

Market Store Agreement

This agreement, made in duplicate, effective as of the 1st day of July 2019, between:

Thunder Bay Country Market And (Vendor)
(hereinafter referred to as "TBCM") (hereinafter referred to as "Vendor")

Article 1: Interpretation

1. Definitions: In this Agreement, the following words and phrases shall have the following meanings:
 - a. **Agreement:** means this agreement, all appendices to this agreement and any instrument amending this agreement
 - b. **Commission:** the percentage of sales kept by the TBCM. Commission rate as of June 2019 is 20%.
 - c. **Vendor:** means the business as listed on signatory page of this Agreement
 - d. **Market Store:** the booth within the Market that sells on behalf of the Vendor.
 - e. **TBCM:** means the Ontario Not-For-Profit Corporation the Thunder Bay Country Market Association.
 - f. **Market:** means a collective of vendors selling their goods and services to customers.
 - g. **Member:** Member means member of the TBCM Corporation. Members mean the collective membership.
 - h. **Market Manager:** means the Manager hired by the Thunder Bay Country Market to manage operations of Market
 - i. **Local:** the TBCM defines local as west of Wawa to east of Manitoba/Ontario border
 - j. **Perishable:** items that are fresh (such as produce or baking) or non-shelf-stable.
 - k. **Non-Perishable:** items that are shelf-stable. Includes frozen products.

Article 2: General

2. The purpose of the Market Store is to be:
 - a. a main point of information for the Market and our customers,
 - b. to help achieve aim of "the best of Thunder Bay under one roof",
 - c. work as an incubator for new businesses that do not have the capacity to be at the Market full-time,
 - d. to generate an alternate stream of income for the Market, and
 - e. to sell Market gift certificates, market merchandise and gift baskets.
 - f. All decisions about the Market Store will be made in light of this purpose.
3. In order to have Vendors' products in the Market Store, potential Vendors must apply using the Market Store Application form. Applications are evaluated through processes established by the Vending Committee and approved by the Board.
 - a. Perishable items with expiry dates of less than seven (7) days are not permitted.
 - b. Vendors must apply each year to be in the Market Store. Vending year for the Market Store is July 1 to June 30 each year.
 - c. No products beyond the list of approved items on the application form will be accepted in the Market Store.
 - d. Applications are assessed in an objective manner according to the scoring as indicated on the application form.
 - e. Note that the application process takes time and that no product will be accepted until all contractual steps are followed.
4. Any Vendor in the Market Store must be a current member of the TBCM.
 - a. If you are not a current member, please submit a Membership Application Form with your Market Store Application Form.
 - b. Memberships are annual, on the calendar year. Note that this is 6-month difference to the annual contract dates.
5. The Market Store works on a commission basis - all products sold are subject to 20% commission. Products/stock will not be pre-paid.

6. Pricing of items will be determined by the vendor.
 - a. If the Vendor requires HST to be collected, their pricing at the Market Store must **include** HST. Vendors are responsible for their own HST reconciliation from their total sold.
7. Full-time Vendors at the Market (that operate a regular booth) cannot also have their products for sale in the Market Store. However, if a Vendor leaves the Market, they may switch to being a Market Store Vendor if the product fits the other requirements. In this instance, they may not need to separately apply as per Section 3 (above) for the remainder of their existing contract provided all other conditions are met.
8. Placement of a Vendor's product within the Market Store will be determined solely by the Market Manager/employees, with a view to being fair and balanced. Placement may change regularly and without notice.
9. The TBCM will do their best to ensure security of items and correct inventory of items within the Market Store. However, due to the nature of the space, product loss cannot be covered by the TBCM.
10. The TBCM will endeavour to regularly highlight products within the Market Store through advertising and social media. Vendors should also promote their own products as being available at the Market Store.
11. Market Store Vendors may request "pop-up" booth space at the Market on a limited, occasional basis, depending on availability. Pop-up booths are designed to provide the vendor with ability to have direct customer contact (i.e. to promote a new product line) and to draw attention to their product being in the Market Store. Pop-up booths must be booked in advance with the Market Manager and may be very limited or not available, especially around holiday times, depending on volume of full-time vendors.
 - a. While a Vendor is operating a pop-up booth for more than one (1) Market day, the Market Store will not sell that Vendor's items in the Store. Items will be restocked when the Vendor finishes their pop-up booth.
 - b. If a Market Store Vendor exceeds 6 Market day pop-ups (either 3 weeks or spread across the year), that vendor will also need to sign a standard Vending Agreement, as it carefully outlines obligations around booths at the Market. Therefore, some Market Store Vendors will have two separate contracts with the Market.
 - c. Pop-up booths will require full payment of the booth space on the day of the pop-up. Note that pop-up booth fees are different to standard vending fees.

