

EXHIBIT 2 – SAMPLE AGREEMENT

<p>New York State Fair, a Division of the Department of Agriculture and Markets 581 State Fair Blvd Syracuse, NY 13209 Agency Code 06110</p> <p>Contract Authority: AML§ 31-b</p>	<p>Contract Number: XXXXXXX</p> <p>Amount of Agreement: \$ X,XXX</p> <p>Contract Period: to</p> <p>NYS Vendor ID: XXXXXXXXXX</p>
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Legal Business Name: (SAMPLE)

Street: _____ City: _____ State: _____ Zip: _____

Billing Address (if different from above):
Street: _____ City: _____ State: _____ Zip: _____

REVENUE AGREEMENT TYPE	FOR AMENDMENTS CHECK THOSE THAT APPLY:	
<input checked="" type="checkbox"/> Concession - Fair <input type="checkbox"/> Sponsorship <input type="checkbox"/> Non Fair Space Rental <input type="checkbox"/> Other <p style="text-align: center;">THIS AGREEMENT INCLUDES THE FOLLOWING:</p> <input checked="" type="checkbox"/> This Coversheet <input checked="" type="checkbox"/> Appendix A (Standard Clauses for New York State Contracts-Jan. 2014) <input checked="" type="checkbox"/> Appendix B (Bid Form/Budget or Invoices) <input checked="" type="checkbox"/> Appendix C (Scope of Work/IFB) <input checked="" type="checkbox"/> Appendix D (The Department's General Conditions) <input checked="" type="checkbox"/> Appendix E (The Department's Special Conditions) <input type="checkbox"/> Appendix G (Sales Addendum) <input type="checkbox"/> Beer <input type="checkbox"/> Wine <input type="checkbox"/> Percentage <input type="checkbox"/> Wholesaler/Service <input type="checkbox"/> Appendix H (Horse Show Health Records Affidavit) <input checked="" type="checkbox"/> State Finance Law Disclosures 139 J&K (Over \$15K)	<input type="checkbox"/> Additional Work <input type="checkbox"/> Extension of Time From _____ to _____ <input type="checkbox"/> Increase Amount <input type="checkbox"/> Decrease Amount <input type="checkbox"/> Renewal: Remaining <input type="checkbox"/> Revised Budget <input type="checkbox"/> Revised Scope of Work <input type="checkbox"/> Other <input type="checkbox"/> Appendix A (Standard Clauses for New York State Contracts-_____)	If Increase/Decrease in Amount: Previous Amount: \$ _____ Increase/decrease _____ New Total: \$ _____
ITEMS TO BE RETURNED	ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.	
<input checked="" type="checkbox"/> Liability/Workers' Comp/Disability/Sales Tax Information <input checked="" type="checkbox"/> Copies of Invoice(s) Return with payment		

The Licensee and the Department agree to be bound by the terms and conditions contained in this Agreement.

LICENSEE	NYS DEPARTMENT OF AGRICULTURE & MARKETS
Signature of Licensee's Authorized Representative:	Signature of Authorized Official:
Date:	Date:
Typed or Printed Name of Above Representative:	Typed or Printed Name of Above Official:
Title of Authorized Representative:	Title of Authorized Official:
STATE OF NEW YORK ss.: County of _____ Notary Public: On this ____ day of _____, 20__ before me personally appeared _____ to me known, and known to me to be the same person who executed the above instrument and duly acknowledged the execution of the same.	State Agency Certification: In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.
Attorney General:	Approved: Thomas P. DiNapoli, State Comptroller By: Date:

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor

understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years

thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section

312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract;

or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this

law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884 email:
opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable,

Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of

the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state

agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

APPENDIX D

GENERAL CONDITIONS FOR REVENUE AGREEMENTS

NEW YORK STATE FAIR, a division of the NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS

These general conditions apply to the administrative aspects of the agreement and reflect New York State's contract record keeping and payment procedures. These general conditions cannot be changed.

Due to the volume of contracts prepared on behalf of the Fairgrounds, be advised that not all of the terms and conditions listed below will apply to every contract issued. Please note the type and dollar amount of the contract when reviewing the terms and conditions which follow.

