

VENDING AGREEMENT

THIS AGREEMENT, made in duplicate, effective March 1, 2021.

BETWEEN:

THUNDER BAY COUNTRY MARKET

(hereinafter referred to as the "TBCM")

- AND -

Insert Vendor Name

(hereinafter referred to as the "Vendor")

Business Name

Vendor Member Name

Address

City, Prov Postal Code

WHEREAS the TBCM operates facilities known as the Market at the Canadian Lakehead Exhibition, Thunder Bay, Ontario;

AND WHEREAS provision has been made for the Vendor to sell Goods and Services at the Market;

AND WHEREAS the TBCM requires vendors to sell Goods and Services from Vending Booth locations at the Market;

AND WHEREAS the Vendor wishes to sell Goods and Services at the Market;

NOW THEREFORE THIS AGREEMENT WITNESSETH, in consideration of the mutual promises hereinafter set out, the TBCM and the Vendor hereby agree as follows:

ARTICLE 1 INTERPRETATION

1.1 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) "**Business Day**" means any working day, Tuesday to Saturday inclusive, but excluding statutory and other holidays, namely: New Year's Day; Good Friday; Christmas Day; Boxing Day, and any other day which the TBCM has elected to be closed for business;
- c) "**Vendor**" means the business name and person(s) operating said business, as per the above details;

- d) **“Market”** means a collective of Vendors selling their goods and services to customers.
- e) **“Market Business Hours”** means Saturday from 8 a.m. to 1 p.m. and Wednesday from 3:30 p.m. to 6:30 p.m. or other times throughout the year as requested by the TBCM.
- f) **“Regular Markets”** means Indoor and Outdoor Markets held on Saturdays and Wednesdays year-round except during the Canadian Lakehead Exhibition.
- g) **“Indoor Markets”** means Markets within the Dove Building, Thunder Bay, Ontario.
- h) **“Outdoor Markets”** means Markets in parking lots near the Dove Building, Thunder Bay, Ontario.
- i) **“Off-site Markets”** means Markets conducted at other places than at the Dove Building, Thunder Bay, Ontario, such as the summer Market at the Moose Lodge during the Canadian Lakehead Exhibition.
- j) **“Special Event Market”** means additional Markets not listed on Appendix B – Market Schedule.
- k) **“TBCM”** means the Ontario Not-For-Profit Corporation the Thunder Bay Country Market Association;
- l) **“TBCM Representative”** means the contact person identified for the TBCM in this Agreement;
- m) **“Market Manager”** means the Manager hired by the Thunder Bay Country Market to manage operations of the Market
- n) **“Vending Booth”** means the space allocated to the Vendor to sell its approved Goods and Services located in the Dove Building or other designated locations set out by the TBCM, for the Market to be held.
- o) **“Vending Booth Layout Plan”** means a plan to layout the location of Vendors, Vending Booths, hallways, exits, washrooms and other areas to best facilitate health and safety requirements, maximize combined Vendor sales, and create positive Vendor relations.
- p) **“Term”** means the term of this Agreement as set out in Section 3.1 hereof.
- q) **“Unplanned Absence”** means the Vendor is absent for a single Market due to unforeseen circumstances.
- r) **“Planned Absence”** means the Vendor is absent for any number of Markets and/or any series of Markets, such as every Wednesday, or every market during a season. Common Planned Absences include medical procedures, vacation, and seasonal impacts on product supply. Planned Absences require at least 1 week written pre-approval by the TBCM Representative.

1.2 **Certain Rules of Interpretation:**

In this Agreement:

- (a) *Time:* Time is of the essence in the performance of the parties' respective obligations;
- (b) *Money:* Unless otherwise specified, all references to money amounts are to Canadian currency;
- (c) *Headings:* The descriptive headings of Articles and Sections are not to be considered part of this Agreement and are included solely for convenience of reference and are not intended to be full or accurate descriptions of the contents thereof;
- (d) *Approvals and Consents:* Whenever a provision of this Agreement requires an approval or consent by a party to this Agreement and notification of such approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the party whose consent or approval is required shall be conclusively deemed to have withheld its consent or approval;
- (e) *Calculation of Time:* Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day which ends the period and by extending the period to the next Business Day following if the last day of the period is not a Business Day;
- (f) *Business Day:* Whenever any payment is required to be made or action to be taken under this Agreement is required to be made or taken on a day other than a Business Day, such payment shall be made or action shall be taken on the next Business Day following;
- (g) *Number and Gender:* Whenever a word importing the singular or plural is used in this Agreement, such word shall include the plural and the singular respectively. Words importing persons of any gender and firms and corporations shall include persons of the other gender and firms and corporations as applicable; and
- (h) *Joint and Several Liability:* Where any party is comprised of more than one person or entity, the obligations of each of such person or entities shall be joint and several.

