



August 5, 2020

City and County of San Francisco
acting through the
San Francisco Animal Care & Control
1200 15th St.
San Francisco, CA 94103
Attn: Deb Campbell & Virginia Donohue

Re: "Live Rescue" – Access Agreement

Ladies/Gentlemen:

This letter will confirm the agreement ("Agreement"), dated and with effect from August 5, 2020 (the "Effective Date"), between the City and County of San Francisco acting through the San Francisco Animal Care & Control ("SFACC" or "City") and Big Fish Entertainment LLC ("Producer") with respect to Producer's television series currently entitled "Live Rescue" (the "Series"):

1. **Term.** The term of this Agreement ("Term") is the period commencing on the Effective Date and continuing for a period of one (1) year through and including, August 4, 2021 (the "Initial Contract Year"). The parties shall have the right to extend the Term for an additional one (1) year period through and including, August 4, 2022 by mutual agreement. If any television network for which Producer is producing the Series (the "Network") desires additional options to order more Series episodes for production requiring access beyond the Initial Contract Year, Producer and SFACC shall negotiate in good faith to extend the Term as required by the Network (for purposes of this Agreement any extension hereunder may collectively be referred to as the "Extended Term"). Producer and SFACC acknowledge and agree that at any time during the Term, either party may terminate this Agreement upon thirty (30) days written notice to the other party.
2. **Access.** During the Term, and any Extended Term, SFACC grants to Producer and its production personnel permission to enter upon and record (audio and/or visual) SFACC's offices, facilities and vehicles utilized by and/or in connection with SFACC (including, but not limited to, all areas of the SFACC Shelter, SFACC's training facilities, and vehicles) (collectively, "SFACC Property") in addition to permission to accompany SFACC Animal Control Officers and/or other SFACC personnel (collectively "SFACC Personnel") during the course of their duties or otherwise (subject to the limitations imposed by SFACC as necessary for the safety and security of SFACC Personnel and SFACC Property and the individuals and entities for whom they provide emergency services, including any limitations imposed by SFACC in order to comply with the Health Insurance Portability and Accountability Act ("HIPAA") or any other applicable privacy law) for the purpose of filming, videotaping, photographing and otherwise recording the SFACC Personnel and the situations they encounter and/or become involved in, and all or any part of the exterior and interior and contents of SFACC Property, including names, signs and identifying insignia of SFACC as set forth below as incidentally captured during the filming of the Series and in-context promotion and publicity related thereto.. SFACC reserves the right to restrict access to some areas of SFACC Property or require Producer to be accompanied by SFACC Personnel in certain designated areas and to restrict the times when Producer may access SFACC Property. Producer and SFACC shall use good faith efforts to arrange all filming schedules in advance as necessary during the Term. In the event SFACC determines that any aspect of Producer's filming of the Series unreasonably interferes with the professional services and/or care required to be provided by the SFACC Personnel, Producer agrees to follow the directions of SFACC Personnel in order to eliminate any such interference including, but not limited to, stopping filming when requested to do so by SFACC Personnel. Producer shall have the right to make such use of SFACC Property, as permitted by SFACC Personnel, as may reasonably be required for the production of the Series, including, without limitation, the right to place all necessary personnel, facilities, vehicles and equipment on SFACC Property, and Producer agrees to remove same after completion of work and leave SFACC Property in substantially the same condition as when Producer entered upon SFACC Property, reasonable wear and tear excepted. SFACC further

agrees that Producer may be entitled to return to SFACC Property thereafter at a mutually acceptable date and time for still photography or other activity required in connection with the production, promotion or other exploitation of the Series. Producer acknowledges and agrees that Producer shall be responsible for obtaining HIPAA waivers as necessary in the course of filming for the Series. Producer acknowledges and agrees that Producer may not enter private residences without prior permission or consent from the appropriate private party, and Producer further understands that SFACC Personnel are not required to obtain such permission or consent for Producer. Producer and SFACC will work together in good faith to determine which SFACC Personnel have consented to be filmed in connection with the Series. Producer will endeavor to respect the privacy of SFACC Personnel by limiting filming of SFACC Personnel during their official duties and not filming SFACC Personnel while they are performing personal activities such as dressing, bathroom activities and bathing, unless otherwise approved by such SFACC Personnel. Producer agrees to sign the City's USE AGREEMENT FOR CITY PROPERTY FOR FILM PRODUCTION AND RELATED ACTIVITIES, provided opportunity to review and comment thereon, and any other legally required SFACC liability waivers as necessary, which may include the payment of any location fees in connection thereto.

