

## LICENSE AGREEMENT

This LICENSE AGREEMENT (this "License") is made this \_\_\_ day of \_\_\_\_\_, 2017, between the TOWN OF RUSH, a municipal corporation of the State of New York having its principal office and place of business at 5977 East Henrietta Road, Rush, New York 14543 ("Licensor"), and MONROE COUNTY FAIR AND RECREATION ASSOCIATION, INC., a New York not-for-profit corporation, with an address of 20 Office Park Way, Suite 131, Pittsford, New York 14534 ("Licensee").

### WITNESSETH:

WHEREAS, Licensor is the owner of certain premises and improvements located at 6565 East River Road, Rush, New York 14543, together with buildings 5, 6, 7, and 8 on the Town of Rush Map (collectively, the "Buildings"), all as more fully depicted and set forth on Exhibit A attached hereto and made a part hereof (hereinafter the "Licenses Premises").

WHEREAS, Licensee desires to obtain a license to use the Licensed Premises solely for purposes of operating the 2017 Monroe County Agricultural Fair from August 4 through August 6, 2017.

NOW, THEREFORE, in consideration of the foregoing, Ten and 00/100 Dollars (\$10.00), and for other good and valuable consideration, the payment, receipt and sufficiency of which are hereby acknowledged, Licensor and Licensee hereby agree as follows:

1. License. Subject to the terms of this License, Licensor does hereby grant unto said Licensee, a nonexclusive license to be used by Licensee for the sole purpose of using the Licensed Premises for operating the 2017 Monroe County Agricultural Fair (the "Fair") as more fully described on Exhibit A attached hereto and made a part hereof and for no other purpose whatsoever; provided, however, that Licensee shall not be permitted to utilize the Buildings for the Fair or any other public purpose until such time as the Buildings are suitable for use by Licensee and the public as determined by Licensor in its sole and absolute discretion. Licensee shall not be permitted to use the Licensed Premises for the storage of chemicals or pesticides of any kind. Licensee shall not be permitted to serve or sell any alcoholic beverages on the Licensed Premises, except that Fair vendors or exhibits may offer local craft beer, wine and cider tastings. Notwithstanding the foregoing, Licensee shall not permit any excessive amount of alcoholic beverage of any kind to be served at the Fair, and Licensee shall take any and all necessary precautions reasonable to prevent someone from becoming intoxicated on the Licensed Premises. Licensee agrees to indemnify and hold Licensor harmless for any losses, damages, or expenses of whatever kind in nature, including but not limited to, any and all attorneys' fees, arising out of the breach of this provision.
2. License Term. The term of this License Agreement (the "Term") shall commence on July 12, 2017 and end on August 15, 2017, unless otherwise terminated pursuant to terms of this License. Notwithstanding anything to the contrary stated herein, it is

expressly agreed and acknowledged that Licensee shall have exclusive use and occupancy of the Licensed Premises from August 4 through August 6, 2017 for operation of the Fair. At all other times during the Term of this License, Licensee shall have non-exclusive use of the Licensed Premises as provided under paragraph 1 of this License, including for purposes of set up, maintenance and cleanup of the Fair.

3. License Fee. For the right to occupy the Licensed Premises, Licensee shall pay to Licensor upon the execution of this License the amount of \$1.00 (the “License Fee”). As and for additional consideration, the substantial value of which is acknowledged by Landlord, Tenant agrees to provide, at its cost, certain improvements to the Premises as more fully set forth herein, as well as the operation of the Fair for the benefit of the Town of Rush and its residents.
  
4. Condition and Use of Licensed Premises. The Licensed Premises is hereby accepted by Licensee in “as is” condition and Licensee acknowledges that Licensor makes no representation with respect to the condition of same. Except with respect to improvements to construct Parking Lot #1, Lot #2 and Lot #3 as depicted on Exhibit A attached hereto, installation of the sign for the Fair, as well as undertaking temporary roof patching and cleanup of the interior of the Buildings, Licensee further agrees not to construct or install any improvements or make any capital expenditures and repairs on the Licensed Premises without the Licensor’s prior written consent, which may be granted or withheld at Licensor’s sole and absolute discretion. Licensee shall use the Licensed Premises in compliance with any and all applicable statutes, regulations and other regulatory requirements that may be in effect at any given time. Licensee shall not maintain any nuisance on the Licensed Premises, shall not use the Licensed Premises for any unlawful purposes, and shall not commit or suffer to be committed any waste on the Licensed Premises. Licensee, including all agents, employees, contractors and Fair vendors, shall comply with all local, state, and federal laws, regulations, ordinances and orders governing the Premises, and shall obtain all necessary permits prior to commencement of any operations at the Premises.
  
