

## **City of Beacon Farmers Market License Agreement**

This Agreement made as of the \_\_\_\_ day of March, 2018, by and between the City of Beacon (the “City”), a New York municipal corporation with offices at 1 Municipal Plaza, Beacon, New York 12508 (“City”), and Common Ground Farm, Inc. (“CGF”), a New York domestic not-for-profit corporation with offices at P.O. Box 443, Beacon, NY 12508.

**WHEREAS**, this Agreement sets forth the rights and obligations of the parties in connection with the operation of the Farmers Market.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, it is agreed as follows:

1. Grant of License. The City hereby grants CGF a license (“License”) to operate the Farmers Market and its related activities and events within the City of Beacon at the location and times specified below.

2. Term of License. The term (“Term”) of this Agreement shall be from April 22, 2018 to November 18, 2018, excluding Sunday, September 30, 2018 for Spirit of Beacon Day( or October 7, 2018 if the September 30<sup>th</sup> date is rained out) and the Sunday of the Beacon Car Show and any other dates upon reasonable notice.

3. Location of Market. CGF shall operate the Farmers Market at Veterans Place between Main Street and Henry Street on Sundays from 8:00am to 4:00 pm only, including setting up and breaking down.

4. Operation of Market. CGF shall promote and advertise the Market. CGF shall operate and manage the Market in accordance with the CGF’s Rules and Regulations, subject to any and all Federal, State and local laws having jurisdiction over CGF and the Farmers Market. A copy of the current rules and regulations is attached as Exhibit “A” to this Agreement, and CGF shall provide the City with updated rules and regulations as they are amended from time to time. CGF shall be solely responsible for the coordination and management of farmers, producers, and vendors. All Farmers Market participants (i.e. vendors, farmers, etc.) shall complete an indemnification agreement in favor of the City of Beacon in the form annexed hereto as Exhibit “B”. The sidewalk shall be kept clear to allow access to the loading door of the Towne Crier Café.

5. Additional Activities Permitted. CGF and the vendors may not provide music of any type, whether live, recorded, amplified or of any other type. Cooking demonstrations shall be permitted, provided propane tanks are properly secured and not left open to the public and are otherwise in compliance with all applicable laws, rules and regulations. Wine and beer tasting is permitted by vendors selling wine at Farmers Market where said vendors possess all required licenses. No open consumption of alcoholic beverages is otherwise permitted. CGF may also provide activities of interest to children.

6. Products Sold. CGF shall permit its vendors to sell only those products that are pre-approved by CGF, or its designee. No food shall be cooked or prepared and served to the public by any vendor not located in the City of Beacon. Except that the following vendors may continue to cook or prepare food to serve to the public for the term of their Vendor Agreement: Farmers & Chefs and Nana's Homemade. If these vendors are removed from the Farmers Market, they must be replaced with local businesses.

7. Prohibited Sales From Vehicles. There shall be no sales from the surfaces of pick-up trucks, trailers or other vehicles. All products must be sold from a stationary stall.

8. Cancellations. The City reserves the right to suspend this License on any given scheduled market day when snow fall, hurricane, or other severe weather event renders the Licensed Area unsafe or unsuitable for use by the Farmers Market and the City cannot make the Licensed Area safe or suitable in time for use on the scheduled market day or the City needs the licensed area for a public purpose. The City shall incur no liability to the Farmers Market, its agents, vendors, invitees or employees, by exercising its right pursuant to this paragraph.

9. License Fee. A fee of \$100.00 per month that the Market is operated, without being pro-rated, shall be paid on July 1<sup>st</sup> and November 1<sup>st</sup>.

10. Personnel and Equipment.

(a) A Market Manager, or a designated representative of CGF will be present and supervising the Farmers Market, its vendors and activities during all hours of operation. CGF shall provide all necessary equipment to operate the Farmers Market.

(b) Farmers Market participants shall be required to provide their own means of trash removal and shall not use any City receptacles for disposal of garbage or recyclables generated from their operation at the Farmers Market.

(c) CGF shall install a portable toilet near the Farmer's Market at CGF's expense. The location of the portable toilet shall not block access to the market or to parking. The portable toilet shall be maintained in a sanitary and operable condition at all times. CGF shall also provide appropriate signage directing individuals to the portable toilet. The City may, at any time, require CGF to move or perform maintenance on the portable toilet.

(d) CGF acknowledges and represents that all personal property and equipment used for and in connection with the Farmers Market is owned or leased by CGF or its vendors. CGF shall defend, indemnify and hold the City harmless against any and all claims or causes of action made by any person or entity, arising out of, or resulting from the use of or rights to such personal property or equipment.

11. Farmer's Market Committee. CGF shall maintain a Farmer's Market Committee and provide the City's Recreation Director with the name, phone number and e-mail addresses of the Committee members.

12. Insurance and Indemnity.

(a) CGF will provide the City with evidence of all necessary insurance, as of the date hereof, which will include, at a minimum, General Liability Insurance in the sum of One Million and 00/100 (\$1,000,000.00) Dollars each occurrence and Two Million and 00/100 (\$2,000,000.00) Dollars annual aggregate. The City shall be named as an Additional Insured on said policies.

(e) If CGF hires any employees during the term of this Agreement, it shall obtain statutorily required Workmen's Compensation Insurance.

(f) CGF and the Market Manager shall defend, indemnify and hold the City harmless against any and all claims or causes of action made by any person, arising out of, or resulting from the operation of the Farmers Market or arising out of any other alleged conduct of the CGF or its vendors in connection with the Farmers Market.

