

**BID SPECIFICATIONS**  
**AND**  
**OTHER RELATED DOCUMENTS**  
**FOR**  
**THE OPERATION AND MAINTENANCE**  
**AND**  
**FOOD AND BEVERAGE SERVICES**  
**AT**  
**HOPE LAKE PARK aka**  
**VIRGIL RECREATIONAL AREA PARK**

Dated: \_\_\_\_\_, 2020

By: TOWN OF VIRGIL  
1176 Church Street  
Cortland, New York 13045

## **PROJECT DESCRIPTION**

The successful bidder will be responsible for the operation and maintenance and food and beverage concession at the Virgil Recreational Area Park (including Hope Lake) owned by the Town of Virgil. The Virgil Recreational Area Park is located off of Clute Road in the Town of Virgil. The Park is approximately fifty (50) acres. An earthen dam was constructed by the Town of Virgil on the park site which created a new twenty-six (26) acre lake, known as Hope Lake. Approximately seven (7) acres are used for general park purposes and approximately two (2) acres are used for park roads.

The Virgil Recreation Area Park is fully operational as a year-round recreational facility. The successful bidder will be required to work with the Town of Virgil in implementing the Town's plan in reaching its goals for the park in future years.

## TABLE OF CONTENTS

	<u>Page</u>
PART I: Notice to Bidders .....	4
PART II: Instructions to Bidders .....	5
PART III: Business History .....	7
PART IV: Bid Proposal Form.....	9
PART V: General Conditions.....	13

PART I  
NOTICE TO BIDDERS

Sealed bids for the operation and maintenance and food and beverage services at the Virgil Hope Lake Park aka Virgil Recreational Area Park will be received by the Town of Virgil at the Virgil Town Hall, 1176 Church Street, Cortland (Town of Virgil), New York 13045, until 12:00 p.m. on November 12, 2020 , The bids will be opened at the regularly scheduled Town Board meeting On November 12, 2020 held at 6:30 PM at the Virgil Town Hall. Each bid must be prepared and submitted in accordance with the Instructions to Bidders.

The successful bidder will be required to furnish an irrevocable letter of credit or a performance bond in the amount of ten percent (10%) of the bid amount. The term of this license shall commence on January 1, 2021, and end on December 31, 2025, constituting four (4) park operating seasons.

Bid documents may be examined and obtained for a fee of \$25.00 at the Virgil Town Hall, 1176 Church Street, Cortland, New York 13045 or they can be viewed and printed off the website on the Town Board's page at [www.virgilny.org](http://www.virgilny.org) All inquiries regarding interpretation of any provisions of the bid documents or requests for additional information must be addressed in writing and submitted to John Kaminski, Virgil Town Supervisor, Virgil Town Hall, 1176 Church Street, Cortland, New York 13045.

Written responses, as appropriate, in the form of Bid Addenda will be issued to all prospective bidders as the means of response.

PART II  
**INSTRUCTIONS TO BIDDERS**

(1) Contract Documents:

The contract will consist of the following components:

- (A) Part IV - Bid Form
- (B) Part V - General Conditions
- (C) Attachments (if any).

THE BIDDER SHOULD FULLY FAMILIARIZE HIMSELF/HERSELF/ITSELF WITH THE CONTENTS OF THE BID DOCUMENTS BEFORE DEVELOPING AND SUBMITTING A BID.

(2) Form of Bids:

The Bid Form (Part IV) shall be filled out in ink. All bid amounts must be shown in both words and numerals. In case of a discrepancy between the words and numerals, the words shall govern. The bid shall be submitted in a sealed envelope and clearly marked "VIRGIL RECREATIONAL PARK OPERATION AND CONCESSION BID". The Bid Form shall be executed by an authorized officer of the bidder, if a corporation.

The Bid Form shall be accompanied by a completed Business History Questionnaire (Part III).

(3) Examination of Site:

Prospective bidders are requested to visit the park facility to better prepare its/their bids. Advance arrangements may be made by contacting: Virgil Town Clerk, 1176 Church Street, Cortland, NY 13045, telephone No. 607- 835-6174 ext. 2 or Print and View Documents form the Town of Virgil's Website at [www.virgilny.org](http://www.virgilny.org)

The Town of Virgil will make no allowance or special consideration to a bidder for any alleged misunderstanding because of quality, character or location of park facilities or any other conditions.

(4) Modifications or Withdrawal of Bid:

Bid modifications, made in writing and signed by the bidder, will only be considered if received any time prior to the bid opening. Bids may only be withdrawn or cancelled before the time designated for publicly opening such bids. Any withdrawal or cancellation must be done in writing and sent to: Virgil Town Clerk, Virgil Town Hall, 1176 Church Street, Cortland, New York 13045. Bids shall be firm and not revocable for a period of sixty (60) days from the bid opening unless withdrawn as provided herein. Bids may be rejected if they show any alterations

of terms or conditions, or for other irregularities, or if they are incomplete or provide alternates not invited.