ARTICLE 2 GENERAL

2.1 Vendor's Representations and Warranties

The Vendor warrants and represents that:

- (a) It validly exists as a legal entity with full power to perform and observe all the terms and conditions of this Agreement;
- (b) It is registered and qualified to do business wherever necessary to carry out this Agreement;
- (c) It is not a party to an agreement, business or other relationship that may conflict with this Agreement;
- (d) It is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and
- (e) It is conducting its business in compliance with all applicable federal, provincial, and municipal laws, and all rules, regulations, by-laws, notices, orders and approvals.

2.2 Condition Precedent:

This Agreement is not binding on the TBCM, until it has been duly executed and approved by the TBCM.

2.3 TBCM Right of Entry:

The TBCM and all persons authorized by the TBCM may, at any time without notice, enter and inspect the Vending Booth, and enter the Vending Booth for the purpose of conducting business relating to the operation of the Market. Such entry shall be deemed not to be an interference with the Vendor or the Vendor's rights or privileges hereunder.

2.4 Assignment:

The Vendor shall not assign, subcontract, transfer or pledge this Agreement, or any part of it, without the prior written consent of the TBCM. Any breach of this provision shall not relieve the Vendor from its obligations under this Agreement or impose any liability upon the TBCM to any third party.

2.8 Waiver:

A waiver of any failure to comply with any term of this Agreement must be written and signed by the party providing the waiver. Each waiver must refer to a specific failure to comply and shall not have the effect of waiving any subsequent failures to comply.

2.9 Amendment:

This Agreement may only be amended by a written agreement signed by the parties.

2.10 Circumstances Beyond the Control of Either Party:

Neither party shall be responsible for damage caused by delay or failure to perform under the terms of this Agreement resulting from matters beyond the control of the parties including strike, lockout or any other action arising from a labour dispute, fire, flood, act of God, war, riot or other insurrection, acts of the Queen's or public enemies, terrorism, sabotage, vandalism, lawful act of public authority, acts or restraints of governmental bodies or authorities or delay or default caused by a common carrier which cannot be reasonably foreseen or provided against.

2.11 **Jurisdiction:**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract. The parties to this Agreement hereby irrevocably and unconditionally attorn to the exclusive jurisdiction of the courts of the Province of Ontario and all courts competent to hear appeals therefrom.

2.12 **Schedules:**

The following are the schedules attached to and forming part of this Agreement:

Appendix A – Market Fees

Appendix B – Market Schedule

2.13 **Entire Agreement:**

This Agreement constitutes the entire understanding of the parties pertaining to its subject matter. There are no other agreements, understandings, representations, warranties, collateral agreements or conditions affecting this Agreement except as expressed herein.

2.14 **Partnership or Other Relationship**

It is understood and agreed that nothing contained in the Agreement or in any acts of the parties hereto shall be deemed to create any partnership, employment relationship, joint venture, agency or other relationship between the TBCM and the Vendor.

**ARTICLE 3
TERM**

3.1 **Term of Agreement:**

- a) The Term of this Agreement shall commence March 1, 2021 (or upon date of signing) and shall continue no longer than February 28, 2022 unless sooner terminated in accordance with this Agreement.

**ARTICLE 4
FEES**

4.1 **Calculation of Fee:**

The Vendor shall pay the TBCM fees outlined in Appendix A.

**ARTICLE 5
VENDOR OBLIGATIONS**

5.1 Outdoor and Off-Site Markets

The Vendor is required to give the Market Manager at least 2 weeks' notice of their planned dates to sell at any Outdoor or Off-Site Market.

The Market Manager will confirm the availability of space and dates within 1 week of receiving such a request.

Vending Booths will be assigned based on attendance on Wednesdays and Saturdays starting with the first Market of the season. Vending Booth assignments will be determined solely by the Market Manager.

