



Governors Island Preservation and Education Corporation
Permit for Use and Occupancy of Property

All inquiries concerning the GIPEC Use Permit process shall be addressed to Lynda Realmuto, phone: 212.480.2225, or by email at: lrealmuto@empire.state.ny.us.

Permittee expressly acknowledges that GIPEC does not own, and this Permit, if granted, does not provide any rights or permission with respect to any portion of the National Monument Property located on Governors Island (as described in Schedule B of this Application). Inquiries regarding the National Monument Property should be addressed to: Michael Shaver Governors Island National Monument office, at (212) 514-8285 or mike_shaver@nps.gov.

PERMITTEE INFORMATION

Permittee _____	_____	_____
	Name	E-mail address
_____	_____	_____
	Address	Telephone number
Organization _____	_____	_____

USE INFORMATION

Type of Use _____

(A more detailed description of the use and scope of activities should be set forth in Schedule A)

Location of Use on Governors Island: Specific location (include piers, buildings, open space and streets). Please circle areas on attached map (Schedule B)

Interior Square Feet: _____

Exterior Square Feet: _____

Term of Permit

GIPEC's 2008 Summer Public Access Season (Summer Season) and 2009 Summer Season. GIPEC's Summer Season opens May 31, 2008. The closing date, and the opening and closing dates for the 2009 Summer Season, have not been set yet.

Will the Use be advertised? YES ___ NO ___

Will any pamphlets, handbills, or advertising matter of any kind be distributed as part of the Use?
YES___ NO___

If yes to either above, describe advertising plan including dates and media outlets and/or proposed pamphlets, handbills, etc. to be distributed. Note: Advertising materials require prior GIPEC approval.

Will participants and users be charged? YES ___ NO___ If yes, how much? Include fee schedule in Schedule C.

Will the Use involve vending? YES___ NO___ If yes, describe in the proposed vending in detail. Be specific. List items and prices in Schedule C. Note: all vendors and vending arrangements require GIPEC's prior approval.

If yes, describe:

FEES

Total fee or other compensation, if any, payable by Permittee for Use	\$ _____
Fee due at the time of signed agreement	\$ _____
Balance of Fee due by _____	\$ _____
Security deposit	\$ _____

INSURANCE INFORMATION

(This Permit Application must be submitted with original Certificate of Insurance):

Insurance Broker: _____ Phone: _____

Policy #: _____ Coverage Amount: _____ Date: _____

Provisions for liability and auto insurance must be made to the satisfaction of GIPEC (see GIPEC insurance requirements set forth in Schedule D).

This Application includes the Schedules attached hereto. Permittee shall submit fully completed Schedules as part of its Application.

The information provided on this Permit Application is complete and accurate to the best of my knowledge. Permittee agrees to abide by the terms set forth in this application and that failure to do so may lead to the cancellation of the Use, the denial of future permit applications, or other legal action by GIPEC.