(5) Contract Award:

The contract will be awarded to the responsible bidder who offers the best value to the Town of Virgil.

The Town of Virgil reserves the right to reject any or all bids, and to waive technicalities, irregularities and omissions or solicit new bids if, in the Town's judgment, the best interest of the Town will be served thereby.

(6) Oral Presentation:

All bidders who submit a written bid will be required to make an oral presentation of its/their qualifications and on the substance and details of its/their bids at a date and time to be determined for performing this contract. Bidders will be contacted shortly after the bid opening date to set the time and place for this presentation.

PART III  
**BUSINESS HISTORY**

The contract shall be awarded to the responsible bidder who, at the discretion of the Town of Virgil, taking into consideration the reliability of the bidder and the capacity of the bidder to perform the services required by the Town, offers the best value to the Town.

In addition to the submission of bids, each bidder shall complete and submit this questionnaire.

The questionnaire shall be completed by the owner of a sole proprietorship or by an authorized representative of the firm, corporation or partnership submitting the bid.

USE ADDITIONAL SHEETS IF NECESSARY TO FULLY ANSWER THE FOLLOWING QUESTIONS.

Dated: \_\_\_\_\_

(1) Bidder's Legal Name: \_\_\_\_\_

(2) Address of Place of Business: \_\_\_\_\_

\_\_\_\_\_

(3) Mailing Address (if different): \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Federal ID No. or Social Security No.: \_\_\_\_\_

(4) The Bidder is a (check one):  Sole proprietorship  Partnership  Corporation  
 Other (Describe) \_\_\_\_\_

(5) As an attachment to this form, please provide the following information:

A. Describe any training or experience that qualifies the bidder for providing the services called for in this license. Supply dates, locations, company names, revenues earned, etc.

B. Describe the management plan for providing the services called for in this license.

C. Give names and addresses of no fewer than three references for whom the bidder has provided services.

D. Provide any other information which would be appropriate and helpful in determining the bidder's capacity and reliability to perform these services.

All bidders must answer questions 6 and 7. However, if the bidder is a new business formed to bid on this license, the questions should be answered for each owner or officer of the business.

(6) Has the bidder ever had a bond or surety cancelled or forfeited, or a contract with New York State or any of its municipalities terminated?

Yes \_\_\_ No \_\_\_ If YES, state the name of bonding agency (if a bond), date, amount of bond and reason for such cancellation or forfeiture; or details regarding the termination (if a contract).

(7) Has the bidder, during the past seven (7) years, been declared bankrupt?

Yes\_\_\_ No\_\_\_ If YES, state date, court jurisdiction, amount of liabilities and amount of assets.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL STATEMENTS MADE ARE TRUE AND ACCURATE.



PART IV  
BID PROPOSAL FORM

THE TOWN OF VIRGIL RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS

NAME OF BIDDER: \_\_\_\_\_

NAME OF LICENSE: The operation and maintenance and all concession services for the Virgil Recreational Park.

TO: TOWN OF VIRGIL  
1176 CHURCH STREET  
CORTLAND, NEW YORK 13045

PROPOSAL:

The term of this license shall be from January 1, 2021 through December 31, 2025.

A. Pursuant to and in compliance with the instructions, conditions and mutual covenants as stated in all the Bid documents, the undersigned hereby offers to pay the Town of Virgil as compensation for a license, the following sums on a yearly basis:

For: 2021, the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_)

2022, the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_)

2023, the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_)

2024, the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_)

All such sums shall be delivered to the Town of Virgil by the last day of \_\_\_\_\_.

B. In addition to the above stated yearly sums, the undersigned hereby offers to pay the Town of Virgil as additional compensation for a license, the following percentage of all net revenues from concession items in each year which exceed \$10,000. Any amount over \$10,000 in net revenue will be split on a percentage basis in the following manner:

For: 2021 \_\_\_\_\_ percent for the Town of Virgil and \_\_\_\_\_ percent for the bidder.

2022 \_\_\_\_\_ percent for the Town of Virgil and \_\_\_\_\_ percent for the bidder.

2023 \_\_\_\_\_ percent for the Town of Virgil and \_\_\_\_\_ percent for the bidder.

2024 \_\_\_\_\_ percent for the Town of Virgil and \_\_\_\_\_ percent for the bidder.

A performance bond or an irrevocable letter of credit in the amount of \_\_\_\_\_, is included with this Bid Form.(The minimum amount is 10% of the total set forth in Paragraph A above.)

In the event this bid proposal is accepted by the Town of Virgil, it is understood and agreed that the documents specified in paragraph (1) in the Instructions to Bidders and an agreement to be executed subsequent to the acceptance of the bid proposal will form the entire contract for this license. The undersigned does hereby bind himself /herself/itself to perform in accordance with the above-stated documents.