5.2 Indoor Markets

a) The Vendor is required to sell its Goods and Services during all Regular Markets (See Appendix B – Market Schedule), except during absences:

I. For an Unplanned Absence the Vendor must:

- a. communicate their absence, along with the reason, to the Market Manager by 7 a.m. for a Saturday Market and 2 p.m. for a Wednesday Market,
- b. pay the regular Vending Booth fee for the absent Market,
- c. meet with the TBCM Representative and/or the TBCM Board of Director representative to explain excessive absences if requested.

II. Vendors are expected to attend **all** Markets as outlined in Appendix B- Market Schedule. If a Vendor is *planning* an absence the Vendor must:

- a. First attempt to limit any closure of your booth, this may include arranging an employee to work your booth for your absence.
- b. Make an email request to the Market Manager with a copy to the TBCM Representative at least 1 week in advance of the first day of absence,
- c. obtain approval from the Market Manager or TBCM Representative before taking absence,
- d. pay the regular Vending Booth fees for the absent Markets,
- e. move and/or cover displays to make room for an alternative Vendor if requested by the Market Manager.
- f. meet with the TBCM Representative and/or the TBCM Board of Directors to explain excessive absences if requested.

III. Excessive absences will be determined by the Market Manager and Board through tracking of attendance but may include: a percentage of dates missed within a certain time period, a pattern of unexplained and Unplanned Absences, or lack of notification.

b) The Vendor shall not reasonably withhold its consent to open and operate during Special Event Markets where a request of at least two (2) weeks' notice has been made by the TBCM.

5.3 Ready to Sell - Start of Market

The Vendor must be in place ready to sell by 7:45 a.m. Saturday and 3:15 p.m. Wednesdays.

The Vendor must be ready to sell fifteen (15) minutes before the opening of the Market.

The Vendor **may not** sell before the bell rings to signal the Market is open, except to other Vendors.

Vendors can arrive for set-up after 1:00 pm on Wednesday and after 6:30 am on Saturday. Vendors can also access the Dove Building on Fridays. Other times and days may also be available, please contact the Market Manager for more information.

5.4 End of Market

The Vendor may not pack up or leave their booth before the closing bell.

The Vendor may sell after the closing bell to straggling customers if they wish.

If the Vendor runs out of stock during the Market, they may contact the Market Manager to obtain approval times and places to pack up and leave. However, it is a best practice to keep your Vending Booth open if you sell out early, talk to customers and encourage future sales. It is also best practice to make adjustments to the quantities of product you are bringing to market if selling out early regularly.

Initial: _____

5.5 Sell Only Approved Goods or Services

The Vendor will only sell the goods and services that were accepted in writing by the Board of Directors. Should the Vendor wish to sell other items they may make an application to the TBCM.

5.6 Collection Waste

The Vendor shall be responsible for the collection of all waste materials and deposit the same to such place or places as may from time to time be designated by the Market Manager.

5.7 Keeping Clear

The Vendor shall be responsible for the piling of boxes, cartons, barrels or other similar items, which things shall not be placed by the Vendor in a public area of the Market. The Vendor shall be responsible for moving boxes, cartons, barrels or other similar items upon request of the Market Manager.

5.8 Cleaning Supplies

The Vendor shall be responsible for the provision of all cleaning supplies and cleaning equipment required for cleaning duties as set out in section 5.9 of this Agreement, as well as to comply with any Federal, Provincial or Local cleaning requirements to meet Covid-19 or other public health standards.

5.9 Cleaning

Routine cleaning appropriate for the daily operation of the Vending Booth shall be carried out by the Vendor at its expense.

Brooms and mops are available on each level of the Dove Building. Mop buckets can be emptied into the Men's washroom slop sinks, but not the toilets. Vendors must not sweep into the aisles.

The Market Manager may direct Vendors at any time to clean their spaces if unsightly, hazardous or accumulating of items not directly relevant to their booth.

5.10 **Approval to Use TBCM in Marketing**

The Vendor shall not use any TBCM logos, trademarks, or TBCM photos into its uniforms, promotional material, social media, business correspondence or intellectual property without the express, prior written permission of the TBCM.

For clarity vendors shall not use any TBCM logos trademarks or photos on any social media post including but not limited to Facebook posts, Instagram, Twitter, and any other social media platform.

Vendors may be requested to remove any unauthorized use of TBCM logos, trademarks or photos. Any unauthorized use of TBCM photos, logos or trademarks or failure to remove or cease to use upon request may result in termination of this agreement.