PERMITTEE: _____

By: _____

Title: _____

Date: _____

Use and Occupancy Terms and Conditions

- 1) It is understood that the Use be strictly conducted as described in detail in Schedule A. This Permit grants permission solely for permitted use and the Permittee shall conduct no other activities on the Island. Permittee will provide any additional information regarding the activities to be conducted pursuant to this permit upon request of any GIPEC representative. Permittee shall, prior to the commencement of the Permit Term, at its sole cost and expense, obtain all licenses, consents, and permits from any governmental agencies, that may be required for its activities on the Island.
- 2) Permittee shall operate the Concession as a first-class, high quality bicycle rental concession, offering rentals of adult and children's bicycles, bicycle trailers, tandems, quadracycles and skates, bicycle tours, light bicycle repair services, and the sale of water, non-carbonated energy drinks, energy bars, and other items incidental to such business (locks, helmets, pads, tubes, reflectors/lights, bells/horns, etc.). Such selection and prices must be comparable to those charged for similar goods at other similar locations within the region.
- 3) If the Use is taking place at or within historic sites and buildings, sound and lighting levels will be in accord with GIPEC standards and guidelines for the preservation of historic structures and landscapes established within the National Historic Landmark District Design Manual published in three volumes by the U.S. General Services Administration, a copy of which has been made available to Permittee.
- 4) Permittee shall, except for periods of inclement weather, open the Concession to the public and be in operation from 10 am to 7pm, every Friday, Saturday and Sunday from May 31st through October 2008 (exact 2008 Summer Season closing date to be determined), and, unless otherwise determined by GIPEC, during the same hours and days during the 2009 Summer Season.
- 5) The payment of a fee, if any, for this Permit will be negotiated between GIPEC and the Permittee as part of the Permit negotiation.
- 6) Permittee shall pay a security deposit of \$15,000 at the time of execution of this Permit. This security deposit will be retained by GIPEC as security to ensure faithful performance of the Permit and compliance with all terms by the Permittee. Permittee's failure to comply with the Permit will entitle GIPEC to retain such portion of the security deposit to remedy such default and pay all remaining expenses arising therefrom. If Permittee is in compliance with all terms of this Permit at the expiration or termination of the Permit Term, GIPEC shall return any remaining security deposit balance to the Permittee.
- 7) It is understood that the Permit Premises is located on an Island and is only reachable by ferry service and that GIPEC, pursuant to a sub-contract, generally provides regularly scheduled ferry service to the Island. The Permittee shall be permitted to use the scheduled

round trip ferry runs each day on a “first-come, first-served” basis with all other individuals and entities using the ferry during the Permit term and prior to and after the Permit Term for setting up and tearing down concession equipment. Permittee acknowledges receipt of GIPEC’s current ferry schedule, which Permittee acknowledges GIPEC may change at any time in its sole discretion. Permittee shall, upon payment of additional fees, have the opportunity to request additional ferry runs, in excess of GIPEC’s regularly scheduled ferry runs, which may be granted in GIPEC’s sole discretion. GIPEC, however, does not guarantee the availability of ferry service and assumes no liability whatsoever for any unavailability of ferry service during the term of this Permit or otherwise.

- 8) Permittee acknowledges that the Island has a history of use as a military installation and that subsurface unexploded ordnance may be present at any location on the Island. Therefore, all ground-disturbing activities, such as digging or staking into the ground, are strictly prohibited, and will constitute a violation of this Permit, unless specified in Schedule A, approved in advance by GIPEC and conducted under proper UXO supervision. Attaching signs, awnings or other items to plants or trees is strictly prohibited. Permittee hereby assumes all risks associated with any such prohibited activity.
- 9) Permittee hereby accepts the Island in its “As Is” condition and assumes all risks associated with the activities to be conducted pursuant to this Permit, the condition of the Island and travel to and from the Island.
- 10) Permittee agrees to indemnify, defend and save harmless, GIPEC, the New York State Urban Development Corporation, doing business as the Empire State Development Corporation, New York City Economic Development Corporation, the State of New York, the City of New York and Turner Construction Company (or successor facilities manager for GIPEC) and all of their directors, officers, representatives, agents, employees and subcontractors (collectively, the “Indemnitees”) from all damages, costs, liability and suits of any nature whatsoever arising from the operation of this Permit or any breach of this Permit by Permittee, or as a result of the consequences of any act, omission, neglect or misconduct on the part of anyone associated with the Permittee or this project and acknowledges that GIPEC has not made nor does it make any representation or warranty as to the condition of the Permit Premises or its suitability for any particular use or as to any other matter affecting this Permit.
- 11) Permittee shall permit access, inspection and examination of the Permit Area by GIPEC or GIPEC’s agents, employees, consultants and representatives at all times to determine whether Permittee is complying with the terms of this Permit.
- 12) Permittee agrees that dogs and other animals (except service animals) are not allowed on the Island.
- 13) Permit Premises Improvements, Repair, Maintenance and Security
 - a) No permanent construction will be allowed on the Concession Site. However, tents, trailers or other temporary structures and installations may be installed and used for

storage and operations, subject to prior GIPEC approval. Permittee shall not undertake any such construction, improvements, alterations or changes, nor erect or install signage of any kind on, to or at the Permit Premises, without the prior specific written consent and authorization of GIPEC.

