



STREET VENDING LICENCE OF OCCUPATION AGREEMENT

THIS AGREEMENT dated for reference the __ day of __, 20__ is

BETWEEN:

CITY OF COQUITLAM, a municipality incorporated under the *Local Government Act*, R.S.B.C. 1996, c. 323 with its offices at 3000 Guildford Way, Coquitlam, BC V3B 7N2

(the "City")

AND: *[Insert Corporate or Individual Name and address (e.g. "Mrs. Hot Dog Ltd. or John Smith").]*

(the "Vendor")

WHEREAS:

- A. In accordance with section 35 of the *Community Charter*, S.B.C. 2003, c. 26, the soil and freehold or the right of possession of every highway, including every street, road, lane, bridge, viaduct and every other way open to public use, within the City of Coquitlam is vested in the City;
- B. The Vendor wishes to use and occupy that portion of City highway shown outlined in heavy black on the sketch plan attached as Schedule "A" (the "Licence Area"), for the purpose of locating and operating a street vending vehicle or street vending cart (the "Street Vending Vehicle");
- C. The City wishes to grant to the Vendor a non-exclusive licence to use the Licence Area for the purpose of locating and operating the Street Vending Vehicle on the terms and conditions of this Agreement;

THIS AGREEMENT is evidence that, in consideration of the licence fee to be paid and the promises exchanged below, and other good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge), the City and the Vendor agree as follows:

1. **Licence** – The City hereby grants to the Vendor a non-exclusive right to enter upon and use the Licence Area on the terms and conditions set out in this Agreement.
2. **Purpose** – The Vendor must only use the Licence Area for the purpose of locating and operating the Street Vending Vehicle in accordance with the terms and conditions of this Agreement.
3. **Term** – The term of this licence is *[insert number of months]* (the "Term"), commencing on *[Date]* (the "Commencement Date") and expiring on *[Date]* (the "Expiration Date").

4. **Excluded Dates and Locations** – notwithstanding the Term of this Agreement, the Licence shall not apply to the following locations during the dates specified below:
 - (a) Location 1: June 27 – July 2
 - (b) Location 2: June 27 – July 2
 - (c) Location 3: June 27 – July 2
 - (d) Location 4: June 27 – July 2
5. **Renewal** – If the Vendor wishes to renew this Agreement, the Vendor may, by providing notice to the City no less than 90 days before the expiry of the Term, request a renewal of this Agreement. If, upon receiving such request, the City wishes, in its sole discretion, to accept the requested renewal of this Agreement, it shall provide notice of acceptance to the Vendor and upon giving such notice this Agreement shall be renewed, on the same terms and conditions (including this renewal provision) for a further term of not more than one (1) year.
6. **Licence Fee** – The Vendor shall pay to the City a licence fee in the amount set out in the City's Business Licence Bylaw and Fees and Charges Bylaw (the "Licence Fee"), plus taxes, which Licence Fee is payable as set out in the City's Business Licence Bylaw. Where the Vendor is required to pay lost parking revenues under the Fees and Charges Bylaw, the Vendor shall pay the applicable fee in the manner described in the City's Street and Traffic Bylaw No. 4402, 2014.
7. **Taxes** – The Licence Fee does not include HST, GST or PST (as may be applicable from time to time during the Term) and the Vendor shall pay to the City all applicable HST, GST and PST and/or other taxes that are legally imposed from time to time.
8. **Vendor's Covenants and Obligations** – The Vendor shall:
 - (a) promptly pay the Licence Fee and all applicable taxes when due;
 - (b) use the Licence Area only for the purpose set out in section 2;
 - (c) remove the Street Vending Vehicle from the Licence Area at any time it is unattended by the Vendor;
 - (d) not operate between the hours of 9:00 p.m. and 8:00 a.m.;
 - (e) provide and post at the Street Vending Vehicle a menu of food and beverage items available for sale each day;
 - (f) not serve any alcohol or tobacco products at the Street Vending Vehicle;
 - (g) not use or provide individual packaged condiments;
 - (h) provide a garbage container and pick up all garbage and debris within 100 meters of the Licence Area which results from the business operation;
 - (i) dispose of grey water at an approved sani-dump location;
 - (j) provide its own generator to supply power to the Street Vending Vehicle, the noise level from such generator not to be unreasonable, as determined by the City in its sole discretion;
 - (k) not cause, maintain or permit anything that may be or become a nuisance or annoyance on or from the Licence Area to other users of the Licence Area, or to any adjacent owners or occupiers of lands, or to the public,