3. Restrictions on Use. Producer shall not use, and Producer shall prohibit any of its Agents (defined as follows) or Invitees (defined as follows) from using the SFACC Property for any activities other than the use as permitted by this Agreement herein. The term "Agents" shall mean Producer's officers, directors, members, agents, employees, invitees, Producers, and any employees of such parties. The term "Invitees" shall mean Producer's invitees, guests or business visitors. By way of example only and without limitation, the following uses of SFACC Property by Producer, or any of its Agents or Invitees, are prohibited:

(a) Producer shall not construct or place any permanent structures, signs or improvements on the City Property, nor shall Producer alter any existing structures, signs or improvements on SFACC Property.

(b) Producer shall not conduct any unauthorized activities on or about SFACC Property that constitute waste or nuisance.

(c) Producer shall not damage City's real or personal property, reasonable wear and tear excepted.

(d) Producer shall not cause any Hazardous Material (defined as follows) to be brought upon, kept, used, stored, released, generated or disposed of in, on or about SFACC Property, or transported to or from SFACC Property; provided, however, that Producer may bring gasoline and petroleum products on SFACC Property to run generators and propane for catering activities, provided such products are in commercially reasonable amounts and stored in a commercially reasonable manner.

(i) Producer shall immediately notify City of any release or suspected release of Hazardous Material. Producer shall comply with all laws requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary to mitigate the release or minimize the spread of contamination. In the event of a release of Hazardous Material, Producer shall, without cost to City and in accordance with all laws and regulations, return the City Property to the condition immediately prior to the release. Producer shall allow City to participate in any discussion with governmental agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise proceeding involving Hazardous Material.

(ii) For purposes of this Agreement, "Hazardous Material" includes, without limitation, the following: any material defined as a "hazardous substance, pollutant or contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), or pursuant to Section 25316 of the California Health & Safety Code; a "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials; and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids. The term "release" or "threatened release" shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about SFACC Property.