Article 3: Vendor Obligations

12. **Labelling:** All items for sale in the Market Store must have appropriate labels, conforming to appropriate provincial and federal legislation.
 - a. Labels and packaging should be designed to be attractive, professional, and handle moisture if item requires freezing. Labels should adhere properly.
 - b. For food items specifically, as items are not produced and sold by the same person, the Canadian Food Inspection Agency (CFIA) exemption for Farmers Markets is not applicable. Please check with the CFIA for more information on appropriate labelling for your products.
13. **Delivery of Product / Merchandise:** Stock for the Market Store must be delivered by the Vendor or designate carrier. The Market Store is not able to pick up stock. The Market Store Lead is the point of contact for all vendors about stock levels and requirements. Upon delivery, items must be signed in on the appropriate sheet.
14. **Appropriate Conduct:** Vendors within the Market Store must not grieve any disputes with other Vendors, the Market Manager, the Board of Director, the TBCM or any of its employees in public or private media or any other public environment.

Article 4: TBCM Obligations

15. **Reconciliation:** The Market Store will reconcile with each vendor:
 - a. monthly if sales are above \$100 for that month OR
 - b. bi-monthly if sales are below \$100.
 - c. Reconciliation will be by cheque or by e-transfer.
 - d. All vendors will receive a statement of their sales broken down for each Market day across month.

- e. Reconciliation will occur within 10 days of month-end.

16. Electricity:

- a. The TBCM does not guarantee a consistent supply of power. Products that require freezing / refrigeration may risk loss of power and therefore TBCM does not assume any risk over loss of product.
- b. Fridges or freezers for products that require temperature control are to be supplied in good working order by the vendor, pending availability of space for such units.
- c. Hydro recovery charges will be applied to vendors' accounts each month.
 - i. 2019 hydro recovery rates are \$2/unit/week + HST

- 17. Communication:** The TBCM (and its employees) will communicate with Market Store vendors primarily through email with regards to stock levels.

Article 5: Insurance

- 18. Insurance:** Products in the Market Store must have commercial insurance, with \$2 million liability, with the Thunder Bay Country Market as an additional named on the policy.
- a. Proof of the insurance must be attached to the application form or provided shortly thereafter (indicate pending on the form).
 - b. No items can be put up for sale without proof of insurance.

Article 6: Indemnity

- 19. General Indemnity:** The Vendor hereby agrees to indemnify and hold harmless the TBCM, its directors, officers, employees and agents, from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively, "Claims"), by whomever made, sustained, incurred, brought or prosecuted, including for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Vendor, its directors, officers, agents, employees, partners, affiliates, volunteers, subcontractors or independent contractors in the course of performance of the Vendor's obligations under, or otherwise in connection with, this Agreement.
- 20. Vendor Participation in Proceedings:** The Vendor shall, at its expense, to the extent requested by the TBCM, participate in or conduct the defence of any Claim against the TBCM, its directors, officers, employees or agents referred to in Article 10.1 and any negotiations for their settlement. The TBCM may elect to participate in or conduct the defence of any such Claims by notifying the Vendor in writing of such election without prejudice to any other rights or remedies under this Agreement or at law or in equity. Each Party participating in the defence shall do so by actively participating with the other's counsel. The Vendor shall enter into no settlement unless it has obtained the prior written approval of the TBCM. If the Vendor is requested by the TBCM to participate in or conduct the defence of any such Claims, the TBCM agrees to co-operate with and assist the Vendor to the fullest extent possible in the Claim and any related settlement negotiations. If the TBCM conducts the defence of any such Claims, the Vendor agrees to co-operate with and assist the TBCM to the fullest extent possible in the Claim and any related settlement negotiations. This Section shall survive any termination or expiry of the Agreement.

Article 7: Notification

- 21. Notices:** Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be either:
- a. delivered personally or by courier;
 - b. sent by certified or registered mail, postage prepaid with return receipt requested.
- Notices shall be deemed to be effective: (a) in the case of personal delivery or courier, at the time of delivery; or (b) in the case of certified or registered mail, three (3) business days after the notice was sent. In the event of a postal disruption, notices must be given by personal delivery or courier. Unless the parties expressly agree in writing to additional methods of notice, notices shall only be provided by the methods contemplated in this Section.

22. **Notices will be addressed as follows:**

If to the TBCM:

Sarah Pyne (or the name of the individual who is President of the TBCM at the time of notice)
President – TBCM Representative
Thunder Bay Country Market
425 Northern Ave Thunder Bay, ON P7C 2V7

23. If to the Vendor: see address on signature page

Article 8: Termination

24. Any Vendor may choose to leave the Market Store with 30 days' notice.

25. The TBCM may choose to terminate this contract with the Vendor with 30 days' notice.

26. Upon termination (from either party):

- a. the Vendor shall remove their items from the building in a timely manner. Any items left by the vendor beyond 60 days will be considered abandoned and handled accordingly.
- b. The TBCM will reconcile any remaining monies owed with 10 business days of the end of this contract.

IN WITNESS WHEREOF the parties hereto have signed this Agreement by their respective proper officers duly authorized in that behalf

THUNDER BAY COUNTRY MARKET

Date

Per: _____
Sarah Pyne
President

(INSERT VENDOR NAME)
BUSINESS NAME
Owner Name
ADDRESS

Date

Per: _____
I have authority to bind the Vendor.