FOR ALL TYPES OF REVENUE CONTRACTS AND ALL DOLLAR AMOUNTS, THE FOLLOWING TERMS APPLY:

ORDER OF PRECEDENCE

The Order of Precedence for this Agreement is as follows:

Appendix A
Contract Language (Cover Page, Appendix D – Department's General Conditions
Appendix E – Department's Special Conditions)
Entire Invitation for Bids (IFB)
Contractor Proposal/Bid

DEFINITIONS

STATE shall mean the State of New York, and shall also refer to the Department of Agriculture and Markets and the New York State Fair, a division of the Department.

CONTRACTOR shall mean the entity listed on the cover page of this Agreement, and may be used interchangeably with **Licensee** or **Sponsor** throughout this Agreement.

LICENSEE shall mean the **Contractor**, when the purpose of the Agreement is to secure a License to operate as an Exhibitor, Concessionaire or to rent space on the Fairgrounds.

SPONSOR shall mean the **Contractor**, when the purpose of the Agreement is to purchase or trade in kind for Sponsorship rights for the New York State Fair.

RECORDS MAINTENANCE, EXAMINATION AND RETENTION

The **Contractor** shall maintain the records required under this paragraph as set forth in Appendix A to this Agreement.

INDEMNIFICATION

The **Contractor** agrees to indemnify and hold harmless the State of New York and the **Department** from all liability incurred by the **Department** for bodily injury (including death) and real and personal property damage resulting from the negligent acts, errors or omissions of the **Contractor**, its officers, agents or employees in the provision of services under this Agreement, provided that the **Department** timely notifies the **Contractor** of any such claim and affords the **Contractor** an opportunity to defend such claim and cooperates fully with the **Contractor** in the defense of any claims.

CONTRACTOR NOT DEPARTMENT EMPLOYEE OR AGENT

Neither the **Contractor**, nor its agents, employees, suppliers nor subcontractors shall be in any way deemed to be employees or agents of the **Department** or of the State of New York in performing the work under this Agreement.

COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS

The **Contractor** is responsible for complying with all local, state and federal laws applicable to work performed under this Agreement.

MODIFICATION

This Agreement may not be modified unless such modification is made in writing, executed by the **Department** and the **Contractor**, and if the financial limit is over \$25,000, approved by the Comptroller of the State of New York.

TERMINATION OR CANCELLATION

The **Department** may terminate this Agreement for convenience upon giving thirty (30) days written notice to the **Contractor**. This Agreement may be terminated at any time upon mutual written consent of the **Department** and the **Contractor**. Upon termination, the **Contractor** shall immediately cease work and prepare a statement of costs, expenses and non-cancelable commitments incurred as of the date of such termination.

The **Department** may terminate this Agreement for cause upon giving one (1) days written notice.

The **Contractor's** failure to perform in accordance with the terms of this Agreement due to circumstances reasonably beyond the **Contractor's** control should not constitute cause for termination pursuant to this provision. In the event of such failure to perform, the **Department** may, at its option, either grant the **Contractor** a specified period in which to correct its performance, or terminate this Agreement in accordance with this paragraph.

The **Department** reserves the absolute right to terminate this Agreement for cause, if, in its sole and absolute discretion, it determines that: 1) your operation is mismanaged or unsafe; 2) the products, merchandise, supplies and items offered are of no merchantable quality; 3) Contractor's operation substantially deviates from the approved activities; 4) Contractor has failed to comply with designated hours of operation or any other administrative or safety

requirement of the **Department**; or 5) Contractor has failed to make payments or return required documentation.

Should this Agreement be terminated for any of the above stated reasons, all sums of money paid to the **Department** hereunder shall be forfeited as liquidated damages to the **Department**. In addition, should the **Department**, in its sole and absolute discretion, find it necessary to postpone or cancel the dates of the annual New York State Fair, for any cause whatsoever, the **Department** shall not be liable for any damages occasioned as a result of such postponement or cancellation.

PAYMENTS AND DEPOSITS

All payments must be made with a cashier's check or money order (or cash, in person). Payments shall be made according to the due date or schedule shown on the invoice(s) and in accordance with Appendix B. **Contractor/Sponsor** may not receive tickets or occupy premises until payment is made in full and all required documentation is received. As additional consideration Sponsor shall furnish, install and maintain, at no cost to the **Department**, all signs, banners, devices, equipment, machines and other Sponsor identification or Sponsor-identified equipment provided for in this Agreement.