4. Rights. SFACC licenses to Producer and its successors, subsidiaries, licensees and assigns, the right to photograph, record, reproduce and otherwise use SFACC Personnel and SFACC Property and all SFACC Personnel and SFACC Property names, voice, likeness, images, trademarks, service marks, tradenames, logos, copyrighted material and/or other materials to which Producer is afforded access hereunder in and in connection with the development, production, exhibition, exploitation, and promotion of the Series, related series (i.e., best of's, compilations, clip shows, substantially similar programming for the Network related to the Live Rescue franchise, reunions, looks back, digital extras, etc.) or derivative works, and the in-context marketing, promotion, and publicity thereof and/or otherwise, in all forms of media, now known or hereinafter invented, throughout the world an unlimited number of times in perpetuity. Notwithstanding the foregoing, Producer shall not be permitted to use the identifying insignia of SFACC separate and apart from the Series and other permitted uses as set forth hereunder, and the SFACC name and logo that may not be used to endorse the Series separate and apart from incidentally appearing in footage without SFACC's written approval. Producer and SFACC acknowledge and agree that Producer shall not be permitted to manufacture or sell merchandise including SFACC name and logo, except pursuant to a separate merchandise license, to be negotiated in good faith between the parties at such time. Pursuant to Administrative Code Section 1.6 governing use of the City's Corporate Seal, if Producer wishes to seek permission to use the City's Corporate Seal for commercial purposes, Producer must follow the procedures set forth in Section 1.6 and seek the City and County of San Francisco's Board of Supervisors approval.
5. Exclusivity. Until the expiration of the one (1) year period commencing upon the end of the Term or Extended Term: (a) the rights of access and license granted by SFACC pursuant to paragraphs 2 and 3 above, respectively, shall be exclusive to Producer with respect to "Live" or "Almost Live" long-form programming produced for exhibition by means of television, the Internet and/or any other audio-visual media (whether now known or hereafter invented), excluding news programming and programming covering the activities of SFACC produced for exhibition on SFACC's website (collectively, "Permitted Programming"); and (b) SFACC shall not authorize anyone (other than Producer) to develop and/or produce programming of a similar format or concept that depicts the activities of SFACC in any audio-visual media, except for Permitted Programming.
6. Review. Producer will provide City and/or SFACC with forty-eight (48) hours to review and comment on any pre-recorded segments of the Series featuring SFACC Property or SFACC Personnel for the purpose of identifying legal concerns (including any potential HIPAA concerns), disclosure of confidential information and/or safety or security risks to SFACC. If no comments are received by Producer following such forty-eight (48) hour period, the segments will be deemed reviewed by SFACC. In addition, Producer shall provide a SFACC representative (the "Representative") with the right to be in the local control room for the Series or on the ground with Producer's crew during Producer's filming with the SFACC to review material being captured and distributed in connection with the Series. In both instances, SFACC shall have the right to review the content for legal concerns (including any potential HIPAA concerns), disclosure of confidential information and/or safety or security concerns. Notwithstanding the foregoing, it is understood that Producer and Network shall make the final decision regarding all editorial matters and the creative content of the Series and each episode thereof (including without limitation themes, featured events, story line, timeline, sequence of events, etc.) subject to City's and/or SFACC's review rights as set forth herein.
7. Ownership. All film, videotape, still photographs and other visual and/or audio recordings or representations (e.g., studios sets or designs) of SFACC Property or SFACC Personnel created by or with the authorization of Producer are collectively referred to herein as the "Material". Producer shall be the sole and exclusive owner of the Material with the right for the full period of copyright, including all extensions and renewals thereof, and thereafter in perpetuity, throughout the universe, to use and re-use, an unlimited number of times, all or any part of the Material for the purpose of making and producing television programs and other works, and advertising, publicizing and exploiting the same, by all means and in all media, whether now known or hereafter devised, and to authorize others so to do. Neither SFACC, nor any other party now or hereafter having an interest in SFACC Property or SFACC Personnel, shall have any right of action against Producer or any other party arising out of any use of said Material as set forth herein. Neither the expiration of this Agreement in its normal course nor its sooner termination for any reason shall affect the ownership by Producer of the Material.
8. Credit. SFACC acknowledges that any credits or other identification of SFACC that Producer may furnish in connection with the Series or otherwise shall be at Producer's sole discretion. Notwithstanding the foregoing, Producer agrees to accord

SFACC an on-screen credit in substantially the form “Special Thanks to the San Francisco Animal Care & Control” in accordance with the Network’s then-current credit policies, for all Series episodes in which SFACC personnel and activities are depicted. Producer shall determine the size, position, manner of presentation and all other matters with respect to such credit in its sole discretion. No casual or inadvertent failure by Producer, nor any failure by any third party, to accord such credit shall be deemed a breach of this Agreement by Producer.