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Title

*Corporate Seal*

\_\_\_\_\_  
Print Name:

State of Incorporation: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Attention: \_\_\_\_\_

Address (Street): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Address (Mailing): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Federal I.D. No.: \_\_\_\_\_

**GENERAL MUNICIPAL LAW SECTION 103-d**

**NON-COLLUSIVE BIDDING CERTIFICATION**

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

The person signing this bid or proposal certifies that she/he has fully informed herself/himself regarding the accuracy of the statements contained in this certification.

Attached hereto (if this bid is submitted by corporate bidder) is a certified copy of the resolution authorizing the execution of this certificate by the signer of this bid or proposal on behalf of the corporate bidder.

BUSINESS NAME: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

BUSINESS PHONE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

DATE: \_\_\_\_\_

**CERTIFIED CORPORATE NON-COLLUSIVE RESOLUTION**

**RESOLVED** THAT \* \_\_\_\_\_ be authorized to sign and submit the bid or proposal of this corporation for the following item:

LICENSE FOR THE OPERATION AND ALL CONCESSION SERVICES AT THE VIRGIL RECREATIONAL AREA PARK.

and to include in such bid or proposal the certificate as to non-collusion required by Section 103-d of the General Municipal Law as to the act and deed of such corporation, and for any inaccuracies or misstatements in such certificate, this corporate bidder shall be liable under penalties of perjury.

The foregoing is a true and correct copy of the resolution adopted by \*\* \_\_\_\_\_ at a meeting of its board of its Board of Directors held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and is still in full force and effect this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Secretary

AFFIX CORPORATE SEAL BELOW

\*Insert Name of Corporation Officer and Title

\*\*Insert Name of Corporation

**PART V**  
**GENERAL CONDITIONS**

**ADVERTISING**

The LICENSEE agrees that all brochures, media advertisement or similar copy to be distributed either on or off the licensed premises shall be subject to the prior approval of the TOWN OF VIRGIL. Such approval shall not be unreasonably withheld by the TOWN OF VIRGIL and shall be granted or denied within ten (10) days of submission.

**BEACH STANDARDS**

The LICENSEE shall comply with the New York State Sanitary Code provisions which apply to bathing beaches. The TOWN OF VIRGIL shall be responsible for securing a permit for beach operation from the Cortland County Health Department.

The TOWN OF VIRGIL will provide the LICENSEE with a copy of the Cortland County Health Department permit, the Town's bathing beach emergency action plan, and any other permits required to operate a bathing beach. The TOWN OF VIRGIL will also provide the LICENSEE copies of all Cortland County Health Department bathing beach inspection reports.

**BOOKS OF ACCOUNT AND FINANCIAL REPORTING**

(A) The LICENSEE agrees to cooperate with the TOWN OF VIRGIL and the Office of New York State Comptroller with regard to financial control audit guidelines and standards.

(B) The LICENSEE shall retain all cash register tapes and any other supporting original data required to permit audit of gross receipts for a period of not less than six (6) years following the end of each calendar year. These files shall be maintained to provide easy access to audit personnel and should be readily available to the TOWN OF VIRGIL.

(C) The LICENSEE shall keep books and records of accounts in accordance with Generally Accepted Accounting Procedures. The appropriate expenses of operating shall be properly recorded against revenues and the balance sheet shall also reflect a similar account for assets and liabilities in accordance with the Uniform System of Accounts, or in accordance with a similar system approved in writing, in advance, by the TOWN OF VIRGIL. The LICENSEE shall permit the TOWN OF VIRGIL and the Comptroller of the State of New York or their authorized representatives and consultants to inspect and audit appropriate books and records at any reasonable time, upon giving the LICENSEE twenty-four (24) hours' notice of the date and time of such inspection and audit. Such right of inspection and audit shall exist during the term of this agreement and for a period of six (6) years after its expiration or termination. Notwithstanding the requirement for a twenty-four hour notice with respect to the books for audit, the TOWN OF VIRGIL reserves the right to conduct periodic inspections at any time for any legitimate purposes.

(D) On or before the first day of April of each calendar year of this agreement, the LICENSEE shall provide the TOWN OF VIRGIL with a copy of a Statement of Income and Balance Sheet in accordance with the Uniform System of Accounts or other previously approved format, covering the operation of the licensed premises for the previous calendar year, and, if the gross sales exceed \$100,000.00 annually, it shall be reviewed by a Certified Public Accountant. The Statement of Income shall show appropriate expenses of operating which shall be properly recorded against revenues and the Balance Sheet shall also reflect a similar accounting for assets and liabilities. The Statement of Income may be submitted in an alternate form with the prior approval of the TOWN OF VIRGIL.

### **CAMPING**

No person shall tent, camp or erect or maintain a tent or other type of shelter in the park premises.