DEVIATION FROM WORK

The **Contractor** shall perform the work under this Agreement as outlined in the scope of work annexed as Appendix C. Any substantial deviation from the plan of work shall require the prior written approval of the **Department**.

WORKERS' COMPENSATION INSURANCE AND NYS DISABILITY BENEFITS

Workers' Compensation Law (WCL) §57 & §220 requires the heads of all municipal and state entities to ensure that businesses applying for permits, licenses or contracts document they have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals, whether the governmental agency is having the work done or is simply issuing the permit, license or contract. Failure to provide proof of such coverage or a legal exemption may result in the termination of the Agreement.

- A. Proof of Compliance with Workers' Compensation Coverage Requirements: An ACORD form is NOT acceptable proof of workers' compensation coverage. In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, a contractor shall:
- a. Be legally exempt from obtaining Workers' Compensation insurance coverage; or
 - b. Obtain such coverage from an insurance carrier; or
 - c. Be a Workers' Compensation Board-approved self-insured employer or participate in an authorized self-insurance plan.

A Contractor seeking to enter into a contract with the State of New York shall provide one of the following forms to the **Department**:

1. Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is not required. This form can be requested online at the Workers' Compensation Board's website:

http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp

2. Certificate of Workers' Compensation Insurance:
 - a. Form C-105.2 (9/07) if coverage is provided by the contractor's insurance carrier, contractor must request its carrier to send this form to the New York State Fair, or
 - b. Form U-26.3 if coverage is provided by the State Insurance Fund, contractor must request that the State Insurance Fund send this form to the New York State Fair.
 - c. Form SI-12, Certificate of Workers' Compensation Self-Insurance available from the New York State Workers' Compensation Board's Self-Insurance Office.
 - d. Form GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance available from the contractor's Group Self-Insurance Administrator.

B. Proof of Compliance with Disability Benefits Coverage Requirements: In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, a contractor shall:

- a. Be legally exempt from obtaining disability benefits coverage; or
- b. Obtain such coverage from an insurance carrier; or
- c. Be a Board-approved self-insured employer.

A Contractor seeking to enter into a contract with the State of New York shall provide one of the following forms to the **Department**:

1. Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required. This form can be requested online at the Workers' Compensation Board's website:

http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp

2. Form DB-120.1, Certificate of Disability Benefits Insurance. Contractor must request its business insurance carrier to send this form to the New York State Fair; or
3. Form DB-155, Certificate of Disability Benefits Self-Insurance. The Contractor must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME: New York State Fair, a Division of the Department of Agriculture and Markets, 581

State Fair Boulevard, Syracuse, NY 13209 as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder)

LIABILITY INSURANCE

Contractor shall obtain and maintain public liability insurance for loss, damage and personal injury arising from its operations under the License.

The insurance certificate must:

- Identify the **Contractor** by legal business name, sole proprietor name and address and, if applicable, the legal status, i.e., corporation, limited liability company, partnership, limited partnership or unincorporated association.
- Show insurance coverage in the minimum amounts of \$1,000,000 General Liability and \$1,000,000 Product Liability and, if applicable, \$1,000,000 Liquor/Golf Cart Liability.
- Include insured endorsement (Acord 101) naming the New York State Department of Agriculture and Markets as an additional insured.
- Policy coverage must be effective on the date of first entry onto the Fairgrounds, either the event date or move in date, whichever is earlier. Coverage must remain in force through the end of the event or move out date, whichever is later. If the policy expiration date falls within the term of the Agreement, the Contractor must provide proof of both the current and replacement policies.
- Certificate Holder: New York State Fair - Dept. of Agriculture & Markets
581 State Fair Blvd., Syracuse, NY 13209

Contractor shall immediately inform the New York State Fair of any insurance cancellation or material change in coverage. Certificates of Insurance (or exemptions) shall be provided to the **Department** within ten (10) days from the date on which **Contractor** executes the Agreement.

MEDIA LICENSEES

The **Department** is providing allotted space on the Fairgrounds without charge during the Fair in exchange for media services provided.