9. No Obligation to Proceed. SFACC acknowledges and agrees that Producer is not obligated to actually use SFACC Property or produce the Series or include the Material in the episode of the Series for which it was prepared or otherwise exercise any or all of Producer’s rights hereunder.
10. No partnership. It is expressly understood and agreed that the parties do not by this Agreement intend to form an employment relationship or a partnership or joint venture between them and in no event shall this Agreement be construed to constitute such an employment relationship, partnership or joint venture. SFACC and SFACC Personnel shall at all times continue to independently conduct their operations and activities as they customarily operate, without regard to any other creative or logistical requests placed upon them by, or as a result of, the filming and production of the Series. Notwithstanding the foregoing or anything to the contrary herein, to the extent Producer has employees working on the Series, such employees would be covered under Producer’s worker’s compensation insurance, subject to the restrictions, limitations, exclusions and other provisions contained in such policy, for claims arising within the scope of such employee’s engagement with Producer.
11. Insurance.
 - (a) Without in any way limiting Producer’s liability pursuant to the “Indemnification” section of this Agreement, Producer must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:
 - (i) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Independent Producers, Broadform Property Damage, and Products Liability and Completed Operations;
 - (ii) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired automobiles, as applicable; and
 - (iii) Workers' Compensation Insurance in statutory amounts with Employer's Liability Coverage with limits of not less than \$1,000,000 each accident. The Workers’ Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Producer, its employees, agents and subProducers.
 - (b) Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:
 - (i) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.
 - (ii) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.
 - (c) All policies shall be endorsed to provide thirty days’ advance written notice to City of cancellation for any reason, intended non-renewal, or reduction in coverage. Notices shall be sent to the City address set forth in Section 15, entitled “Notices.”
 - (d) In the event that Producer operates or causes to be operated any aircraft, watercraft, rail vehicle or experimental vehicle under this Agreement, or the City determines that Producer's Permitted Uses require additional insurance, Producer shall, prior to commencing any such activity obtain such insurance as the City's Risk Manager requires for such activity.
 - (e) All insurance shall be provided under an occurrence basis.

(f) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

(g) Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

(h) Before commencing any operations under this Agreement, Producer shall furnish to City certificates of insurance, and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Producer's liability hereunder.

12. Indemnification.

- a. Except as with matters arising out of or in connection with SFACC's gross negligence and willful misconduct, Producer agrees to defend, indemnify and hold harmless City and SFACC from and against any and all third party liabilities, third party claims, costs, damages, losses, or judgments (collectively, "Losses") arising out of or in connection with the development, production, distribution, or other exploitation of the Series, including: (a) any injury to or death of any person or damage to or destruction of any property occurring in, on or about the SFACC Property or otherwise during the production of the Series; (b) Producer's breach of any representations, warranties and covenants herein; (c) the use of SFACC Property or any activities conducted thereon by Producer, its Agents or Invitees; (d) any release or discharge of any Hazardous Material caused or allowed by Producer, its Agents or Invitees, on, in, under or about SFACC Property, any improvements permitted thereon, or into the environment; or (e) in connection with the Series and any third party claims relating to any alleged infringement of the patent rights, trademark, copyright, trade secret, privacy or other personal or other proprietary right of any person or persons.
- b. This provision applies except solely to the extent of Losses resulting directly from the gross negligence or willful misconduct of City, City's employees or City's authorized representatives. The foregoing indemnity shall include, without limitation, reasonable attorneys' and consultants' fees, investigation and remediation costs and all other reasonable costs and expenses incurred by the indemnified parties, including, without limitation, damages for decrease in the value of the SFACC Property and claims for damages or decreases in the value of adjoining property. City agrees that Producer shall have the right to control the legal defense against any claims, demands or litigation, including the right to select counsel of its choice and to compromise or settle any such claims, demands or litigation. City shall have the option to provide its own defense in any matter arising from Losses covered by Producer's duty to indemnify under section. Reasonable attorneys' fees and legal costs of City's City Attorney's Office shall be based on fees regularly charged by private attorneys in the City and County of San Francisco with an equivalent level of expertise and practicing in law firms with approximately the same number of attorneys as the City Attorney's Office. When Producer defends City for a Loss covered by this section City and Producer agree that Producer shall meaningful consult with the City Attorney regarding attorney selection and/or legal strategy for the purposes of any claims, demands or litigation where Producer is indemnifying and defending the City, provided the City Attorney will not interfere unreasonably with the Producer's attorney selection or strategy. Notwithstanding the foregoing, no such compromise, settlement or other agreement shall be finalized, entered into or effective without the prior written consent of City, if such compromise, settlement or other agreement includes an admission of liability on behalf of or by the City. Producer shall have an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Producer by City and continues at all times thereafter. Producer's obligations under this Section shall survive the cancellation, expiration or termination of this Agreement.