5. Hours of Operation of the Fair; Music. Licensee may operate the Fair from 11 a.m. to 11 p.m. on Thursday/Friday and Saturday, and 11 a.m. to 5 p.m. on Sunday, except that any music of any kind shall be prohibited after 9:00 p.m. Music shall be permitted on the Licensed Premises within the area depicted on Exhibit A attached hereto, provided that Licensee covenants and agrees that such music shall not create a nuisance for the surrounding residential rea. Licensor shall have the right to monitor the volume during the Fair and lower the volume or shut it off if it is considered too loud. All music arrangements and set-up locations must be approved by Licensor in its sole and absolute discretion.
  
6. Maintenance. Licensee, at its sole cost and expense, shall take good care of the Licensed Premises, and keep the Licensed Premises in good and safe operating condition during its use of the Licensed Premises as provided under this License. All damage or injury to the Licensed Premises that is caused by Licensee, its agents,

employees, or invitees, will be repaired, restored, or replaced promptly by Licensee at its sole cost and expense. Licensee shall not permit or allow the accumulation of any waste material, debris, refuse or garbage of any kind on the Licensed Premises. Licensee may not burn any product on or off the Licensed Premises without the prior written consent of Licensor, which shall be in Licensor's sole and absolute discretion. Immediately after the conclusion of the Fair, Licensee shall clear all excess trash and placing trash bags in cans or dumpsters provided by Licensee, at Licensee's sole cost and expense, and disposed of off-site. After operation of the Fair, Licensee shall return the Licensed Premises to its pre-licensed condition, reasonable wear and tear excepted.

7. Waste and sewage disposal. At Licensee's sole cost and expense, Licensee shall: (a) provide at least three (3) portable toilets and one (1) bathroom shower with gray water tank on the Licensed Premises during the operation of the Fair; (b) keep any rubbish, garbage and waste generated by the Fair, including any animal waste, from the Licensed Premises in proper trash cans or dumpsters provided by Licensee; and (c) promptly dispose of any such rubbish, garbage and waste within three (3) days after conclusion of the Fair for the year. To the extent Licensor determines, in its sole and absolute discretion, that additional temporary waste and sewage facilities are necessary for operation of the Fair, Licensee will provide such facilities at Licensee's sole cost and expense.
8. Security. Licensee shall enclose the Licensed Premises with temporary snow fencing to control foot traffic during the operation of the Fair. Licensee shall employ a commercial security provider approved by Licensor to provide at least two (2) security officers and an emergency medical technician during operation of the Fair. The security officers shall be present on the Licensed Premises at all times, 24 hours per day, during the days of operation of the Fair. Licensee shall also provide a first aid station located prominently next to the fair office on the Licensed Premises.
9. Parking. All guests, employees, vendors, and agents of Licensee are required to park in Parking Lot #1, Lot #2 or Lot #3 as depicted on Exhibit A attached hereto. If overflow parking is necessary, Licensee shall coordinate with Licensor for appropriate grass parking areas within the Licensed Premises. Vehicles may not be parked along the paved roadways within the Licensed Premises, including the entryway off of East River Road and Forest Lane.
10. Utilities. During Licensee's use of the Licensed Premises, Licensee, at its sole cost and expense, shall be responsible for paying for all electricity, gas, water and sewer services used in or to be supplied for the Licensed Premises. Licensor shall not be liable for any failure of a utility company or governmental authority to supply such service or for any loss, damage or injury caused by or related to such service. Licensor shall be responsible for providing at its sole cost and expense water to be supplied for the Licensed Premises.

11. Insurance. Licensee shall at all times during the term of this License carry and maintain full replacement value “all risk” casualty insurance covering the entire Licensed Premises with a company of recognized financial standing. Such policy shall name Licensor as an additional insured. Licensee shall at all times during the term of this License carry and maintain comprehensive public liability insurance, including property damage, insuring Licensor and Licensee against liability for injury to persons or property occurring in or about the Licensed Premises or arising out of ownership, maintenance, use, or occupancy of Licensed Premises with comprehensive limits of not less than \$5,000,000. Such policy shall name Licensor as an additional insured on a primary and non-contributory basis. Licensee further agrees to maintain at its sole expense fire and casualty insurance covering its contents placed in and upon the Licensed Premises by Licensee. Certificates evidencing the insurance policies provided for in this paragraph shall be furnished to Licensor on or before the commencement of the term of this License, and renewal certificates shall be provided on or prior to the expiry dates of all policies. Licensor and Licensee and all parties claiming under them hereby mutually release and discharge each other from all claims and liabilities arising from or covered by insurance on the Licensed Premises or covered by insurance in connection with property on or activities conducted on the Licensed Premises regardless of the cause of the damage or loss.

