agreement.

(g) Subject to rules and regulations of the VILLAGE, the VILLAGE grants to the LICENSEE the privilege of using the existing parking areas located to the south and west of the main restaurant at NYACK VILLAGE MARINA as designated and posted by the VILLAGE, for customers of the LICENSEE, in conjunction with the use of said parking facilities by persons using the NYACK VILLAGE MARINA.

(i). If the VILLAGE, in the discretion of the Village Board, determines that the LICENSEE is not operating, carrying-out or performing the License Agreement in compliance with any the terms and provisions hereof, then the VILLAGE may issue Requests for Proposals (“RFPs”) to the general public, for the purpose of inviting proposals, bids or offers to operate the restaurant, bar, and food and beverage services at the Licensed Premises.

(j). This License Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

37. MODIFICATION

This License Agreement contains the complete and entire agreement made between the VILLAGE and LICENSEE, and may not be modified, changed or revised orally or in any other manner other than by an agreement, in writing, signed by all of the parties or their respective successors in interest.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed by their authorized officers and have caused their corporate or business entity seals to be affixed hereto.

Dated: Nyack, New York
_____, 2016

_____, LICENSEE

Sworn to before me this ____
day of _____, 2016

By: _____
[PRINT NAME OF SIGNATORY
BENEATH SIGNATURE]

Notary Public

VILLAGE OF NYACK

Sworn to before me this ____
day of _____, 2016

By: _____
Jennifer Laird-White, Mayor

Notary Public

GOOD GUY GUARANTY

Whereas, Guarantor is the _____ of LICENSEE; and

Whereas, the VILLAGE is unwilling to enter into this License Agreement unless it receives a guaranty by the Guarantor of the obligations of LICENSEE under the License Agreement, as provided in this Guaranty;

Now, therefore, for One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Guarantor, and to induce the VILLAGE to enter into the License Agreement, Guarantor hereby covenants, promises and

agrees as follows:

(A). As limited by the provisions of §“b” of this Guaranty, Guarantor hereby unconditionally, absolutely and irrevocably guarantees to the VILLAGE (i) the prompt payment when due of the License Fee (as defined in the License Agreement) and all other sums due in connection with or under the License Agreement, and (ii) to pay, on demand, any and all costs and expenses (including, without limitation, attorney’s fees and disbursements) incurred by the VILLAGE in enforcing any rights under this Guaranty (collectively, the “Obligations”). This Guaranty is an absolute and unconditional guaranty of payment (and not of collection). Without limiting the generality of the foregoing, the VILLAGE shall not be required to resort to any security deposit or bond it may be holding under the License Agreement, or make any demand on the LICENSEE under the License Agreement and/or any other party, or otherwise pursue or exhaust its remedies against LICENSEE, or any other party, before, simultaneously with, or after, enforcing its rights and remedies hereunder against Guarantor.

(B). Provided that the VILLAGE has received no less than sixty (60) days prior written notice specifying the Surrender Date (as hereinafter defined), and upon receipt by the VILLAGE of a duly executed and acknowledged Surrender Declaration (the “Surrender Declaration”), in the form set forth below, together with all License Fees and any other monies due from the LICENSEE through the Surrender Date, all keys to the Licensed Premises, and the LICENSEE having left the Licensed Premises in broom-clean, vacant condition (except for all Village-Owned Equipment, and fixtures attached or annexed to the Licensed Premises), free of sub-LICENSEEs, occupants or any claims to possession or occupancy by third parties, and otherwise in the condition required by the License Agreement (the date all of the foregoing are fully satisfied and complied with being the “Surrender Date”), then Guarantor shall be released from all individual liability with respect to any Obligations arising or accruing after the Surrender Date, but Guarantor shall continue to remain liable for (i) all Obligations which arose or accrued on or prior to the Surrender Date, (ii) all reasonable expenses (including, without limitation, attorney’s fees and disbursements) incurred by the VILLAGE in enforcing any rights under this Guaranty or the Obligations, and (iii) all breaches of warranties and representations in the Surrender Declaration. LICENSEE’s obligations under the License Agreement shall not be affected by the Surrender Declaration.

(C). Guarantor hereby waives to the full extent permitted by law (i) notice of acceptance of this Guaranty and of any change in the financial condition of LICENSEE, (ii) promptness, diligence, and presentment and demand for payment, performance or observance of any of the Obligations, and (iii) protest, notice of dishonor, notice of default and any other notice with respect to any of the Obligations and/or this Guaranty.