13. Governing Law and Venue. This Agreement and any claim or dispute relating in any way to the activities under this Agreement, shall be governed by and construed in accordance with the substantive laws of the State of California, without

regard to the conflict of law provisions thereof. Venue for any action or suit arising under or relative to this Agreement or brought to interpret or enforce this Agreement shall lie exclusively in the appropriate state or federal court situated in San Francisco County, California and the parties submit to the in personam jurisdiction thereof and waive any objections they may have as to jurisdiction or venue in any such courts.

14. Compliance with Laws; Regulatory Approvals. Producer shall, at its sole expense, conduct and cause to be conducted all activities on the SFACC Property in compliance with all applicable laws, regulations, codes, ordinances and orders of any governmental or other regulatory entity, whether presently in effect or subsequently adopted provided Producer is aware once such are adopted, and whether or not in the contemplation of the parties. Such laws shall include, but are not limited to, applicable local, state and federal laws prohibiting discrimination in employment and public accommodations.
15. Limitation on Liability. IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.
16. Nondisclosure of Private, Proprietary or Confidential Information. If this Agreement requires City to disclose "Private Information" to Producer within the meaning of San Francisco Administrative Code Chapter 12M, Producer shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing this Agreement.
17. Notice. Any notices or communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed delivered by one party to another party when personally delivered to them or placed in a depository under the control of the United States Postal Service and mailed by certified or registered mail, return receipt requested, postage prepaid, addressed to:

If to SFACC:
San Francisco Animal Care & Control
1200 15th St.
San Francisco, CA 94103
Attn: Deb Campbell & Virginia Donohue

If to Producer:
Big Fish Entertainment, LLC
5 Times Square
Floors 9 & 10
New York, NY 10036
Attention: Daniel Cesareo

With a courtesy copy to:
Del Shaw Moonves Tanaka Finkelstein & Lezcano
2029 Century Park East, Suite 1750
Los Angeles, CA 90067
Attn: Ethan J. Cohan, Esq. and Todd J. Weinstein, Esq.

18. Miscellaneous. Each of the individuals signing this Agreement below represents that such individual is empowered to execute this Agreement on behalf of the party for which such individual is acting. Producer may assign its rights under this Agreement in whole or in part to any person, firm, or corporation related to the production, distribution or exploitation of the Series. SFACC shall not be permitted to assign or delegate any of rights or obligations under this Agreement. Except if required by law, SFACC shall at all times keep the terms of this Agreement confidential. Notwithstanding the foregoing, although Producer believes this Agreement to be a Producer trade secret, SFACC's compliance with any applicable public records statute shall not be deemed a violation of this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument. Any executed counterpart sent by facsimile or transmitted electronically in Portable Document Format ("PDF") shall be treated

as originals, fully binding and with full legal force and effect, and the parties waive any rights they may have to object to such treatment. In the event that any provision hereof shall be deemed invalid or unenforceable due to any law, said provision shall be modified to the minimum extent necessary to effect compliance with such law, and in any event such invalidity or unenforceability shall have no effect upon the remaining terms and condition hereof. This Agreement contains the entire understanding of the parties hereto relating to the subject matter herein, supersedes and replaces all prior understandings and agreements concerning such subject matter, whether written or oral, and cannot be modified except in writing signed by the parties. This Agreement may be amended or modified only by a writing signed by City and Producer. No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver.

If the foregoing complies with your understanding of our agreement, please so signify by countersigning this letter where indicated below.

Very truly yours,

BIG FISH ENTERTAINMENT LLC

By: _____
Daniel Cesareo, President

ACKNOWLEDGED AND AGREED:

CITY AND COUNTY OF SAN FRANCISCO ACTING THROUGH
THE SAN FRANCISCO ANIMAL CARE & CONTROL

By: _____

Its: _____

APPROVED AS TO FORM

CITY ATTORNEY DENNIS J. HERRERA

By: _____

BRADLEY A. RUSSI

DEPUTY CITY ATTORNEY