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including by the accumulation of rubbish or unused personal property of any kind, or by sound emitted from a power generator provided in accordance with subsection (j);

- (l) not commit or allow any voluntary waste or destruction of the Licence Area;
- (m) not erect or display any sign or notice on or in the Licence Area unless the sign or notice has first been approved by the City;
- (n) employ and provide the services of such staff as are necessary to safely and efficiently carry out the obligations and responsibilities of the Vendor under this Agreement, and shall train, supervise and remunerate or cause to be hired, trained, supervised and remunerated, all employees required to safely and efficiently carry out the obligations and responsibilities of the Vendor under this Agreement;
- (o) obtain, in respect of every person hired to carry out the obligations and responsibilities of the Vendor under this Agreement, a complete and current criminal record check with satisfactory results;
- (p) ensure that all workers' compensation regulations and requirements are adhered to in the operation of the Street Vending Vehicle;
- (q) carry on its activities in, on and from the Licence Area in compliance with any and all statutes, enactments, bylaws, regulations and orders from time to time in force (including all environmental laws, all health and safety regulations, and all City bylaws and regulations respecting fire, traffic safety and sanitation), and shall obtain the required licences (including a street vending licence from the City), permits and approvals thereunder and not to do or omit to do anything upon or from the Licence Area in contravention thereof;
- (r) maintain the Street Vending Vehicle in good and working order;
- (s) move the Street Vending Vehicle when requested to do so by City staff;
- (t) pay all costs and expenses of any kind whatsoever associated with and payable in respect of the Vendor's use of the Licence Area, including without limitation all utility charges for utilities serving the Street Vending Vehicle;
- (u) on the first day of each month during the Term, provide to the City a consolidated list of the dates and times the Vendor was operating at the Licence Area up to that point during the Term.

9. **Performance at Vendor's Cost** – All obligations to be performed by the Vendor under this Agreement shall be performed at its own cost.

10. **Security Deposit** – Upon execution of this Agreement by the Vendor, the Vendor shall pay to the City a deposit in the amount of \$1,000.00 as security for the performance of the Vendor's obligations under this Agreement (the "Deposit").

11. **Vendor's Representations and Warranties** – The Vendor represents and warrants to the City that:

- (a) the Street Vending Vehicle is a single fully-contained unit;
- (b) the Street Vending Vehicle is capable of being moved on its own wheels without alteration or preparation;

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- (c) the Vendor is a corporation validly incorporated and in good standing under the laws of British Columbia; **[use if Vendor is corporate entity]**
- (d) the Vendor has the power and capacity to enter into and carry out the obligations under this Agreement; and **[use if Vendor is corporate entity]**
- (e) the Vendor has completed all necessary resolutions and other preconditions to the validity of this Agreement. **[use if Vendor is corporate entity]**

12. **Vendor's Acknowledgments and Agreements** – The Vendor acknowledges and agrees that:

- (a) the Vendor will not have access to any water or power connection at the Licence Area;
- (b) the Vendor accepts the Licence Area on an “as is basis”, without any representations or assurances from the City as to the state or condition of the Licence Area or the suitability of the Licence Area for the Vendor’s purposes; and
- (c) this Agreement creates a non-exclusive contractual licence only and the Vendor acquires no interest in the Licence Area or any other land vested in or held by the City but only the non-exclusive right to use the Licence Area in accordance with the terms and conditions of this Agreement.