(g) CGF shall cause the Market Manager to provide the City Clerk with (i) the original indemnification agreements obtained from each vendor; and (ii) copies of all certificates of insurance provided by each vendor to CGF, which shall name the City as additional insured.

13. Conduct of CGF. CGF and the Market Manager and their employees and vendors will at all times conduct business in a courteous and hospitable manner during operation of the Farmers Market.

14. Modifications and Notices.

(a) Wherever in this Agreement notices are required to be delivered by one party to the other, then the same shall be in writing by first-class mail or personal delivery and addressed to the City at City Hall at 1 Municipal Plaza, Beacon, New York 12508, and to CGF at the address set forth above. Any modifications to this Agreement are required to be in writing and executed by both parties. This Agreement contains the entire understanding between the parties.

(b) The emergency contacts for CGF are: Ben Giardullo, 845-219-8572, bgiardullo@gmail.com and Sara Sylvester, 516-526-3187, market@commongroundfarm.org.

15. Agreement Non-assignable. The License granted hereunder and this Agreement, and the obligations and privileges conferred on CGF in this Agreement are not assignable by CGF without the City's prior written consent.

16. Authorities. CGF will secure all necessary permits, licenses and certificates from the appropriate regulatory agencies, including the City and the Dutchess County Department of Health, if any are required, and shall maintain compliance with all local, federal and state laws ("Government Approvals"). CGF will furnish all necessary documentation to the City, upon request, demonstrating compliance by it or its vendors with Government Approvals. CGF will keep accurate records of its enforcement of the Rules and Regulations, and acknowledges the right of the City to review its

records for purposes of assuring continued compliance with Government Approvals, the Rules and Regulations, and the terms of this Agreement. All such records shall be made available for review by the City upon the City's request upon reasonable notice.

17. Maintenance. CGF will keep the License Area in a clean and orderly condition at all times and will leave the License Area in broom clean condition and will remove all of its equipment by 4 p.m. of each Sunday during the Term. Street closure barricades will be put up at 8:00 a.m. and removed by 4:00 p.m.

18. Relocation. The City shall have the right to relocate the Market upon thirty (30) days written notice to CGF if conflicts arise and/or the City receives complaints connected to the location of the Market at Veterans Place.

19. Breach of Agreement.

(a) In the event that CGF fails to pay any fees due the City under this Agreement or otherwise breaches any of the terms of this Agreement, or if the Licensed Area is needed for a public purpose, then and in said event, and upon five (5) business days written notice to CGF, the City may terminate this Agreement. The parties acknowledge that this Agreement is not a lease agreement and that the relationship between the parties is not a landlord/tenant relationship. The parties acknowledge that this Agreement is a license agreement between the parties which may be terminated pursuant to the terms herein.

(b) Further, upon such a breach and written notice as specified above, the City may, without further notice, peaceably re-enter the Licensed Area and dispossess CGF and remove its effects and hold the Licensed Area as if this Agreement had not been made. If CGF shall default prior to the commencement of any renewal of this Agreement, the City may cancel and terminate such renewal immediately by written notice.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement the day and year first above written.

COMMON GROUND FARM, INC.

CITY OF BEACON

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

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

## ACKNOWLEDGEMENTS

STATE OF NEW YORK                    )  
COUNTY OF DUTCHESS                ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK                    )  
COUNTY OF DUTCHESS                ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signatures on the instrument, the individual, and the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

# **EXHIBIT A**

# **EXHIBIT B**

## **HOLD HARMLESS AND INDEMNITY AGREEMENT**

### **For Use by Individual Vendors:**

\_\_\_\_\_ (“Indemnitor”) hereby agrees, in exchange for permission to participate in the Common Ground Farm, Inc.’s Farmers Market (“Market”) located in Beacon Market, to defend, indemnify and hold the City of Beacon and its employees, officers and agents (the “City”) harmless from any and all claims, liabilities, suits, proceedings, actions, costs and expenses, including attorney’s fees, of whatever name or nature as the same may relate, arising from Indemnitor’s participation in the Market. Said indemnification and defense by Indemnitor to the City apply to any claim, liability, suit, proceeding and action in which the City may be named as a party, and notwithstanding that Indemnitor may deem said claim, liability, suit, proceeding or action frivolous or without merit.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

### **For Use by Participating Business Entities:**

\_\_\_\_\_ (“Indemnitor”), through its designated agent, \_\_\_\_\_, and in exchange for permission to participate in the Common Ground Farm, Inc.’s Farmers Market (“Market”) located in Beacon, hereby agrees to defend, indemnify and hold the City of Beacon and its employees, officers and agents (the “City”) harmless from any and all claims, liabilities, suits, proceedings, actions, costs and expenses, including attorney’s fees, arising from Indemnitor’s participation, or the participation of Indemnitor’s employees or agents, in the Market. Said indemnification and defense by Indemnitor of the City shall apply to any claim, liability, suit, proceeding and action in which the City may be named as a party, notwithstanding that Indemnitor may deem said claim, liability, suit, proceeding or action frivolous or without merit. By affixing their signature hereto, the undersigned hereby represents that he or she is designated agent of Indemnitor, authorized to enter into and bind Indemnitor to this agreement.

\_\_\_\_\_  
Vendor Name

By: \_\_\_\_\_  
Agent Signature

\_\_\_\_\_  
Date