

LEASE AGREEMENT

This Lease Agreement (“Agreement”) by and between the Board of Park Commissioners of the City of Fort Wayne ("The Owner") and Johnny Appleseed Festival, Inc. an Indiana non-profit corporation ("JAF"), is dated the date of execution but shall be effective as of the 19th day of May 2022 (the “Effective Date”).

WHEREAS, JAF desires to lease from the Owner improved real estate located at 1502 Harry Baals Drive, Fort Wayne, Indiana (the “Premises”) which improved real estate includes a barn commonly known as the “Johnny Appleseed Festival Barn” (the “JAF Barn”), all as more fully described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, the Owner is willing to lease the Premises to JAF in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **ORGANIZATIONAL STATUS:** Concurrently with the execution of this Agreement, JAF will provide the Owner with a copy of JAF’s organizational documents and documentation of JAF's I.R.S. Code Sec. 501(c)3 tax-exempt status. JAF shall also provide the Owner during the Term and any Renewal Term (as hereinafter defined) with documentation that evidences any change to JAF’s organizational or tax-exempt status.
2. **RENT:** JAF shall pay to Owner as rent during the Term and any Renewal Term the sum of One and 00/100 Dollars (\$1.00), payable on the first day of the Term and any Renewal Term.

3. **UTILITIES:** JAF will pay all utilities, telephone, waste disposal, and other charges assessed against the Premises.

4. **SECURITY:** JAF will provide fire security for the JAF Barn and all other improvements located on the Premises, which security shall be acceptable to the Owner.

5. **GROUNDS MAINTENANCE:** JAF will maintain the outside fenced bullpen area adjacent to the Premises.

6. **MAINTENANCE, REPAIR, AND REPLACEMENT:** JAF shall maintain the Premises and the improvements located thereon in a good and sanitary condition and repair and shall make such repairs, renovations and replacements to the Premises as the Owner shall reasonably determine, all at JAF's expense and in accordance with Owner's specifications and all applicable federal, state, and local requirements. JAF will winterize the JAF Barn as needed each year during the Term and any Renewal Term. The Owner's prior written approval shall be required for all major repairs, renovations, and replacements performed hereunder by JAF.

7. **ALTERATIONS AND IMPROVEMENTS:** JAF may, at JAF's expense, remodel, redecorate and make improvements to the Premises, with the prior written consent of OWNER, provided the same are made in a workmanlike manner using quality materials. JAF may place and install personal property, trade fixtures, and equipment in and upon the Premises, provided that JAF shall remove the same at the expiration of the Term or the applicable Renewal Term and shall repair, at JAF's expense, all damage caused to the Premises by such removal

8. **INSURANCE:**

A. FIRE AND EXTENDED COVERAGE INSURANCE: JAF shall at its expense maintain: (a) fire and extended coverage insurance on the

Premises in such amount as reasonably necessary to replace the JAF Barn and all other improvements located on the Premises; and (b) fire and extended coverage insurance on all of Tenant's personal property, including removable trade fixtures located on the Premises.

B. COMPREHENSIVE GENERAL LIABILITY INSURANCE:

JAF will maintain comprehensive and general liability insurance for One Million Dollars (\$1,000,000.00) per occurrence and One Million Dollars (\$1,000,000.00) general aggregate which insurance shall name Owner as an additional insured thereon and shall provide Owner with thirty (30) days prior written notice in the event of cancellation or non-renewal for any reason.

C. CERTIFICATES OF INSURANCE: JAF will provide Owner annually during the Term and any Renewal Term (or more frequently as reasonably requested by Owner) with certificates of insurance confirming JAF's compliance with all of the insurance coverage obligations of JAF hereunder.

D. RELEASE AND INDEMNITY: JAF hereby forever releases Owner from any liability, loss, damage, cost, or expense of any kind or nature (including attorneys' fees), both known and unknown, and whether now existing or hereinafter arising, which is in any way associated with JAF's occupancy, management, possession, control, operation and use of the Premises. JAF shall indemnify and hold Owner, its officers, employees, departments, divisions, representatives, and authorized agents harmless from and against any and all claims, demands, liabilities, costs, and expenses of every kind and nature (including legal costs and reasonable attorney's fees) which arise directly or indirectly or are in any way associated with the occupancy, control, possession, management,

operation and use of the Premises by JAF and any third party permitted by JAF to use the Premises for any reason. The covenants of release and indemnity made by JAF in this Paragraph 9 shall survive the expiration or earlier termination of this Agreement for any reason.

9. **COMPLIANCE WITH LAWS:** JAF will comply with all state laws, city ordinances, and Parks Department policies during the Term and any Renewal Term.

10. **SIGNAGE:** All permanent and sponsor signage signs proposed by JAF for use on the Premises must be approved in advance by the Owner. Upon the expiration of the Term or applicable Renewal Term JAF shall remove all signs and shall repair, at JAF's expense, any damage caused by such removal.

11. **TERM:** The lease of the Premises upon the conditions set forth herein shall commence upon the Effective Date and shall continue thereafter for sixty (60) consecutive months to and including May 18, 2026 (the "Term"). Provided JAF is not then in default hereunder, this Agreement may be renewed in writing for one (1) additional five (5) year term (the "Renewal Term") upon the terms and conditions contained in this Agreement. This Agreement may be canceled at any time during the Term or the Renewal Term by either Owner or JAF upon one hundred twenty (120) days written notice to the non-terminating party.

12. **NON-ASSIGNMENT:** JAF shall not: (a) sublet all or any portion of the Premises; (b) assign any rights or obligations granted to or assumed by JAF under this Agreement, or (c) permit the use of the Premises by a third party for any reason without the prior written consent of Owner.

Dated: May 19, 2022, but effective as of the Effective Date.

**CITY OF FORT WAYNE
BOARD OF PARK COMMISSIONERS**

William Zielke, President

Justin Shurley, Vice-President

Cory Miller, Commissioner

Richard Briley, Commissioner

Steve McDaniel, Director/Board Secretary

**JOHNNY APPLESEED.
FESTIVAL, INC.**

BY: _____
Director of Administration

BY: _____
Asset Manager

Exhibit A



