

LICENSE AGREEMENT

This License Agreement (License) is by and between _____, with an address of _____, Natick, MA, 01746 (the Licensee), and the Town of Natick, Massachusetts, by the Natick Board of Selectmen (Licensor or Town), with an address of Natick Town Hall, 13 East Central Street, Natick, MA 01760. Collectively, the Licensor and the Licensee are referred to as the “Parties.”

WHEREAS, the Licensee owns the property at _____ in Natick known as _____ (“XXX”); and

WHEREAS, the Licensee has applied to the Temporary Outdoor Dining Review Committee to allow for outdoor dining; and

WHEREAS, the Licensor wish to provide to the Licensee access to place the approved outdoor dining in the public right-of-way according to the approved plans; and

WHEREAS, the undersigned are duly authorized to enter this License on behalf of the respective Parties hereto.

NOW THEREFORE, for and in consideration of the covenants and agreements contained in this License, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Licensor, for itself and its successors and assigns, agrees to and does hereby license to the Licensee, and the Licensee agrees to and does hereby license from the Licensor, on and subject to the terms and conditions of this License, the Licensed Premises, for the purposes set forth below.

TO HAVE AND TO HOLD the aforesaid Licensed Premises, and rights unto the Licensee, defined below.

1. Recitals; Definitions.

The Recitals set forth above are each incorporated into the body of this License as if set forth in full.

2. Scope of the License.

The Town hereby grants a temporary, non-exclusive license to the Licensee to occupy and use the Licensed Premises, as described herein:

Upon receipt of a temporary outdoor dining permit from the Temporary Outdoor Dining Review Committee, the Licensee may occupy the area provided within the safety barricades and as further defined by the permit.

The Licensed Premises are hereby licensed “as is”. By this License, the Licensor has not transferred any property rights or interest in real estate to the Licensee.

The Parties acknowledge that the Licensed Premises shall be exclusively utilized in their entirety for, and in a manner consistent with, the purposes set forth herein or as may be modified by a Temporary Outdoor Dining Permit or a decision of the Building Commissioner or Public Safety Officer.

3. Term.

The term of this License is effective upon issuance and expires November 1 or upon expiration of the Governor's COVID 19 Order No. 35. The Town reserves the right to terminate this license at an earlier date due to safety concerns or as described below.

4. Payment.

The payment for the license shall be \$1 and other good and valuable consideration, hereby acknowledged by the Parties, including:

- a. The benefits of pollination to the NCOF; and
- b. Educational programming for NCOF staff, concerning pollination, bees, and beekeeping, on a schedule to be arranged by the NCOF.

5. Maintenance, Improvements, Changes, Alterations and Modifications.

The Licensee shall be responsible for routine maintenance and cleaning of the dining area during the term of this License. The Licensee shall not be permitted to perform any permanent changes, alterations, or modification to the Licensed Premises.

The Licensee shall, at the end of the License term, surrender the Licensed Premises in good condition, reasonable wear and tear excepted.

6. Indemnification.

The Licensee agrees to indemnify, defend and hold harmless the Licensor against and from any and all claims, costs, liabilities, damages, expenses, causes of action, suits, or judgments, by or on behalf of any person or persons, firm or firms, corporation or corporations, arising from the use of the Licensed Premises, including those asserted by or on behalf of any person for physical damage to or physical destruction of property, or death or bodily injury to any person, or from any accident, incident or event in or on the Licensed Premises, and shall further indemnify and save the Licensor harmless against and from any and all claims, costs, liabilities, damages, expenses, causes of action, suits, or judgments arising from any willful or negligent act or omission of the Licensee or any of its agents, representatives, contractors, servants, employees or licensees and from and against all costs, counsel fees, expenses and liabilities incurred in or about any such claim, action or proceeding brought thereon, arising out of the use of the Licensed Premises by the Licensee. The provisions of this paragraph shall not apply to the extent that such claim, cost, liability, damage, cause of action or judgment arises out of the

willful or negligent act or omission of the Licensor or any of the Licensor's officers, employee, agents, representatives, assigns or successors in interest.

7. No Personal Liability.

Neither the Parties, nor any of their officers, employees, boards, committees, commissions, agents, volunteers, servants and representatives, shall be under any personal obligation or incur any personal liability by reason of this License, the execution thereof or anything relating thereto which arises out of the breach or violation of any provision of this License or the violation of any Federal, Massachusetts or Town of Natick statute, by-law, rule, regulation, order or directive, or which relates to personal injury or property damage suffered by the Parties or any of their employees, agents or representatives regarding the subject matter of this License.

8. Insurance.

The Licensee shall provide and maintain, throughout the term of the License, commercial general liability insurance with amounts of not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate.

The Licensor shall be named as an additional insured on such policy of insurance.

Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of this License and shall operate as an immediate termination thereof.

All policies of insurance required hereunder shall be endorsed to provide that the insurance company shall provide written notice to the Licensor as least thirty (30) days prior to the effective date of any cancellation or material amendment of such policies.

A certificate evidencing such insurance shall be furnished to the Licensor at the execution of this License.

The Licensee shall also be required to provide as proof of coverage to the Town endorsements or riders to the policies of insurance, which indicate that the Licensor is named as an additional insured on each policy and that the foregoing endorsements regarding prior written notice of any cancellation or material amendment will be provided.

9. Termination.

If the Licensee shall breach any provision of this License which breach is not cured within fifteen (15) days of written notice of such default, the Licensor shall have the right to terminate this License upon written notice to the Licensee.

Each right or remedy of the Licensor provided for in this License shall be cumulative and shall be in addition to every other right or remedy provided for in this License or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or the beginning of the exercise by the Licensor of any one or more of the rights or remedies provided for in this License or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the Licensor of any or all other rights or remedies provided for in this License or now or hereafter existing at law or in equity or by statute or otherwise.

10. Notices.

Any notice to the Licensor or to the Licensee shall be given in writing and shall be deemed duly served if hand-delivered or if mailed, postage prepaid, by registered mail or certified mail, return receipt requested, addressed, to the address set forth in the first paragraph of this License, or to such other place as either Party may designate by written notice to the other Party.

11. Non-Waiver.

The failure of either Party to insist upon the strict performance of any provisions of the License shall not constitute a waiver of compliance with the remaining provisions of this License.

12. Amendment.

This License may be modified or amended only by written consent of the Licensor and the Licensee.

13. Severability.

If any provision, or portion thereof, of this License shall be adjudged to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction the remaining provisions shall continue in effect to the extent permitted by law.

14. Governing Law.

This License shall be governed by and interpreted according to the laws of the Commonwealth of Massachusetts. Any action at law or suit in equity instituted by the parties as a result of the performance, non-performance or alleged breach of this License shall be filed in the Superior Court of the Commonwealth of Massachusetts for Middlesex County, Massachusetts, and in no other court or jurisdiction.

EXECUTED as a sealed instrument in duplicate copies as of _____, 2020.

Licensor:

By:

Name

Signature

Title

Date

Licensors:

The Town of Natick Massachusetts

By: Natick Board of Selectmen

Jonathan Freedman, Chair

Date

The _____ indicates its consent to the above License

By: _____

_____, Owner/Manager

Date