The space allotted to each media outlet is for the use by the outlet only. The space may not be subdivided in any way and the station agrees to utilize only the space designated for their use. Only those items necessary to broadcast are allowed on site; such as motor homes, vans, tents or units housing the broadcast facilities. Only the station's call letters may be prominently displayed. Any other advertising is prohibited, except to acknowledge the donor of the broadcast facility; i.e., motor home or van, which can be acknowledged with a small placard on the unit.

Any proposed promotional tie-ins to be featured on the Fairgrounds during the Fair are subject to the prior approval of the **Department** via the Concessions and Exhibits Office. Each

station will broadcast a moderate and acceptable sound level in keeping with the location and setting of the broadcast facility. The station agrees to abide by the direction of the Fair staff of sound levels. Each station agrees to provide the Concessions and Exhibits Office with an outline of broadcast hours scheduled throughout the Fair along with other planned activities or events. Admission and parking credentials will be provided by the Concessions and Exhibits Office based on a written request and will be filled subject to availability. Each station agrees to provide the Concessions and Exhibits Office with a report prior to the Fair outlining the non-paid media that the Fair received in exchange for the Fair providing free space and admissions and parking credentials. Public sale of any items, products, and the like unrelated to the station is prohibited.

EDUCATIONAL LICENSEES

Not-for-profit entities with IRS classifications of 501(c)(3), 501(c)(5) or 501(c)(6) with exhibits approved as educational or as offering a service to the New York State Fair and/or its patrons are eligible for a discount. Prospective exhibitors must provide proof of tax status and proof of NYS Department of State filings to receive a discount.

Display-only exhibits are eligible for a site rental fee discount of 50% of the current per square foot location rate. Organizations collecting any funds for any purpose are eligible for a site rental fee discount of 25% of the current square foot location rate (Exhibitor pays 75% of the standard fee). Collection of funds at exhibit space is subject to the prior approval of the **Department** and must be described on the Invoices annexed to this Agreement.

The space allotted to each organization is for the use by that organization only. The space may not be subdivided in any way and the members agree to utilize only the space designated for their use. Only those items necessary to exhibit are allowed. No retail sales, order taking, deposit acceptance, contribution solicitation or product or service deliveries are allowed. Only the organization's name may be prominently displayed. Any other advertising is prohibited, except to acknowledge the donor of a portion of the display. A donor may be acknowledged with a small placard on the item.

Any proposed promotional tie-ins to be featured on the Fairgrounds during the Fair are subject to the prior approval of the **Department** via the Concessions and Exhibits Office. Each organization agrees to provide the Concessions and Exhibits Office with notice of any other planned activities or events. Admission and parking credentials will be the responsibility of the organization. The organization may purchase admission credentials at the current Concessionaire and Exhibitor rates. The organization agrees to staff its location at all times during the open hours of the New York State Fair, unless otherwise approved by the Concessions and Exhibits Office.

SALES TAX

Contractors making taxable sales of goods or services shall provide the **Department** with a valid Certificate of Authority to collect sales tax in New York State.

CONTRACTOR STATUS

Individuals and Sole Proprietors

It is mutually agreed that this Agreement shall be and is a personal agreement by and between you and the **Department** and shall not inure to the benefit of your heirs, personal representatives, successors or assignees and in the event of the death of yourself during the term of the agreement, it shall be automatically terminated.

Partnership

If Contractor is a partnership and during the term hereof one partner shall die then this Agreement may be terminated at the sole and complete discretion and option of the **Department**.

Corporations

If Contractor is a corporation, and during the term of this agreement any changes in Management occur, then that shall be made immediately known to the **Department**.

FORCE MAJEURE

Neither party shall be liable to the other for failure to perform any part of this Agreement when such failure is due to fire, flood, strikes or similar labor disturbances, industrial disturbances, war, riot, insurrection, or other causes beyond the control of either party.

NEW YORK LAW

The parties to the Agreement agree that the laws of the State New York shall apply to the contract and to all claims, actions and other proceedings arising out of the Agreement. Both parties agree that this agreement is performable in Onondaga County.