### **CONDITION OF LICENSED PREMISES**

The LICENSEE acknowledges that it has personally inspected the licensed premises, has given the TOWN OF VIRGIL written notice of any discernible defects and except for such notice and for defects not readily ascertainable by visual inspection, such premises are in satisfactory condition and are suitable for the purposes of this license; and that the LICENSEE has not relied upon any representations or statements by the TOWN OF VIRGIL or its respective officers or employees with respect to the condition of the premises.

### **DEVELOPMENT GOALS OF THE TOWN**

The LICENSEE understands that the TOWN OF VIRGIL is in the development stages of the park. The LICENSEE agrees that it is the goal of the TOWN OF VIRGIL that the park will be a year round facility. The LICENSEE agrees to assist the TOWN OF VIRGIL to further its development goals for the park. It is anticipated that during the winter season, the TOWN OF VIRGIL will offer such activities as cross-country skiing, hiking and the like. The LICENSEE agrees to assist the TOWN in offering and being responsible for the operating and maintaining of such activities.

### **FEES**

The LICENSEE may collect fees on behalf of the TOWN OF VIRGIL for park use in accordance with fee schedules established by the TOWN OF VIRGIL. All such fees are understood by the LICENSEE to be the property of the TOWN OF VIRGIL. It is understood that said fees may be used by the LICENSEE for the operation and maintenance of the park. Any fees not used for the operation and maintenance of the park shall be given to the TOWN OF VIRGIL by the LICENSEE. The LICENSEE shall account for and document all said fee revenues in a manner acceptable to the TOWN OF VIRGIL on a monthly basis. It is further understood that the Town Board may waive all fees for town residents who purchase a designated photo identification card from the town clerk.

## **FOOD AND BEVERAGE CONCESSION REVENUES**

It is agreed that the LICENSEE will be allowed to keep all food and beverage concession revenues generated at the park up to \$10,000.00 per year. Any amount over \$10,000.00 will be split on a percentage basis, the percentages for the TOWN OF VIRGIL and the LICENSEE is to be ascertained by the bid offer of the successful bidder. As previously indicated, separate bid amounts must be specified for each of the four (4) years.

## **HAZARDOUS MATERIALS**

The LICENSEE shall advise the TOWN OF VIRGIL in writing prior to the use of hazardous materials at the park and shall make adequate provision for the proper use of hazardous materials in accordance with the standards and procedures established by the New York State Department of Environmental Conservation. The purpose of this section is to require compliance with such standard policies of fire insurance as well as to protect all the park facilities and the health and welfare of park personnel, patrons, neighbors and the general public. There shall be no disposal or storage of hazardous materials on park property .

## **HUNTING**

No hunting of any kind will be allowed on the park premises. However, water fowl hunting for control purposes only will be allowed on the park premises by only those authorized to do so by the TOWN OF VIRGIL.

## **INDEMNIFICATION**

The LICENSEE hereby agrees that it shall be liable for and shall pay all damages that may occur or arise to the TOWN OF VIRGIL and shall hold the TOWN OF VIRGIL harmless from any and all damages, claims for damages or suits that may occur or arise, directly or indirectly, as a result of any operation carried on by the LICENSEE pursuant to this license. The LICENSEE shall release and hold harmless the TOWN OF VIRGIL from any and all possible claims, damages or rights of actions which might otherwise accrue to the LICENSEE or any of its employees, agents and subcontractors that may occur directly or indirectly as a result of any operation carried on by the LICENSEE pursuant to this license, and shall assume full responsibility and liability for all damages and claims for damages which may be asserted therefor. The LICENSEE shall at the request of the TOWN OF VIRGIL, and at the LICENSEE'S own expense, defend any and all suits which may be brought by third parties as a result of any operation performed by the LICENSEE under this license. The LICENSEE'S responsibility shall not be limited to the insurance coverage required for the license agreement.

## **INFLAMMABLES**

The LICENSEE shall not use or permit the storage of any illuminating oil, oil lamps, turpentine, benzene, naphtha or other similar substances or explosives of any kind, or any substance or thing prohibited in the standard policies of fire insurance companies in the State of New York.

## **INSURANCE**

(A) The LICENSEE shall, at its own cost and expense, procure such insurance as is described below and shall include as additional insured the TOWN OF VIRGIL, its officers, agents, employees and assigns protecting the TOWN OF VIRGIL against any and all claims of liability of whatever kind and nature which may arise either directly or indirectly as a result of any operation carried on by the LICENSEE under or pursuant to this license. All such policies shall be subject to the approval of the TOWN OF VIRGIL for adequacy and form of protection. Policies or certificates of insurance shall be delivered to the TOWN OF VIRGIL annually showing full premium paid. No operations of the LICENSEE, especially those activities on the lake, shall be permitted unless all required insurance coverage is in force and adequate proof of that coverage has been provided to the TOWN. All policies shall include provision for direct notification to the TOWN OF VIRGIL by the insurance carrier thirty (30) days prior to any cancellation of any policy.