12. Indemnity and Hold Harmless.

a. Indemnification. Licensee shall neither hold, nor attempt to hold, Licensor or its employees or Licensor’s agents or their employees liable for, and Licensee shall indemnify and hold harmless Licensor, its employees and Licensor’s agents and their employees from and against, any and all demands, claims, causes of action, fines, penalties, damage, liabilities, judgments and expenses (including, without limitation, attorneys’ fees) incurred in connection with or arising from: (a) the use or occupancy or manner of use or occupancy of the Licensed Premises by Licensee or any person claiming under Licensee; (b) any matter occurring on the Licensed Premises during the Term; (c) any acts, omissions or negligence of Licensee or any person claiming under Licensee, or the contractors, agents, employees, invitees or visitors of Licensee or any such person; (d) any breach, violation or nonperformance by Licensee or any person claiming under Licensee or the employees, agents, contractors, invitees or visitors of Licensee or any such person of any term, covenant or provision of this License Agreement or any law, ordinance or governmental requirement of any kind; and (e) any injury or damage to the person, property or business of Licensee, its employees, agents, contractors, invitees, visitors or any other person entering upon the Licensed Premises under the express or implied invitation of Licensee. If any action or proceeding is brought against Licensor or its employees or Licensor’s agents or their employees by reason of any such claim, Licensee, upon notice from Licensor, shall defend the same, at Licensee’s expense, with counsel reasonably satisfactory to Licensor. Notwithstanding the foregoing in no event shall this Section 6(a) require Licensee to indemnify or defend Licensor or its employees or Licensor’s agents or their employees against any loss, cost, damage,

liability, claim, or expense to the extent arising out of the gross negligence or willful misconduct of Licensor or its employees or Licensor's agents or their employee.

b. Environmental Indemnity and Hold Harmless. Licensee hereby covenants and agrees, at its sole cost and expense, to indemnify, protect, defend, and save harmless Licensor from and against any and all Claims, damages, losses, liabilities, obligations, penalties, litigations, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, attorneys' and experts' fees, legal expenses and associated disbursements) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against Licensor relating to, resulting from or arising out of: (a) Licensee's use of the Licensed Premises for the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substances; (b) Licensee's failure to promptly undertake and diligently pursue to completion all necessary, appropriate and legally authorized investigative, containment, removal, clean-up and other remedial actions with respect to a Release or the threat of a Release of any Hazardous Substance on, at or from the Licensed Premises that was caused by Licensee; (c) human exposure to any Hazardous Substance, noises, vibrations or nuisances of whatever kind to the extent the same arise from Licensee's use of the Licensed Premises; (d) a violation of any Environmental Law by Licensee; (e) non-compliance by Licensee with any necessary Environmental Permit; and/or (e) the failure of Licensee to obtain any necessary Environmental Permit for Licensee's use of the Licensed Premises.

c. Definitions. All capitalized terms used in this paragraph 11 shall have the following meanings: (i) Claims means any and all claims, demands, actions, causes of action, judgments, suits, proceedings, or obligations of any kind or nature, whether administrative, civil or criminal, threatened, asserted, instituted, commenced, brought, prosecuted or otherwise made by any governmental agency or authority and/or third party owners of off-site properties arising out of Licensee's use of the Licensed Premises; (ii) Environmental Laws mean all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of hazardous substances (as hereinafter defined) and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto including but not limited to as referenced previously, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.) ("CERCLA"), the Solid Waste Disposal Act also known as the Resource Conservation and Recovery Act, as amended (42 U.S.C. §6901 et seq.) ("RCRA"), the New York Navigation Law (the "Navigation Law"), the New York Environmental Conservation Law (the "ECL"), the Clean Water Act (the "Federal Water Pollution Act") 33 U.S.C. §1251 et seq. ("CWA"), the Clean Air Act, 42 U.S.C. §7401 et seq. (the "Clean Air Act"), the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §1101-§1150) ("EPCRA"), the Oil Pollution Act of 1990, 33

U.S.C. §2701-§2672 (the “Oil Pollution Act”), the Toxic Substances Control Act (15 U.S.C. §2601-§2692 (“TSCA”), rules and regulations under the Occupational Safety and Health Act (“OSHA”), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §1801 et seq.) (“HMTA”), and each other local, state, or federal law or regulation or guideline or guidance concerning or relating thereto; (iii) Environmental Permits mean all permits, licenses, approvals, authorizations, consents or registrations required by any applicable Environmental Law in connection with the use of the Licensed Premises by Licensee; (iv) Hazardous Substance means without limitation, any flammable explosives, radon, radioactive materials, urea-formaldehyde, foam insulation, asbestos (as defined in Section 901(2) of the New York Labor Law), asbestos material (as defined in Section 901(6) of the New York Labor Law), suspect asbestos containing materials, polychlorinated biphenyls, petroleum, petroleum products, petroleum byproducts, methane, hazardous materials, hazardous wastes, hazardous substances, extremely hazardous substances, hazardous chemicals, toxic chemicals, hazardous air pollutants, oil and hazardous substances, toxic pollutant or combination of pollutants, hazardous chemical substances and mixtures, toxic substances, as defined in CERCLA, TSCA, HMTA, RCRA, the ECL, the Navigation Law and each other applicable Environmental Law, and any and all regulations promulgated thereunder; (v) Release or Releases means any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, vaporizing, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance).