5.11 **Damages Caused by Vendor to TBCM Property:**

If any property of the TBCM becomes damaged or destroyed through negligence, carelessness or misuse by the Vendor, its employees, or anyone acting with its permission, which shall be determined by the TBCM in its sole discretion, the necessary repairs, replacements or alterations shall be completed to the satisfaction of the TBCM at the expense of the Vendor.

5.12 **Booth Improvements**

Any improvements a Vendor wishes to make to their booth, must be in accordance with the Vending Booth Display Parameters Policy, and must be submitted in writing to the Manager and Board for approval. If granted, the Manager will provide written approval, which will indicate if such improvements are deemed leasehold improvements and will become property of the TBCM upon termination of this contract. Vendors are responsible for all costs associated with booth improvements.

5.13 **Equipment and Displays**

The Vendor shall provide all equipment and displays for the sale of their goods and services.

The Vendor shall keep excess stock hidden.

5.14 **Food Handling and Food Quality**

If the Vendor handles prepared foods they shall comply with all pertinent laws and public health regulations governing the safe and sanitary handling.

All pre-packaged foods must meet Canadian Food Inspection Agency requirements.

A Vendor who handles prepared food must obtain a minimum "A" grade at their Vending Booth as well as at their preparation facility issued by the Thunder Bay District Health Unit.

The preparation facility grade must be submitted to the Market Manager after every inspection, which should be twice annually.

If a Vendor receives a grade below "A" they must submit a letter to the Manager, outlining their plan and timeline to bring their grade back up to an "A".

The Vendor has sixty (60) days to bring the grade back up to at least a "B", and another sixty (60) days to bring the grade back up to an "A".

All improvements must be made at the Vendors expense.

Failing to bring to grade up in the timelines as specified may result in termination.

- 5.15 Delivery of Merchandise and Parking**
All delivery and dispatch of goods and displays, shall be managed by mutual satisfaction between the TBCM and the Vendor. The TBCM shall have no responsibility regarding such delivery or dispatch of merchandise, supplies, equipment and furniture.
Vendors will park their vehicles in parking areas designated by the Market Manager. Such parking areas change throughout the year and the Vendor will be notified of the designated areas.
- 5.16 Management and Supervision**
The Vendor shall provide a competent Manager/Supervisor to serve as its representative and to have complete charge of the Vending Booth. The Vendor shall inform the TBCM of the name and contact information for its Manager/Supervisor. The Vendor shall inform the TBCM should the Vendor's Manager/Supervisor change.
- 5.17 Appropriate Conduct**
The Vendor may not solicit their goods or services beyond their Vending Booth. The Vendor must maintain professional conduct, proper dress and deportment. The Vendor may not grieve any disputes with other Vendors, the Market Manager, the Board of Directors, the TBCM or any of its employees in public or private media or any other public environment.
The Vendor must not disparage other Vendors or other Vendor's products.
- 5.18 Conduct with Customers**
The Vendor understands that the Thunder Bay Country Market is a safe, welcoming and accepting place for everyone in our community to enjoy, regardless of differing abilities/disabilities and/or different ethnic backgrounds and/or gender/sexual orientation. Vendors must act in a manner that demonstrates inclusiveness of our diverse and faithful market shoppers.
The TBCM follows the
- 5.19 Outdoor Vendor Tents**
If the Vendor Booth is outdoor the Vendor must supply its own tent. Tents must be secure from winds turning them into hazard and set as to not create interference to other Vendors or customers.
Vendors are responsible for removing their tent at the end of each Market, and the storage of their tent between each Market.
- 5.20 Banned Products**
The Vendor will not sell any products or services which contravene Provincial or Federal Statute, and or regulation.
- 5.21 Environmental Impacts**
It is a best practice to reduce impacts on the environment including re-using cardboard boxes, minimizing the use of plastic in packaging, and Styrofoam packaging. Each Vendor is responsible for following Provincial or Federal environmental regulations. The Market has paper bags in variety of sizes to assist vendors in purchasing bags directly and also sells reusable Market bags.
The Market provides cardboard recycling service for vendors.

5.22 **Inclement Weather**

Inclement weather for the purposes of the Market refers to weather before Market (i.e. affecting their ability to produce product, such as extended lack of power for a kitchen facility), day of Market (i.e. heavy snow preventing getting to Market), or during Market (especially for outdoor vendors, i.e. lightning storm).