(1) Public Liability Insurance providing protection for claims for damages to property and for personal injuries, including death, which may arise from the operation of the park premises by the LICENSEE, in the amount of \$1,000,000.00/\$2,000,000.00.

(2) Products Liability Insurance providing protection for claims for damages arising out of products sold or vended by the LICENSEE in the amount of \$1,000,000.00.

(3) Workers' Compensation Insurance providing coverage as provided under the Workers' Compensation Law of the State of New York.

(4) Fire Insurance covering the parks' structures, fixtures and equipment in the amount of an agreed value of \$75,000.00 with the understanding that this amount will increase as the recreation area is further developed.

(B) It is expressly understood that failure by the LICENSEE to maintain the required insurance policies in full force throughout the term of this license shall result in immediate termination of this license by the TOWN OF VIRGIL. Said insurance shall be obtained from an insurance company license to conduct business in the State of New York. The amount of insurance is subject to review on an annual basis. However, there shall be no reduction in the insurance coverage amounts without the prior written approval of the TOWN OF VIRGIL.

## **LAKE ITEMS/FIRST AID**

It is expressly understood that the LICENSEE shall provide the following at its own cost and expense:

(A) Ten (10) park boats without motors for rental use on Hope Lake;

(B) At least twenty (20) life jackets each for both adult and children sizes;

(C) Twenty-five (25) fishing poles available for rent;



(D) A sufficient amount of bait shall be available at the park during fishing season; and

(E) One (1) motorized patrol boat for emergencies that may occur on the lake. The LICENSEE is to supply information as to the make, model and other specifications of the boat that will be supplied.

In addition, the LICENSEE shall be responsible for the employment of fully trained and certified life guard personnel at the lake. During the swimming/boating/fishing season, there shall be adequate life guards at the lake so that the LICENSEE is in compliance with any local or state law or regulation. Also, it shall be responsibility of the LICENSEE to have adequate first aid and emergency items and equipment on the park premises with personnel trained and certified in first aid treatment on the park premises at all times. Finally, it shall be the responsibility of the LICENSEE to adequately equip the Bath House at its own cost and expense, so the facility is adequate for first aid and first response emergency care.

### **LICENSES AND PERMITS**

The LICENSEE shall procure at its own expense all permits and licenses necessary for the legal operation of this license.

### **MAINTENANCE AND REPAIRS**

(A) The LICENSEE shall maintain and keep the licensed premises including the earthen dam and lake in good and acceptable repair as determined by the TOWN OF VIRGIL at its own expense and shall be surrendered by the LICENSEE at the expiration or termination of this agreement to the TOWN OF VIRGIL in as good condition as when received, reasonable wear and tear and loss from casualty excepted. The LICENSEE shall not make any alterations on the licensed premises without the prior written approval of the TOWN OF VIRGIL.

(B) The LICENSEE agrees to maintain proper maintenance and repair records and to make these records available to the TOWN OF VIRGIL upon request.

(C) At any time during the term of this license, the TOWN OF VIRGIL shall have the right to inspect the licensed premises with regard to the level of maintenance being performed by the LICENSEE, upon providing the LICENSEE twenty-four (24) hours' notice of such inspection. If, as a result of such inspection, it is the written determination of the TOWN OF VIRGIL that any deficiencies exist in the condition of those areas within the LICENSEE'S area of responsibility, the TOWN OF VIRGIL shall so inform the LICENSEE in writing. The LICENSEE shall correct such deficiencies within ten (10) working days of such notice, at which time a follow-up inspection shall be conducted. If the deficiencies have not been corrected at the time of such follow-up inspection, the TOWN OF VIRGIL shall have the right to correct such deficiencies itself and to bill the LICENSEE for the cost of labor and materials used, such bill to be paid by the LICENSEE immediately upon presentation.

All maintenance and repairs by the LICENSEE shall require the approval of the TOWN OF VIRGIL.

### **PARK IDENTIFICATION**

LICENSEE agrees that the property shall be identified as "Virgil Recreational Area Park owned by the Town of Virgil." The TOWN OF VIRGIL shall be identified on all signs, publications, pamphlets and the like relating to the operation of the park. All signs, publications, pamphlets and such identification shall be provided to the TOWN OF VIRGIL for review and approval prior to publication, printing, erection or distribution.

### **PARK RULES AND REGULATIONS**

The LICENSEE and the visiting public shall be subject to the rules and regulations established by the "TOWN OF VIRGIL as well as other federal, state and local regulations which are applicable to the use of the park property.

### **PERSONNEL**

(A) The LICENSEE agrees to provide adequate staff for the purposes of day-today operations, visitor services, maintenance and security at the premises in accordance with the terms and conditions of this license. In addition, the LICENSEE shall provide regular and periodic pick-up of debris, garbage or refuse to maintain the park in a sanitary, neat and orderly appearance.