d. Liability of Licensor. Licensor or its agents shall not be liable for any damage to either the person or property of Licensee nor for the loss of or damage to any property of Licensee by theft or from any other cause whatsoever, nor for any injury or damage to persons or property or loss of or interruption to business of any nature unless caused by or due to the negligence of Licensor, its agents, servants and employees.

e. The indemnification and covenants provided by Licensee under this paragraph 12 shall survive the expiration or early termination of this License Agreement.

13. Revocation and Termination. This License Agreement shall be considered a nonexclusive license to use the Licensed Premises for the Term and shall not create a tenancy relationship between the parties. This License Agreement is not an interest in real estate and is at the pleasure and discretion of Licensor and Licensee. Notwithstanding anything to the contrary contained herein, this License Agreement may be terminated by either Licensor or Licensee at any time on fifteen (15) days written notice to the other party.

14. Inspections and Entry by Licensor. Licensor reserves the right to itself, its agents, and/or assigns to access the Licensed Premises at any reasonable time for purposes of consultation with Licensee, making repairs, improvements, inspections and/or to

utilize portions of the Licensed Premises, and to do any other act or thing with Licensor deems necessary to preserve the Licensed Premises, none of which is to reasonably interfere with Licensee in carrying out its business.

15. Successor and Assign. Licensee's rights under this License Agreement are for the benefit of Licensee named herein. Licensee shall not assign, sublicense, or transfer any of its rights under this License without the prior written consent of Licensor (and any purported assignment, sublicense or transfer by Licensee of its rights under this License without such consent shall be null and void), and shall not permit any other party to use or occupy the Licensed Premises except in the ordinary course of Licensee's business.
  
16. Miscellaneous. Any notice or other communication required to be given by or on behalf of either party upon the other shall be in writing and shall be given by mailing such notice by certified mail, return receipt requested, at the address of that party as stated in this License Agreement. This License Agreement shall be construed and enforced in accordance with the laws of the State of New York. Any suit which may be brought to interpret or enforce any of the terms or obligations of a party to this License Agreement shall be brought in New York State Supreme Court, County of Monroe. This License contains all of the agreements between the parties with respect to the Licensed Premises, and may be amended only in writing by an instrument signed by all parties hereto. No provision of this License shall be deemed to have been waived by either party unless such waiver is in writing and signed by the party to be charged.

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

TOWN OF RUSH

By: \_\_\_\_\_  
Cathleen Frank, Supervisor

MONROE COUNTY FAIR AND RECREATION  
ASSOCIATION, INC.

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

## EXHIBIT A

### Use of Premises

The agricultural festival proposed by Tenant would take the form of the annual Monroe County Agricultural Fair as provided on the site plan annexed hereto. The first area will feature the current horse show arena (Building 6) and the current livestock area (Building 7) in the southeast corner of the site. This area will have entertainment and education events about animals and their important roles in agriculture and the community. The main events will be the 4-H and open-to-all competitions exhibiting horses, beef and dairy cattle, sheep, meat and dairy goats, poultry, and rabbits and cavies that will be set up to encourage the public to watch. These exhibits teach the public why these animals are important both through criteria used to judge the entries and also through the informational displays from the exhibitors about their animals. Other events in the animal area will include a petting zoo for children and visits from the Monroe County Dairy Princess and her court to give presentations about dairy farming and the benefits of dairy nutrition. Other events include a display of modern agricultural equipment that the public can view. In addition to the animals and technology of agriculture, the public can see and learn about crops and horticulture in the area immediately northwest of the main entrance. The fair will have a farmer's market along the path by the entrance where the public can meet Monroe County farmers and purchase their local produce. The main food vendors will set up around a fair food court located between the existing four buildings. The fair will have a large central eating tent with picnic tables underneath it, surrounded by the different vendors so families can easily eat together even if individuals want different options for their meals. Near the food court will lie the fair's temporary, portable performance stage, to make it easy for the public to enjoy their meals with some local music acts. The fair will rent and set up the stage part from the food court to create natural seating on part of the grassy lawn area. All of these areas will connect without any artificial barriers to encourage the public to take in all the fair has to offer at their own pace and accommodating the varying interests of different members of families and groups. Other events include three to five kiddie rides or other small rides, carnival games, and similar entertainment.

EXHIBIT A (cont'd)

Site Plan