As business owners, Vendors need to make their own business and health & safety decisions about inclement weather and their / their staff safety. If a Vendor chooses to not attend Market due to inclement weather, or chooses to leave Market midway due to the weather, they will not be penalized for the absence or for late arrivals. Indoor booths are still responsible for their booth fee. Outdoor booths are only responsible for booth fees if they were present and selling at Market for at least 1/3 of the Market hours. Wherever possible, the Market Manager will try to accommodate indoor space for outdoor vendors if they cannot vend outside, however it is to be understood that this is not always possible due to space constraints. With only rare exceptions in extreme weather situations, would the Market Manager in consultation with the Board close the whole Market.

5.23 **Emergency/Unexpected Event Response Plan**

In the event of an emergency, pandemic or other similar unexpected event, the Vendor agrees to abide by all Market policies, procedures and guidelines, as created or amended from time to time, established to address the event. Any failure to comply with a Market policy, procedure or guideline related to an emergency pandemic or other similar unexpected event may be grounds for termination of this agreement.

5.24 **Payment**

The Vendor shall comply with Appendix A- Market Fees and due dates outlined in the schedule.

The Vendor should make all reasonable accommodations to not carry forward a balance from month to month.

If a Vendor carries forward a balance equivalent to two (2) months of Booth Fees, the Vendor will be issued a Notice.

TBCM Association Membership renewal will not be automatic if the Vendor has an outstanding balance. Any payment made to the TBCM will first be credited to the outstanding balance.

ARTICLE 6 TBCM OBLIGATIONS

6.1 **Allocating a Vending Booth**

- a) The Market Manager shall assign a Vending Booth, including the definition of its boundaries and storage areas if any;
- b) Vending Booths are not permanent positions, and the Vendor may be required to move booths;
- c) The Market Manager may make a written request to the Vendor to move to an alternate Vending Booth and the Vendor will not unreasonably deny such a request;
- d) If the Market Manager and Vendor do not agree on the Vending Booth location, the Vendor will continue to sell its Goods and Services at its assigned Vending Booth until the Board of Directors can make a final decision; and

- e) The Market Manager may move a Vendor to an alternate Vendor Booth with three (3) weeks' notice as part of a TBCM Board approved Vending Booth Layout Plan.

6.2 Locked Perimeter

The TBCM maintains a locked perimeter to the indoor portions of the Market while it is not open for Markets or other business operations. However, the TBCM is not responsible for lost or damaged product or displays at any time, open or closed.

6.3 Major Repairs

The TBCM will work with its landlord the Canadian Lakehead Exhibition to provide major repairs, and will give the Vendor notice of any disruption to its Vending Booth due to these repairs. The TBCM may offer the Vendor alternate space for its Vending Booth should repairs interfere with the Market. The TBCM is not responsible for any damages or loss of business to the Vendor caused by major repairs.

6.4 Utilities and Maintenance:

The TBCM shall provide utilities and perform the following services without charge to the Vendor:

- a) Maintenance and repair of floors, walls, ceilings, windows, as occasioned by normal wear and tear.
- b) Maintenance and repair of heating, ventilation, electrical and plumbing systems as occasioned by normal wear and tear.
- c) Provision of lights and hot water.

6.5 Electricity

The TBCM shall provide electricity for Vending Booth lights and appliances. Appliances are charged a weekly fee whether in use or not – see Appendix A – Market Fees. The TBCM does not guarantee a consistent supply of power. If Vendors leave products on-site between Markets they do so at their own risk.

6.6 Supplied Equipment:

The TBCM will supply shared equipment to assist the Vendor:

- a) Folding tables
- b) Brooms, mops and buckets for cleaning

6.7 Marketing and Special Event Promotions:

The TBCM will promote the Market and Special Events which will benefit all Vendors, but not specifically any one Vendor.

The TBCM will maintain a website on which the Vendor may provide a listing of the Goods and Services the Vendor sells at the Market.

The Vendor is solely responsible for promoting for its participation at the Market, at its own cost. For clarity, TBCM has no responsibility for the promotion of the Vendor's participation at the Market or the Vendor's products or services.

6.8 Communications

The Market Manager will communicate with Vendors in person, by email or by hand-delivered notes to the Vending Booth.