(B) The LICENSEE shall assign a full-time General Manager satisfactory to the TOWN OF VIRGIL, who shall devote his/her personal attention to the management and operation of the licensed premises. Prior to the engagement of any person as General Manager, the LICENSEE shall provide the TOWN OF VIRGIL with a written statement of the candidate's background and qualifications, and the TOWN OF VIRGIL shall have the right to disqualify any candidate it deems unsuitable for the position within five (5) business days after receipt of the statement.

(C) The LICENSEE shall train all employees hired in appropriate operational procedures and standards.

(D) The TOWN OF VIRGIL reserves the right to require the LICENSEE to discipline, retrain or, in extreme cases, to replace any employee, hourly or management, whose actions or appearance are inconsistent with the standards of the TOWN OF VIRGIL. Any collective bargaining agreement entered into between the LICENSEE and any labor union or organization must recognize this right of the TOWN OF VIRGIL, and the presence of such an agreement will in no way diminish the rights of the TOWN OF VIRGIL.

## **QUALITY AND PRICE**

(A) The LICENSEE warrants that all products and services offered by it to the public shall be of the highest quality. If, in the sole opinion of the TOWN OF VIRGIL, any goods or services offered by the LICENSEE are inconsistent with the image or reputation of the TOWN OF VIRGIL, or are otherwise deemed unsuitable for sale on the licensed premises, the TOWN OF VIRGIL shall request the LICENSEE to cease selling such goods or services and the LICENSEE shall cease selling such goods or services and the LICENSEE shall cease doing so immediately upon receipt of such a written request from the TOWN OF VIRGIL.

(B) The LICENSEE shall submit on or before the first day of April of each year during the term of this agreement the following information for the TOWN OF VIRGIL'S approval, as appropriate: menus for all food operations on the licensed premises; selling prices on each menu and beverage item; quality specifications for each menu item; standard portion size for each food and beverage item; specifications on all non-food items offered for sale; selling prices on all non-food items and a description of quality and type specifications and general update of all services and other operations.

(C) Any changes, additions or deletions to menus, portions, quality or selling prices for any item sold or service provided on the licensed premises shall require the advance approval, in writing, of the TOWN OF VIRGIL. Such approval shall not be .  
unreasonably withheld and shall be granted or withheld within twenty (20) days of receipt of a written request from the LICENSEE. The TOWN OF VIRGIL reserves the right to withhold approval for any change in price, quantity or quality of goods or services for which adequate justification is not provided in supporting data included with requests for changes. If the underlying reasons and justifications which led the TOWN OF VIRGIL to approve changes in price, quality or quantity specifications shall cease to be valid for any reason, the TOWN OF VIRGIL reserves the right to require the LICENSEE to revert to the price, quality or quantity specification in effect prior to the approved change.

## **REFUSE**

The LICENSEE agrees to dispose of all refuse and garbage where and as directed , by the TOWN OF VIRGIL. The cost of removal and disposal of all refuse and garbage, whether such removal and disposal is performed by the TOWN OF VIRGIL or some other entity, is the responsibility of the LICENSEE. Disposal of refuse left by patrons at the licensed premises and the cost thereof is the responsibility of the LICENSEE. The LICENSEE shall be able to utilize the TOWN'S transfer station to dispose of refuse generated at the park. However, the TOWN OF VIRGIL reserves the right to limit the LICENSEE'S use of the transfer station for this purpose.

## **REMOVAL OF PERSONAL PROPERTY**

The LICENSEE agrees not to remove from the park any personal property brought thereon by the LICENSEE for the purpose of this license except with the express permission of the TOWN OF VIRGIL. Upon the expiration of the term of this license, if the LICENSEE has made full payment and carried out the terms of the agreement, the LICENSEE may remove its personal property from the park and shall do so within two weeks after the end of the term. Upon failure to do so, the TOWN OF VIRGIL, its officers, employees and/or agents, may cause such property to be removed and stored at the expense of the LICENSEE. The TOWN OF VIRGIL shall have a lien on such property in the amount of the cost of such removal and storage until paid and may sell such personal property and reimburse itself for such cost plus the expense of sale.

## **RIGHTS UPON LOSS FROM CASUALTY**

(A) If the licensed premises suffer a loss from casualty as defined above, the LICENSEE shall give notice of the loss to the TOWN OF VIRGIL, and the TOWN OF VIRGIL and LICENSEE shall consult to determine whether or in what manner the licensed premises can or shall be restored to substantially the same condition as existed prior to such loss from casualty.

(B) If the loss from casualty is such that the LICENSEE'S operation under this license are substantially interrupted or interfered with, the LICENSEE and the TOWN OF VIRGIL shall each have the right, by notice to the other, to terminate this license. In the event of such termination, the LICENSEE shall pay to the TOWN OF VIRGIL all license fees due for the period through and including the date of loss from casualty, and the LICENSEE and the TOWN OF VIRGIL shall otherwise finalize all open matters and obligations between them.