- b) Permittee will be responsible for the purchase, installation and maintenance of all equipment needed to operate the Concession.
- c) Permittee will be obligated to supply all equipment necessary to operate the Concession. It is the responsibility of Permittee to remove fixed equipment and return the Permit Premises to GIPEC in a condition as good as or better than that at the commencement of the Term at the end of the 2009 Summer Season, unless the Permit team is extended by GIPEC.
- d) Permittee may elect to erect a business location sign of appropriate size, text and location, subject to prior GIPEC approval. Signage design must be consistent with surrounding design and conform to criteria established by GIPEC.
- e) Security at the Permit Premises and other equipment, furniture and property is the sole responsibility of the Permittee. GIPEC shall not be responsible for mediating any disputes between Permittee and its patrons.
- f) Permittee is responsible for securing the Permit Premises and 50 feet around the Permit Premises and for keeping and maintaining same in a safe and clean condition, including but not limited to utilizing reasonable and prudent security measures and equipment, and providing for regular and prompt removal of garbage, rubbish, litter, snow and ice. Permittee shall keep all signs, structures and equipment free of graffiti. Permittee will be responsible for maintaining a regular cleaning schedule. Permittee shall be fully responsible for the cost of securing and maintaining the Permit Premises and improvements therein.
- g) Permittee shall at all times insure that its bicycles and other rental equipment is in good condition and repair with their tires fully inflated and shall insure all other components and systems used in connection with the Permit are in good condition and repair throughout the Permit Term.
- h) Promptly at the end of each Summer Season for which this Permit is in effect, Permittee will clear all areas of all equipment, temporary structures, and trash and return the Permit Premises to its original condition. Cleanup shall be subject to GIPEC's satisfaction. If the Permit term is extended by GIPEC, temporary structures and equipment may be left in place or moved to an on-Island location at GIPEC's sole discretion. The Permittee shall be responsible for any damages to GIPEC property or facilities resulting from the Permittee's activities under this Permit and shall provide cleanup and maintenance services necessary in GIPEC's judgment to maintain and restore the Permit Premises to the condition prior to the Permittee's use. If additional clean-up services are deemed necessary by GIPEC, such services will be provided by

GIPEC representatives and performed to GIPEC's satisfaction at a minimum cost to the Permittee of one thousand dollars (\$1,000) per day

- i) GIPEC shall not have any responsibility whatsoever for the loss or destruction of any improvements made by Permittee or for furniture, fixtures, equipment or other property stored or being used on the Permit Premises.
 - j) Except as included in paragraph "k" below, GIPEC shall not be responsible for providing any utility or service, including but not limited to gas, electricity, restrooms, etc, in excess of that which is already provided at the Island. Permittee expressly acknowledges that there is no potable water and Permittee should provide all necessary supplies of potable water for the activities conducted hereunder.
 - k) Electricity and washing water, as well as GIPEC-operated security and waste management, will be made available at the Concession Site at no cost to the Permittee. Rest rooms are located near the Permit Premises in Building 148, and GIPEC shall make additional portable toilets available during the Summer Season.
 - l) GIPEC shall have no obligation to make any structural or non-structural alterations for the benefit of Permittee or for any purpose under this Permit.
 - m) Permittee shall be bound by and comply with all applicable laws and regulations, and any special instructions given by any GIPEC representative.
- 14) Permittee shall be bound by and comply with all applicable laws and regulations and any special instructions given by any GIPEC representative.
- 15) The Permittee hereby certifies that all information provided to GIPEC with respect to State Finance Law Section 139-j, including, without limitation, the information contained in Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law Section 139-j, attached to this Permit as Attachment A, and Offerer Disclosure of Prior Non-Responsibility Determinations, attached to this Permit as Attachment B, is complete, true and accurate. The Permittee acknowledges that the preceding sentence is a material representation upon which GIPEC is relying in granting this Permit. Should any such information be found to be intentionally false or intentionally incomplete, this Permit shall be subject to termination pursuant to Section 15 hereof.
- 16) Default/Termination
- a) Any representation of warranty made or deemed to have been made by Permittee in its RFP response or under this Permit that shall prove to be untrue in any material respect shall constitute a default. Nothing contained in this Permit shall limit in any manner any and all rights or remedies otherwise available to GIPEC by reason of a default by Permittee under this Permit. Permittee agrees that any agreement or contract entered into it with any subcontractor in connection with the services identified herein shall provide for immediate termination for the reasons and pursuant to the procedures set forth in this Permit. Permittee's failure to terminate a contractor when grounds for such

termination exist and GIPEC has requested such termination shall be grounds for GIPEC's termination of this Permit for cause.