ARTICLE 7 INSURANCE

7.1 Liability Insurance:

The Vendor hereby agrees to put in effect and maintain insurance for the Term, at its own cost and expense all the necessary and appropriate insurance that a prudent person in the business of the Vendor would maintain including, but not limited to, the following:

- (a) commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than \$2,000,000 per occurrence. The Policy is to include the following:
 - The Thunder Bay Country Market as an Additional Insured with respect to liability arising in the course of performance of the Vendor's obligations under, or otherwise in connection with this Agreement
 - 30 day written notice of cancellation

7.2 Proof of Insurance:

The Vendor shall provide to the TBCM a valid Certificate of Insurance and a renewal replacement as may be necessary, confirming the insurance coverage requirements and stating any pertinent exclusions as applicable, contained by the policy(ies), on or before the start date of any new contract.

7.3 WSIB and Employee Pay

The Vendor is responsible for ensuring that all employees of the Vendor are adequately covered by WSIB and are appropriately paid, however the Market does not involve itself with any employee / employer disputes regarding the like.

7.4 Proof of Requirements

The TBCM may ask the Vendor at any time to resubmit proof that they meet the Vending requirements outlined in the Vending Application. This may include:

- a) A copy of the Vendors kitchen inspection
- b) A copy of the Vendors water test
- c) Proof of liability insurance
- d) Proof of Membership to a registered farming organization
- e) Proof of use of an Ontario Government approved meat processing facility
- f) Proof of fish purchased from licensed commercial fisheries
- g) Proof of eggs processed through a registered egg grading facility

7.5 Compliance with Insurance Policies:

The Vendor shall not do or permit any act or thing which will in any way impair, contravene or invalidate any policy of insurance held by the Vendor or the TBCM in respect of this Agreement.

ARTICLE 8 NOTIFICATION

8.1 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; or
- (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. Unless the parties expressly agree in writing to additional methods of notice, notices shall only be provided by the methods contemplated in this Section.

All notices or communications shall be addressed as follows:

If to the TBCM:

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

If to the Vendor:

As per the Vendor name and address details on page 1 of this Vending Agreement

ARTICLE 9 LIMITATION OF LIABILITY

9.1 Exclusion of the TBCM's Liability:

The TBCM, its directors, officers, employees and agents shall not be liable or responsible in any way for any injury or damage whether physical or economical, direct or consequential, of any kind (including death) that may be suffered or sustained by the Vendor, or any director, officer employee, agent, contractor, supplier, representative, customer or patron of the Vendor or any other person who may be upon or in the Vending Booth, participating in the Market or for any loss or theft of, or damage or injury to any property belonging to the Vendor or its directors, officers, employees, agents, contractors, suppliers, representatives, customers or patrons or any other person while such property is on or in the vicinity of the Vending Booth or Event.

ARTICLE 10 INDEMNITY

10.1 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.

10.2 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 11 TERMINATION

11.1 Termination of Agreement – from Vendor

A Vendor may give notice of Termination of the Agreement in writing at any time, addressed to both the Market Manager and President of the Board.

If possible, advance notice is appreciated, though due to the nature of small business, the Board understands that occasionally immediate closure may be required.

Outstanding fees must be paid:

- (a) If a vendor leaves partway through a month without prior notice and has paid their fees, the vendor will receive credit for fees unused only once the booth has been refilled by a new vendor.
- (b) If a vendor leaves partway through a month without prior notice and has not yet paid their fees, the Market Manager will recalculate the fees required for immediate payment.

11.2 Termination of Agreement – Immediate:

The TBCM reserves the right to terminate the Agreement upon twenty-four (24) hours written notice to the Vendor if:

- (c) the Vendor is adjudged bankrupt or makes a general assignment for the benefit of its creditors or a receiver is appointed on account of the Vendor's insolvency;
- (d) the Vendor has made a material misrepresentation or has provided materially inaccurate information in its Application, which the TBCM learns about during the Term;

11.3 Termination of Agreement – Prior Notice

The TBCM reserves the right to terminate the Agreement if the Vendor fails to or neglects to comply with any of its obligations required by this Agreement.

Prior to terminating the Agreement for a failure or neglect to comply with this Agreement, the TBCM shall provide at least ten (10) calendar days prior written notice to the Vendor detailing the Vendor's failures in complying with this Agreement.

In the event the Vendor fails to remedy such neglect or failure by the expiry of the ten (10) day notice period, at the TBCM's sole discretion, the TBCM reserves the right to terminate this Agreement.

In the event that the Vendor has an outstanding balance at the time this Agreement is terminated, the balance will be charged two percent (2%) interest monthly.