13. **Insurance** – The Vendor shall obtain and maintain during the Term:

- (a) comprehensive general liability insurance providing coverage for death, bodily injury, property loss and damage, and all other losses arising out of or in connection with the Vendor’s operations at and use of the Licence Area in an amount of not less than \$5,000,000.00 per occurrence; and
- (b) automobile liability insurance providing coverage for death, bodily injury, property loss and damage arising out of or in connection with the Street Vending Vehicle in an amount of not less than \$2,000,000.00 per occurrence.

14. **Insurance Policies** – All insurance policies required to be taken out by the Vendor shall be with companies satisfactory to the City and shall:

- (a) name the City as an additional insured;
- (b) include that the City is protected notwithstanding any act, neglect or misrepresentation by the Vendor which might otherwise result in the avoidance of a claim that such policies are not affected or invalidated by any act, omission or negligence of any third party which is not within the knowledge or control of the insureds;
- (c) be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia;
- (d) be primary and non-contributing with respect to any policies carried by the City and that any coverage carried by the City is excess coverage;
- (e) not be cancelled without the insurer providing the City with 30 clear days written notice stating when such cancellation is to be effective;
- (f) not include a deductible greater than \$5,000.00 per occurrence;
- (g) include a cross liability clause; and
- (h) be on other terms acceptable to the City.

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15. **Release** – The Vendor hereby releases the City and its elected and appointed officials, officers, employees, contractors and agents from and against all demands and claims, which the Vendor may have, now or in the future, in relation to this Agreement and the Licence Area.
16. **Indemnity** – The Vendor hereby indemnifies and saves harmless the City and its elected and appointed officials, officers, employees, contractors and agents from and against any and all liabilities, actions, causes of action, claims, debts, suits, losses, costs (including actual costs of professional advisors), demands and harm, whether known or unknown, whether in relation to death, bodily injury, property loss, property damage or other loss or damage of any kind whatsoever, arising from or in connection with:
 - (a) the Vendor's use or occupation of the Licence Area;
 - (b) the Vendor's operation, use and removal of the Street Vending Vehicle;
 - (c) fulfillment by the Vendor of any term or covenant in this Agreement;
 - (d) any default or breach of the Vendor under this Agreement;
 - (e) any contamination of the Licence Area or any contamination of the surrounding property resulting from the Vendor's use or occupation of the Licence Area; or
 - (f) any act, omission, negligence or wrongful conduct of the Vendor or any of its agents, employees, contractors, volunteers, invitees and others for whom it is responsible.

No provision of this Agreement and no act or omission or finding of negligence, whether joint or several, as against the City shall relieve the Vendor from liability to the City, whether such liability arises under this Agreement or otherwise.

All indemnities shall survive the expiration or earlier termination of this Agreement.

17. **Prime Contractor's Declaration as Per *Workers Compensation Act*** – The Vendor acknowledges and agrees that, in accordance with the *Workers Compensation Act*, R.S.B.C., 2019, c. 1 and regulations thereof, as amended, restated, or replaced from time to time (the "WCA"), the Vendor is the "[Prime Contractor](#)" and is qualified to act as the "Prime Contractor". The Vendor accepts the duties and responsibilities for coordination of health and safety in accordance with the WCA. The Vendor further agrees that it will do everything necessary to establish and maintain a system or process that will ensure compliance with the WCA.
18. **WCB** - WorkSafe BC coverage in goodstanding and further, if an "Owner Operator" is involved, personal operator protection (P.O.P.) to be provided.
19. **Inspections** – The Vendor acknowledges that the City, by its authorized representatives, may carry out inspections of the Street Vending Vehicle and the Licence Area at any time for the purpose of determining whether the Vendor is complying with its obligations under this Agreement.