- b) Permittee shall not assign, grant use of, permit or license the whole or any part of the Permit Premises, or this Permit, nor allow the same to be occupied and/or operated by any person or entity other than Permittee, whether by merger, consolidation, purchase of assets, transfer of stock in Permittee, transfer of joint venture or partnership interests in Permittee, operation of law or otherwise without the prior written consent of GIPEC in each instance.
- c) Permittee shall not mortgage or pledge this Permit or any part thereof, or in any way charge or encumber the rights granted herein, or any part thereof, or issue or grant any permit or license to use the Permit Premises, or any part thereof without the prior written consent of GIPEC.
- d) If Permittee shall default in the performance any of its obligations under this Permit, GIPEC shall have the right to immediately terminate this permit upon notice to Permittee.
- e) Notwithstanding any other language contained herein, this Permit is also terminable "at will" by GIPEC without cause in its sole discretion, at any time. Such termination shall be effective immediately upon written notice sent to Permittee. GIPEC, its directors, employees and/or agents shall not be liable for damages to Permittee or have any other liability to Permittee in the event of any such "at-will" termination, provided that if Permittee is in full compliance with the Permit as of the time of such "at-will" termination, GIPEC shall promptly refund to the Permittee any unused portion of the security deposit.
- f) Permittee agrees that upon the expiration or sooner termination of this Permit, Permittee shall immediately cease all operations pursuant to this Permit, remove all personal possessions, and shall vacate the Permit Premises without any further notice by GIPEC and without resort to any judicial proceedings. Any personal property remaining on the Permit Premises after the expiration or sooner termination of this Permit is intended by Permittee and shall be considered by GIPEC to be abandoned. Permittee shall remain liable to GIPEC for any damages, including the cost of removal or disposal of property should Permittee fail to remove all possessions on or before the expiration or sooner termination date. Upon the expiration or sooner termination of this Permit, GIPEC reserves the right to take immediate possession of the Permit Premises using such force for that purpose as may be necessary without being liable to indictment, prosecution or damages therefore and may dispossess Permittee by summary proceedings or otherwise, without court order or other judicial approval.
- g) Upon any expiration or termination of the Permit, GIPEC may draw down such sums from the Security Deposit as may be necessary to compensate GIPEC for the payment of Permit fees, late charges, liquidated damages or other sums due from the Permittee or towards any loss, damage or expense sustained by GIPEC resulting from such a default by the Permittee, including the failure to properly restore Permit Premises.

- 17) It is the policy of the State of New York and GIPEC to comply with all federal, state and local laws, policy, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status. Neither shall the Permittee discriminate against any employee or applicant for employment or in the use of these Permit Premises or any access to these Permit Premises if such Permit Premises is used as a public accommodation or in connection with a public service.
- 18) This Permit may not be altered, modified or amended in any manner whatsoever except by a written instrument signed by Permitter and Permittee.
- 19) If any of the provisions of this Permit are held invalid, such invalidity shall not affect or impair other provisions of this Permit which can remain in effect without the invalid provisions, and therefore, the provisions of this Permit are severable.
- 20) Permittee hereby applies for a Use Permit for the activities indicated above and in Schedule A. Permittee has read all the terms and conditions contained in this Application and Permit and agrees to be bound by them.