NOTICE

All notices given to the New York State Fair, a division of the **Department**, may be served only by mailing same by certified mail to Concessions Department, New York State Fair, 581 State Fair Blvd., Syracuse, New York 13209. Notice to **Contractor** shall be given to **Contractor** at the address stated on the face page of this agreement.

SAFETY REQUIREMENTS

Fire Safety

All Concessionaire Licensees must comply with the Department's minimum Fire Safety Requirements. The Department's requirements are consistent with the Uniform Code as prescribed by Regulations of the Secretary of the State of New York. The Department's Requirements are posted on the New York State Fair Website: <http://www.nysfair.org/contact-us/concessions-exhibits/>

Food and Beverage Safety

All operations must comply with Subpart 14-2 of the NY State Sanitary Code and obtain a permit from the New York State Department of Health. Failure to comply may result in revocation of permit and/or enforcement actions. The Department's requirements for food and beverage safety are posted on the New York State Fair Website:

<http://www.nysfair.org/contact-us/concessions-exhibits/>

MISCELLANEOUS

Entertainment

Contractor must receive prior approval from the **Department** to host any type of live entertainment in a Permanent Concession Stand. Request must be made in writing to the Concession and Exhibits Manager at least 30 days prior to the start of the New York State Fair. The request must include name of band, time, date and type of music. Decisions are determined by location, type of entertainment, time and date. New York State Fair Management will notify you of their decision in writing. Entertainment must not be within or interfere with public access. **Contractor** shall assume sole responsibility for the production and costs of same.

Exclusivity Contracts

Any exclusivity contracts that the Department has entered into will apply to affected Concessionaires and Exhibitors. This information will be provided to **Contractor**, if applicable.

Government Regulations

Contractor may not use its sponsorship location for any unlawful or illegal purpose or for any purpose in violation of any federal, state or municipal law, ordinance, government rule, order or regulation and shall comply with all rules of the Fair.

Violations

Contractor will be informed of any instance(s) of non-compliance with these Special Conditions. A violation note will be made to your file. The most serious violations may result in not being invited to return to future events or an immediate order to cease operation and vacate the Fairgrounds.

NECESSARY SIGNATURES

If the financial limit under this Agreement exceeds Twenty-Five Thousand Dollars (\$25,000) this Agreement shall not be binding and effective upon the **Department** unless and until approved by the Attorney General and the Comptroller of the State of New York.

RESPONSIBILITY REQUIREMENTS

- A. The **Department** is required to undertake an affirmative review of the responsibility of any vendor to which it proposes to make a contract award. Such review shall be designed to provide reasonable assurances that the proposed contractor is responsible. In undertaking such review, the **Department** must comply with the following standards:
- a. In all cases, the **Department** must consider any information that has come to its attention from the proposed contractor or any other source that would raise issues concerning the proposed contractor's responsibility.
 - b. In the case of any contract valued at \$100,000 or more, the **Department** must affirmatively require disclosure by the proposed contractor of all information that the **Department** reasonably deems relevant to a determination of responsibility by completing a Vendor Responsibility Questionnaire.
- B. The **Contractor** shall at all times during the **Agreement** term remain responsible. The **Contractor** agrees, if requested by Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- C. The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this **Agreement**, at any time, when he or she discovers information that calls into question the responsibility of the **Contractor**. In the event of such suspension, the **Contractor** will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the **Contractor** must comply with the terms of the suspension order. **Agreement** activity may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the **Agreement**.
- D. Upon written notice to the **Contractor**, and a reasonable opportunity to be heard with appropriate Commissioner officials or staff, the **Agreement** may be terminated by Commissioner or his or her designee at the **Contractor's** expense where the **Contractor** is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

PROCUREMENT LOBBYING LAW (Contracts over \$15,000)

Pursuant to State Finance Law Sections 139-j and 139-k, certain restrictions on communications between the **Department** and prospective **Contractors** are imposed during the procurement process. Prospective **Contractors** are restricted from making contacts from the earliest notice of intent to solicit bids/proposals through final award and approval of the Procurement Contract by the **Department** and, if applicable, the Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law Section 139-j(3)(a). Designated staff

persons have been identified in the solicitation. **Department** employees are also required to obtain certain information when contacted during the restricted period and make determinations regarding the responsibility of prospective **Contractors** pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a period of four years; the prospective **Contractor** will be debarred from obtaining governmental Procurement Contracts.