(C) If neither the LICENSEE nor the TOWN OF VIRGIL terminates this license in accordance with the provisions of this section and the TOWN OF VIRGIL and/or the LICENSEE undertake to restore the licensed premises, the LICENSEE shall have the right to extend this license agreement for a period equal to the time LICENSEE is unable to provide reasonable services to the public due to required restoration or, with the consent of the TOWN OF VIRGIL, to negotiate a new license. In this case, all or part of the LICENSEE'S duties and obligations under this license may be suspended during the period from the date of the casualty until restoration is completed or the term of a new license agreement commences.

(D) If the loss from casualty does not substantially interrupt or interfere with the LICENSEE'S operations under this license, the LICENSEE shall continue to operate the licensed premises and the TOWN OF VIRGIL and the LICENSEE shall determine how best to restore the licensed premises.

## **SALE OF ALCOHOLIC BEVERAGES**

The TOWN OF VIRGIL expressly prohibits the sale of alcoholic beverages on the park premises. Permission for the bringing into the park of alcoholic beverages shall be obtained from the TOWN OF VIRGIL in the form of a written permit. The permit may be issued upon the terms and conditions determined by the TOWN OF VIRGIL.

## **SANITATION**

(A) The LICENSEE shall at all times keep the licensed premises in a clean and sanitary condition. The LICENSEE shall be responsible for assuring that sanitary conditions are maintained and that proper food handling and personal hygiene standards are maintained by all of the LICENSEE'S employees.

(B) All state health laws, local health codes, State Health Department regulations and any sanitation standards established and issued by the TOWN OF VIRGIL must be maintained at all times. Violations of these health standards will result in written warnings to the LICENSEE. Such violations, whether pointed out by the TOWN OF VIRGIL or any other appropriate official shall be corrected within two (2) working days by the LICENSEE. If such deficiencies have not been corrected within two (2) working days, the TOWN OF VIRGIL shall have the right to correct the deficiencies and to bill the LICENSEE for the cost of labor and materials. In addition, failure of the LICENSEE to make corrections of health and sanitation violations may result in termination of the license agreement by the TOWN OF VIRGIL. The closing of any concession facility by State or County Health agencies for health code violations may result in termination of this license. The LICENSEE shall notify the TOWN OF VIRGIL of any Health Department notices and shall provide the TOWN OF VIRGIL with copies of all notices and inspection reports.

## **SCHEDULE OF OPERATION**

The LICENSEE agrees that all park facilities, including concession facilities, shall be open on such days and during such hours as shall be approved by the TOWN OF VIRGIL in writing. No changes in the days of operation or the scheduled hours of operation of the park may be made without the prior approval of the TOWN OF VIRGIL.

Requests for schedule changes shall be made in writing by the LICENSEE, except that schedule changes caused by weather changes or other emergency conditions may be approved verbally in advance by the Supervisor of the TOWN OF VIRGIL, or a designee of the Supervisor.

## **SELLING AND SOLICITING**

Unless otherwise specified in these bid documents, no person shall sell or offer for sale any article or thing on the park premises, and no person shall solicit on the park premises for any purpose whatsoever. The provision of this section shall not apply to any person or organization who receives a permit from the TOWN OF VIRGIL.

## **SIGNS**

The TOWN OF VIRGIL reserves the right to erect, remove or change signs regarding the licensed premises as it deems necessary and desirable for the convenience of the public. No signs shall be erected on or removed from the licensed premises, or changed by the LICENSEE, without the prior written approval of the TOWN OF VIRGIL. Any signs attached to the licensed premises by the LICENSEE with the TOWN OF VIRGIL'S approval shall become the property of the TOWN OF VIRGIL at the expiration or termination of this agreement.

## **SPECIAL EVENTS**

The LICENSEE agrees to submit to the TOWN OF VIRGIL for its approval, at least thirty (30) days prior to presentation of any special events, all plans for such entertainment and special events and promotions to be presented within the licensed premises. Such approval shall be deemed given unless specific objection to such plans is made by the TOWN OF VIRGIL within five (5) business days following the TOWN OF VIRGIL'S receipt of the plans.

## **STATE/COUNTY HEALTH LAWS**

The LICENSEE agrees that it shall comply with all State and County Health Laws and State and County Health Department regulations, and agrees further that the property may be inspected at any reasonable time by a representative or representatives of the State and/or County Health Department or the TOWN OF VIRGIL for purposes of sanitation and health inspections and that if any portion of the park is found to be unsatisfactory, to remedy the same as soon as possible or as may be otherwise specified by regulation or law. It is agreed and understood by the LICENSEE that the park premises is currently in its developmental stage and in future years it is expected that the park will be a year-round recreational area. The LICENSEE agrees to assist and implement the plans and goals that the TOWN OF VIRGIL has for the park in future years.