PERMITTEE

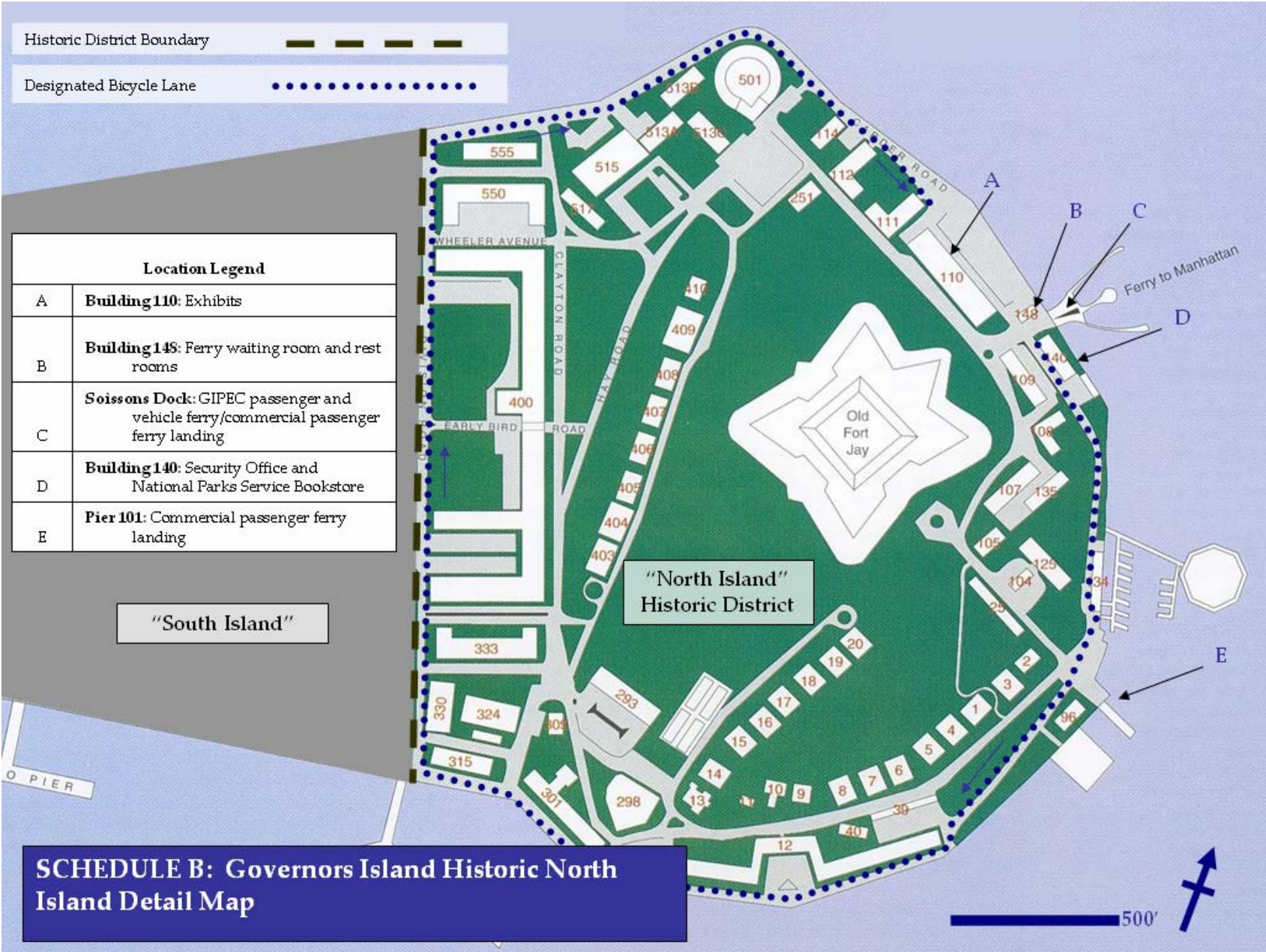
By: _____

Title: _____

Date: _____

SCHEDULE A
Scope of Activities, Schedule and Location

SCHEDULE B



SCHEDULE B: Governors Island Historic North Island Detail Map

SCHEDULE C

Fee Schedule and/or list of items for sale with prices

SCHEDULE D
GIPEC SPECIAL EVENT PERMIT
INSURANCE REQUIREMENTS

A. Permittee throughout the term of this Permit, or as otherwise required by this Permit, shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below, with GIPEC and related parties listed as additional insured, and as required by terms of this Permit, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies) for all individual areas included in the Permitted Premises:

i. Commercial General Liability Insurance with a limit of not less than \$2,000,000 per each occurrence. Such liability shall be written on the Insurance Service Office's ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages and shall cover liability arising from Permit Premises operations, independent contractors, products completed operations, broad form property damage, personal and advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage. If such insurance contains an aggregate limit, it shall apply separately to this location;

ii. Workers Compensation, Employers Liability, Disability Benefits as required by New York State;

iii. If this Permit approves the use of any vehicle on the Island then Permittee shall maintain Comprehensive Business Automobile Liability Insurance with a limit of not less than \$1,000,000 for each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles;

iv. If this Permit approves the landing, docking or berthing of any vessel at Governors Island, then Permittee shall maintain Protection and Indemnity Insurance or proof of other third party liability with limits of not less than \$1,000,000 or higher as required by GIPEC. Such Insurance shall provide coverage at a minimum for loss of life, personal injury and illness of crew, passengers and third-party individuals, damage to cargo on board, damage to piers, docks, buoys and other fixed or floating objects and damage to other vessels and their cargo;

v. If Permittee is serving liquor, Liquor Liability or Special Event insurance is required with a limit of not less than \$5 million;

vi. If volunteers will participate in any of Permittee's activities, then Permittee shall maintain Commercial General Liability and Workers Compensation Insurance providing coverage for volunteers;

vii. Accidental Death or Dismemberment insurance is required for all sports leagues and other Permittees, as necessary.

B. All insurance required by the hereunder shall be:

- i. Obtained at the sole cost and expense of Permittee, unless otherwise noted;
- ii. Maintained with companies that may lawfully issue the required policy and have
- iii. ratings as set forth in paragraph D below, unless prior written approval is obtained from the GIPEC;
- iv. Primary and non-contributing to any insurance or self-insurance maintained by GIPEC;
- v. Endorsed to provide written notice be given to GIPEC, at least (30) days prior to the cancellation, non renewal, or material alteration of such policies, which notice evidenced by return receipt of United States Certified Mail, shall be sent to GIPEC at the following business address: 10 South Street, Battery Maritime Building, Slip 7, NY, NY 10004; and
- vi. Written to name the following as additional insureds thereunder ("Additional Insureds"): the Governors Island Preservation & Education Corporation (GIPEC), the State of New York, the City of New York, the New York State Urban Development Corporation d/b/a Empire State Development Corporation, the New York City Economic Development Corporation, Turner Construction Company, and each of their commissioners, directors, officers, agents, employees, contractors, successors and assigns including, Harbor Ferry Services, LLC.

- C. Permittee shall be solely responsible for the payment of all deductibles and self-insured retentions to which such policies are subject. Deductibles and self-insured retentions must be approved by GIPEC. Such approval shall not be unreasonably withheld.
- D. Each insurance carrier must be rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to GIPEC and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.
- E. Permittee shall cause all insurance to be in full force and effect as on the commencement date of this Permit and to remain in full force and effect throughout the term of this Permit and as further required by this Permit. Permittee shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect. Not less than thirty (30) days prior to the expiration date or renewal date of any policy, Permittee shall supply GIPEC with updated replacement Certificates of Insurance, and amendatory endorsements.
- F. Waiver of Subrogation. Permittee shall cause to be included in each of its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against GIPEC, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if Permittee waives or has waived before the casualty the

right of recovery against GIPEC or other Additional Insureds set forth above, or (ii) any other form of permission for the release of GIPEC or other Additional Insureds. Permittee hereby applies for a Special Event Permit for the activities indicated above. Permittee has read all the terms and conditions contained in this Application and Permit and agrees to be bound by them.

ATTACHMENT A

Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law Section 139-j

Please see Attachments I and J of the Governors Island Bicycle Rental Concession Request for Proposals for policy and form.

ATTACHMENT B

Offerer Disclosure of Prior Non-Responsibility Determinations

Please see Attachment H of the Governors Island Bicycle Rental Concession Request for Proposals for form.