The **Department** reserves the right to terminate this Agreement in the event it is found that the certification filed by the **Contractor** in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the **Department** may exercise its termination right by providing written notification to the **Contractor** in accordance with the written notification terms of this Agreement.

MASS GATHERING (Space Rental)

If an event is likely to attract 5,000 people or more and continue for 24 hours or more, the Licensee must contact the New York State Department of Health (DOH) to determine if a Mass Gathering Permit and/or a Part 18 permit is required. As directed by DOH, the **Licensee** will obtain the following:

- (1) A mass gathering permit as required by 10 NYCRR Sub-Part 7-4 entitled "*Mass Gatherings*" no later than 30 days before the event. The **Licensee** shall provide a copy of the application upon submittal and a copy of the permit upon receipt; and
- (2) A Part 18 permit as required by Emergency Health Care Facilities 10 NYCRR Part 18 entitled "*Public Function with Attendance of Over 5,000 people*" no later 30 days before the event. **Licensee** shall submit to the Department a copy of the permit upon receipt.

APPENDIX E

SPECIAL CONDITIONS FOR AGREEMENTS

NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS

These special conditions apply to the administrative aspects of this particular agreement. These special conditions cannot be changed.

SUBCONTRACTING

The **Department** reserves the right to prohibit subcontracting in the Solicitation or Contract. The **Department** also reserves the right to reject any proposed Subcontractor or supplier for bona fide business reasons, including, but not limited to: the company failed to solicit New York State certified minority- and women-owned business enterprises as required in prior Department Contracts; the fact that such Subcontractor or supplier is on the New York State Department of Labor's list of companies with which New York State cannot do business; the **Department's** determination that the company is not qualified or is not responsible; or the fact that the company has previously provided unsatisfactory work or services.

The **Contractor** agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the **Department**. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

The **Contractor** may arrange for a portion(s) of its responsibilities under the Contract to be subcontracted to qualified, responsible subcontractors, subject to approval of the **Department**. If the **Contractor** determines to subcontract a portion of the services, the subcontractor(s) must be clearly identified and the nature and extent of the involvement in and/or proposed performance under the Contract must be fully explained by the **Contractor** to the **Department**. As part of this explanation, the Subcontractor must submit to the **Department** a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form, as required by the **Contractor** prior to execution of this Contract.

The **Contractor** retains ultimate responsibility for all services performed under the Contract.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of the Contract including, but not limited to, the body of the Contract, Appendix A – Standard Clauses for New York State Contracts and Appendix B – Budget. Unless waived in writing by the **Department**, all subcontracts between the **Contractor** and subcontractors shall expressly name the State, through the **Department**, as sole intended third party beneficiary of such

subcontract. The **Department** reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the **Department** or the State a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against the **Department**.

The **Department** reserves the right, at any time during the term of the Contract, to verify that the written subcontract between the **Contractor** and subcontractors is in compliance with all the provisions of this Section and any subcontract provisions contained in this Contract.

The **Contractor** shall give the **Department** immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the **Contractor's** duties under the Contract. Any subcontract shall not relieve the **Contractor** in any way of any responsibility, duty and/or obligation of the Contract.

If at any time during performance under this Contract total compensation to a subcontractor exceeds or is expected to exceed \$100,000, that subcontractor shall be required to submit and certify a Vendor Responsibility Questionnaire.

PRICE ADJUSTMENT

The rental prices to be charged to NYS Fair patrons agreed upon in the contract on the Bid Form may be increased up to the same percentage as the change in the U.S. city average, Consumer Price Index (All Items) for All Urban Consumers (CPI-U), not to exceed 3%, during the 12 calendar months ending April 30th of the previous contract year, as reported by the U.S. Department of Labor Bureau of Labor Statistics in the CPI Detailed Report. It shall be the responsibility of the Contractor to annually request a payment change based upon the CPI, not to exceed 3%, which may be granted at the sole discretion of the Department. Requests for changes must be submitted in writing 90 days prior to April 30th each year. Only one price adjustment per year will be granted at the sole discretion of the Department. The Department reserves the right to request a price decrease should the relevant index referenced herein decrease.