## **STOCKING OF FISH**

It will be the responsibility of the LICENSEE to apply and receive all required permits to stock the lake with either fish or fish eggs. In addition, it is the responsibility of the LICENSEE to make sure that all individuals who desire to fish on the lake have a valid fishing license.

## **TERMINATION**

This agreement is revocable at will by either party for any reason provided written notice is forwarded to the other party one hundred eighty (180) days in advance. In addition to the rights of termination otherwise specifically provided in this License Agreement, the TOWN OF VIRGIL shall have the right to terminate this license on thirty (30) days' notice to the LICENSEE if (a) the LICENSEE files a petition in bankruptcy, is adjudicated a bankrupt, makes an assignment for the benefit of creditors or has a receiver appointed for it; or (b) the LICENSEE fails to observe or perform all of the terms, conditions and agreements on its part to be observed or performed pursuant to this license after notice specifying the details of such breach shall have

been given to the LICENSEE by the TOWN OF VIRGIL; provided, however, that if such breach cannot be remedied within such thirty (30) day period, LICENSEE shall be deemed to have cured the same if it undertakes to remedy the same within such thirty (30) day period and then diligently pursues such remedy to completion

### **USE OF BIODEGRADABLE/RECYCLABLE PRODUCTS**

The LICENSEE is required to use when possible biodegradable products. Any recyclable materials used in food preparation or food service will be rinsed, collected and brought to a recycling center by the LICENSEE. The LICENSEE will provide appropriate receptacles to allow the public the opportunity to separate recyclable material from biodegradable waste resulting from sales made at the licensed premises

### **UTILITIES**

The LICENSEE accepts from the TOWN OF VIRGIL the provision, location and condition of all utilities as of the date of this agreement. The LICENSEE shall pay directly to the utility companies providing such service, the cost of all utilities consumed in connection with the park property under this agreement. All utilities are to be placed on separate meters.

Should the LICENSEE neglect to pay outside sources for any utility services purchased resulting in termination of these services by such outside source, and should this termination of service have an adverse effect on service to the public, the TOWN OF VIRGIL shall have the right to terminate this license agreement and to require the LICENSEE to leave the licensed premises immediately.

### **VEHICLES AND TRAFFIC**

All motor vehicles operated within the park premises shall be operated in accordance with all traffic signs and road markings erected on or along the park or park roadways by the TOWN OF VIRGIL. No motor vehicles are to be operated on other than established roadways in the park. Motor vehicles shall stand or be parked in park locations designed by for such purposes. No person shall operate a motor vehicle at a rate of speed greater than ten (10) miles per hour. For purposes of this section, a motor vehicle shall include every vehicle propelled by muscular or any other means of power, except a wheel chair.

### **RELATIONSHIP**

This agreement does not in any way constitute the LICENSEE as the agent, employee or legal representative of the TOWN OF VIRGIL for any purpose whatsoever.

In addition, it is understood that the TOWN OF VIRGIL is the owner of the park and for purposes of this agreement; the LICENSEE is an independent contractor. Further, nothing contained in this agreement shall create or be construed as creating a co ownership or co-partnership between the TOWN OF VIRGIL and the LICENSEE with respect to the park.

## **SEVERABILITY**

This agreement shall be governed in all respects by the laws of the State of New York. In the event any provision of this license is determined to be contrary to law or unenforceable for any reason whatsoever, such determination shall not in any way affect the validity or enforceability of the balance of this agreement or any other term of condition hereof.

## **COMPLIANCE WITH LAWS**

The LICENSEE agrees to comply with all Federal and State Laws and all other governmental regulations affecting the licensed premises in regard to all matters, including the sale, use and storage of foodstuff, alcohol and other beverages, and tobacco.

## **MODIFICATION**

This agreement may be modified or canceled by agreement in writing executed by the TOWN OF VIRGIL and the LICENSEE upon such terms and conditions as may be mutually agreed upon between the LICENSEE and the TOWN OF VIRGIL. No such modification or cancellation shall be effective until so executed and approved.

## **NOTICES**

Any notice, request, demand or other communication required or provided for in this license shall be in writing and shall be deemed to have been duly given if delivered in person or mailed in a sealed envelope, postage prepaid, by certified or registered mail, addressed to either party at the address provided herein. Either party may designate another address by giving notice in accordance with the terms of this section.

## **WAIVER**

No forbearance on the part of either party shall constitute a waiver of any item requiring performance by the other hereunder.

## **FORCE MAJEURE**

Neither party shall be liable for failure to perform its part of this license when such failure is due to fire, flood, and strikes or for any loss or damage sustained by the LICENSEE resulting from fire, water, tornado, civil commotion or riots or earth movement.