(D). In order to charge Guarantor under this Guaranty, no demand on Guarantor shall be required, nor shall there be required any notice to the Guarantor of default under any of the terms of the License Agreement on the part of LICENSEE to be paid, performed or observed or of the same as affected by any agreement or stipulation extending the time of payment,

performance or observance of or modifying the terms of the License Agreement, Guarantor hereby expressly waiving any such demand or notice.

(E). Any and all amounts required to be paid by Guarantor hereunder shall be paid in lawful money of the United States of America and in immediately available funds to the VILLAGE. All payments by Guarantor shall be made for the benefit of the VILLAGE in accordance with the terms herein set forth without setoff or counterclaim.

(F). No amendment or waiver of any provision of this Guaranty, nor consent to any departure by Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the VILLAGE, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No delay on the part of the VILLAGE in exercising any rights hereunder, or failure to exercise the same, shall operate as a waiver of such rights, and no notice to or demand on Guarantor shall be deemed to be a waiver of the obligations of Guarantor, or of the right of the VILLAGE to take further action without notice or demand. Guarantor shall not assign any rights under this Guaranty, or delegate any duties under this Guaranty, without, in each instance, the VILLAGE's prior written consent.

(G). All rights and remedies of the VILLAGE under this Guaranty shall be cumulative and may be exercised singly or concurrently.

(H). All notices and other communications which may be, or are desired to be, given hereunder shall be in writing, and shall be delivered and/or sent to the LICENSEE, either via hand-delivery at (by any practical means) and/or U.S.P.S. First Class Mail to the LICENSEE's principal place of business (set forth in the first paragraph of this License Agreement) and the Licensed Premises; and delivered and/or sent to the VILLAGE via the same manner at or to VILLAGE Hall at the address set forth in the first paragraph of this License Agreement.

(I). This Guaranty is a continuing guaranty and shall (i) remain in full force and effect until the payment, performance and/or observance in full of the Obligations and all other amounts payable under this Guaranty, as limited by §“b” of this Guaranty (ii) be binding upon the Guarantor, his heirs, legal representatives, successors and assigns (however, this provision shall not be deemed to permit Guarantor to assign his rights or delegate his duties hereunder), and (iii) inure to the benefit of and be enforceable by the VILLAGE and its successors and assigns or by any person to whom the VILLAGE's interest in the License Agreement, or any part thereof, including the License Fee, may be assigned, whether by way of mortgage or otherwise. Wherever in this Guaranty reference is made to VILLAGE or LICENSEE, the same shall be deemed to refer also to the then heir, legal representative, successor or assign of the VILLAGE or LICENSEE, respectively.

SURRENDER DECLARATION

State of New York)

) ss:
County of Rockland)

The undersigned, being duly sworn, hereby deposes and says:

I am the _____ of _____ [LICENSEE'S NAME] ("LICENSEE"), the LICENSEE under a certain License Agreement, dated _____ [date of License Agreement], entered into by and between the VILLAGE and the LICENSEE.

(i). I make this declaration to induce the VILLAGE to release me from continuing obligations under that certain Good Guy Guaranty of License Agreement dated _____ (the "Guaranty"), executed by me, a true copy of which is annexed hereto and incorporated herein by reference, to the extent, and under the terms and conditions, contained therein.

(ii). I hereby represent and warrant to the VILLAGE that: as of the date of the VILLAGE's receipt of this Surrender Declaration (the "Surrender Date"), all License Fees and any other monies due from LICENSEE through the Surrender Date have been paid in full, and LICENSEE has tendered exclusive possession and occupancy of the Licensed Premises to the VILLAGE; and the Licensed Premises are in broom-clean, vacant condition (except for all Village-Owned Equipment, and fixtures attached or annexed to the Licensed Premises), free of sub-LICENSEEs, occupants or any claims to possession or occupancy by third parties, and otherwise in the condition required by the License Agreement.

(iii). I further acknowledge that the VILLAGE is relying on the representations set forth hereinabove in releasing me from continuing obligations under the Guaranty, and I hereby agree to be responsible for all losses, claims, damages, costs and expenses arising out of, or in connection with, any inaccuracies in the representations set forth above.

(iv). Enclosed herewith are all keys to the Licensed Premises.

[PRINT NAME OF SIGNATORY
BENEATH SIGNATURE]

Sworn to before me this
____ day of _____, 20__

Notary Public

APPENDIX 1

**VILLAGE-OWNED EQUIPMENT, MACHINERY, FIXTURES,
APPLIANCES AND UTENSILS**

Premises will be delivered vacant unless otherwise agreed to between the parties..

*[Illustrative purposes only – inventory must be taken and itemized at time
License executed]:*

<u>QUANTITY</u>	<u>ITEM CODE¹</u>	<u>DESCRIPTION</u>
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