20. **Order to Correct Default** – If the City considers the Vendor to be in breach of any of its obligations under this Agreement, the City may give to the Vendor a written notice requiring correction of such default within the time specified in the notice.
21. **Action on Vendor's Default** – The Vendor must promptly correct its default according to any notice received from the City under section 18 and, if the Vendor fails to do so, the City may, but is not obligated to, cause such default to be corrected at the Vendor's cost, and may use the Deposit for such purpose.
22. **Termination** – The City may terminate this Agreement by giving notice of immediate termination to the Vendor:
 - (a) in the event of bankruptcy or insolvency or the taking of any proceedings toward dissolution or winding up of the Vendor or if demand for payment is made upon the Vendor by its bank or a foreclosure action is commenced against the Vendor by its bank;
 - (b) if the Vendor fails to abide by any term or obligation of this Agreement and fails to rectify the default within the time specified in the written notice from the City requiring rectification of the default; or
 - (c) for any reason on providing thirty (30) days notice to the Vendor and refunding the Licence Fee on a daily pro rated basis.Such termination shall not relieve the Vendor from liability for any default by the Vendor in its obligations under this Agreement prior to such termination taking effect.
23. **Surrender** – On the Expiry Date or earlier termination of this Agreement, the Vendor shall cease all use and occupation of the Licence Area and shall leave the Licence Area in a clean, tidy and safe condition and clear from any contamination arising since the Commencement Date, and the City shall repay to the Vendor any portion of the Deposit not used by the City in accordance with this Agreement.
24. **No Assignment** – The Vendor shall not assign this Agreement in whole or in part.
25. **No Joint Venture** – Nothing in this Agreement makes the City and the Vendor joint venturers, partners or agents of the other.
26. **Independent Contractor** – In all respects, the Vendor is an independent contractor entitled to use its own methods provided the result is the operation of the Street Vending Vehicle in accordance with this Agreement.
27. **Notices** – All notices required or permitted to be given under this Agreement shall be in writing and may be delivered by hand, sent by facsimile transmission, sent by electronic mail to the address provided by the Vendor or forwarded by first-class prepaid express mail to the addresses set forth on the first page of this Agreement, or such other address as may from time to time be notified in writing by the parties. Any notice delivered or sent by hand, electronic mail or by facsimile shall be deemed to be given and received at the time of sending or posting. Any notice mailed shall be deemed to have been given and received 3 days after it is posted, provided that if there should be between the time of mailing and the actual receipt

of the notice a mail strike, slow down or other labour dispute which might affect the delivery of such notice by mail, then such notice shall only be effective once delivered.

28. **Time of the Essence** – Time is of the essence respecting this Agreement.
29. **Further Assurances** – The parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this Agreement.
30. **Entire Agreement** – This Agreement is the entire agreement between the parties and neither the Vendor nor the City has given or made any representations, warranties, guarantees, promises, covenants or agreements to the other except those expressed in writing in this Agreement.
31. **Amendments** – No amendments to this Agreement shall be valid unless evidenced by written agreement executed by the Vendor and the City.
32. **Interpretation** – In this Agreement:
 - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - (c) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
 - (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
 - (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced; and
 - (f) reference to a "party" is a reference to a party to this Agreement and to its respective corporate successors, trustees, administrators and receivers.
33. **Severance** – If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement.
34. **Laws of British Columbia** – This Agreement shall be governed by and construed according to the laws of the Province of British Columbia.
35. **Waiver** – Waiver by the City of any default by the Vendor shall not be deemed to be a waiver of any subsequent default by the Vendor. All waivers must be in writing.

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IN WITNESS WHEREOF the parties hereto have executed this Agreement on the dates written below.

CITY OF COQUITLAM by its authorized signatory(ies):

Mayor

Corporate Officer

Date

[NAME OF CORPORATION] by its authorized signatory(ies): **[Use if Vendor is corporate entity/delete if not]**

Name

Name

Date

[NAME OF INDIVIDUAL] **[Use if Vendor is individual/delete if not]**

Name of Individual

Signed in the presence of:

Witness:

Address:

Date