11.4 Second Notice

If the Vendor has been given one (1) notice under the previous section 11.2, the issuance of a second notice related to the same or substantially similar default or delay, may result in the immediate termination of the Agreement, at the sole discretion of the TBCM

11.5 Appeal of Termination Decision

The Vendor shall appeal, in writing, to the TBCM Board of Directors within ten (10) days of the Termination of this Agreement. Such written appeal shall include the reason for the decision and the Vendor's position on the decision.

The Board of Directors shall make a final decision on the appeal within fifteen (15) days of receipt of the written appeal. The Board of Directors' decision shall be final.

11.6 Effect of Termination – Rights of the TBCM

The TBCM shall not, by virtue of any of the above instances of termination, waive any rights or remedies it may have in the Agreement or otherwise at law. The TBCM shall collect fees for permitted Vending Booth locations in connection with the Agreement up to and including the effective date of any such termination. Termination shall not relieve the Vendor from the Vendor's warranties and other responsibilities relating to the selling of goods and services performed up to and including the date of termination.

11.7 Termination – Duties of Vendor

Upon termination, the Vendor shall, at a minimum, in addition to other provisions in this Agreement:

- (a) Immediately pay all outstanding fees;
- (b) Arrange a time and place from the Market Manager to remove their goods, displays, signage and other such items from their Vending Booth without disruption to the Market;
- (c) Thoroughly clean their Vending Booth;
- (d) Obtain approval from the Market Manager that their Vending Booth has been adequately cleaned and that no damages are required; and
- (e) Execute such documentation as may be required by the TBCM to give effect to the termination of the Agreement.

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: _____
Representative

Vendor (as per details on page 1)

Date

Per: _____
Vendor Name

I have authority to bind the Vendor.

Appendix A – Market Fees – 2021

Market booth fees

1. These fees are valid until February 28, 2022.
2. Booth fees are invoiced monthly, including applicable hydro fees.
 - a. Invoices will be provided at the first Market of the new month.
 - b. Fees are calculated on the annual rate. This means the rate for each month is the same, regardless of the length of the month.
 - c. Invoice must be paid in full before the new month begins.
 - d. Unpaid balances are subject to two percent (2%) interest after thirty (30) days of the due date
 - e. If a Vendor has an unpaid balance for more than ninety (90) days, they may also be subject to termination.
 - f. If a vendor leaves partway through a month without prior notice and has paid their fees, the vendor will receive credit for fees unused only if the booth has been refilled.
3. Vendors may choose to pay their invoice in full, or may pay down their balance throughout the month. You will NOT receive a statement each week. You may ask the manager at any time what your outstanding balance is, but it is also your responsibility to track your payments.
4. We encourage vendors to pay by e-transfer payments@tbcm.ca if able – no password required as it is set to auto-deposit.
5. There are no longer storage fees for Christmas or Moose Hall. Vendors pay for each week in December and January, regardless of if the Market is closed for the holidays.
6. There are no longer annual fees nor attendance credits.
7. Outdoor Vendors must give the Market Manager a written description of their planned time to attend. Outdoor vendors pay only for the weeks they outline they are attending, or longer if they extend. If an Outdoor Vendor is absent for any of the Markets they were to attend, they must still pay the booth fee.

Indoor Fees:

Downstairs	Weekly booth fee is \$53.00 per week + HST
Upstairs	Weekly booth fee is \$48.00 per week + HST
Half booths	<i>where two vendors work together in one regular booth space, each pay a half booth fee as per above rates</i>
Hydro recovery fees For all electrical appliances except lighting	\$2 / unit / week (regardless if on or not) Charged monthly

Outdoor fees:

Outside and/or CSA Pickup	Weekly booth fee is \$53.00 + HST
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Retail Fee

\$100.00 + HST (\$113)

This fee is charged annually for any approved retail items that are retailed at a booth. See TBCM Policy: 2. *Vending – Retail Policy* for more information about Retail items.

Appendix B – Market Schedule 2021

Updated January 19, 2021:

Market will be closed Saturday December 25, Wednesday December 29, and Saturday January 1, 2022.

Regular Markets	
Saturday Markets – weekly 8 am – 1 pm	Each Saturday Except closed dates and excluding Off-Site Markets (listed below)
Wednesday Markets – weekly 3:30 – 6:30 pm	Each Wednesday Except closed dates Excluding Off-Site Markets (listed below)