

MOBILE FOOD VENDING UNIT PILOT PROJECT

SCHEDULE A: TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1. For the purposes of these Terms and Conditions the following definitions apply:
- a. “**Vendor**” means a person selling prepared food, beverages, snacks, ice cream or other food products from a Vending Unit; and
 - b. “**Vending Unit**” means any mobile vehicle, cart, towable trailer, table/stand, or other such property used in the preparation, selling, or distribution of prepared food, beverages, snacks, ice cream or other food products.

2. CONDUCT OF ACTIVITIES

- 2.1. The Vendor shall operate the Vending Unit and ensure that all activities carried out under this Agreement are carried out:
- a. In a good and workpersonlike manner;
 - b. In accordance with all applicable Town, Provincial and Federal laws, regulations, orders, bylaws and enactments, and the terms of all required permits and approvals, including those relating to physical distancing (and including the Town of Okotoks Business License Bylaw except as modified by this Pilot Project);
 - c. In accordance with the terms of the Vendor’s business license application (including all associated materials), the Town’s Mobile Food Vending Unit Pilot Project Guidelines, and these Terms and Conditions (collectively, the “**Agreement**”);
 - d. In such a manner that the site of the Vendor’s activities is kept neat, clean and safe; and
 - e. In accordance with any directives issued by the Town.

3. USE OF PUBLIC PROPERTY

- 3.1. If the Vendor uses public property for the purposes of the Pilot Project, including roadways, sidewalks, public parks, municipally owned parcels, or reserve parcels (“**Public Property**”) the following terms and conditions shall apply to such use:
- a. The Vendor shall not modify the Public Property or any improvements thereon (including any landscaping), or affix anything to the Public Property except with the prior written authorization of the Town, which shall be in the Town’s sole discretion;
 - b. The Vendor shall obtain prior written approval by the Town for use of any public parks, municipally owned parcels, or reserve parcels;
 - c. The Vendor shall not store or place any furnishings or other items on the Public Property excepting the Vending Unit except with the prior written authorization of the Town, which shall be in the Town’s sole discretion; and

- d. The Vendor shall not bring, permit, allow, or release any hazardous substances (as defined in the *Environmental Protection and Enhancement Act*) onto the Public Property.
- 3.2. The Vendor's authorization to use Public Property is temporary in nature. No ongoing right to use Public Property outside of the Pilot Project is granted or implied by this Agreement. No exclusive right to occupy Public Property is granted or implied by this Agreement.
- 3.3. At any time when the Vendor uses Public Property, the Vendor shall immediately restore such Public Property to its prior condition, subject only to reasonable wear and tear.
- 3.4. The Town may require the Vendor to cease use of an area of Public Property at any time if the Town requires use of such Public Property on twenty-four hours' notice to the Vendor or immediately if such notice is not feasible, in the sole opinion of the Town.

4. TERM AND TERMINATION

- 4.1. The Pilot Project shall continue until December 31, 2020 unless terminated earlier as described herein or extended by the Town in the Town's sole discretion. This Agreement shall remain in effect until the expiry or termination of the Pilot Project, unless terminated earlier hereunder. Upon expiry or termination of this Agreement or the Pilot Project, the Vendor shall immediately cease all operations associated with the Pilot Project.
- 4.2. The Town may terminate the Pilot Project at any time on twenty-four (24) hours' notice to the Vendor, or immediately if the Pilot Project is found to be contrary to any applicable Town, Provincial or Federal laws, regulations, orders, bylaws, or enactments, including those relating to physical distancing.
- 4.3. The Town may terminate this Agreement at any time on twenty-four (24) hours' notice to the Vendor.
- 4.4. The Town may terminate this Agreement immediately on notice to the Vendor if the Vendor is found to have breached any term of the Vendor's business license application, these Terms and Conditions or the Guidelines, in which event the Vendor shall not be eligible to re-apply to participate in the Pilot Project except with Town approval, which shall be in the Town's sole discretion.
- 4.5. The Vendor may terminate this Agreement at any time on notice to the Town.

5. LIABILITY, RISK AND INSURANCE

- 5.1. The Vendor's participation in the Pilot Project and the operations of any Vending Unit shall be at the Vendor's sole risk and expense.
- 5.2. The Vendor shall indemnify and hold harmless the Town and the Town's officials, managers, employees, contractors and insurers from and against any claim, demand, action, cause of action, costs or damages resulting from the participation in the Pilot Project, the operation of any Vending Unit, or any negligence, wilful misconduct or breach of this Agreement by the Vendor or the Vendor's officials, officers, directors, managers,

employees, contractors, invitees, guests, or any other person for whom the Vendor is responsible at law.

- 5.3. If the Vendor is carrying out operations on any Public Property for the purposes of this Pilot Project, the Vendor shall obtain and maintain insurance as follows, at the Vendor's sole expense:
 - a. General liability insurance on an occurrence form in an amount of not less than two million dollars (\$2,000,000.00) per occurrence for personal injury (including death) and / or property damage, which shall name the Town as an additional insured and shall include an undertaking by the insurer to notify the Town at least thirty (30) days prior to cancellation of the policy; and
 - b. Property insurance for the full value of the Vending Unit and the Vendor's equipment, stock, and other property on or being used in respect of the Vendor's activities on the Public Property.
- 5.4. Prior to commencing any operations on any Public Property and at any time upon request by the Town if the Vendor is carrying out operations on any Public Property, the Vendor shall submit a certificate or certificates of insurance to the Town to the satisfaction of the Town confirming that the Vendor has obtained the insurance required pursuant to section 5.3 of this Schedule A – Terms and Conditions.
- 5.5. The approval by the Town of any certificate of insurance shall in no way detract from the Vendor's obligations hereunder.
- 5.6. The Vendor shall be responsible for all deductibles and premiums associated with all insurance required to be carried pursuant to this Agreement.
- 5.7. The Vendor's obligation to obtain insurance shall in no way limit or restrict the Vendor's obligations hereunder to indemnify and hold harmless the Town.

6. GENERAL

- 6.1. The headings in this Agreement are for convenience only and shall not affect their interpretation. Where the singular or masculine form of a term is used in this Agreement, it includes the plural, feminine or neutral, and *vice versa*.
- 6.2. Any notices to be issued to the Vendor under this Agreement may be issued by delivering such notices to the Vendor's business address as shown on the Vendor's business license application, mailing such notices to the Vendor's mailing address as shown on the Vendor's business license application, delivering such notices to the Vending Unit, posting such notices on the Vending Unit, or emailing such notices to the Vendor's email address as shown on the Vendor's business license application. Notices delivered or posted shall be deemed received at the time of delivery or posting, notices sent by email shall be deemed received the next business day, and notices sent by mail shall be deemed received seven days after they are sent.

- 6.3. Any notices to be issued to the Town under this Agreement may be issued by sending such notices to the Town by email to planning@okotoks.ca. Notices sent by email shall be deemed received the next business day.
- 6.4. The indemnities and other provisions in this Agreement which by their nature are intended to survive the termination or expiry this Agreement or the Pilot Project shall survive such termination or expiry.
- 6.5. The Vendor's rights under this Agreement are non-transferable and the Vendor shall not assign or attempt to assign any of the Vendor's rights or obligations hereunder.
- 6.6. The Vendor shall obtain all permissions, authorizations and approvals necessary from any government or regulatory entities and the owner of any property to be used by the Vendor as part of the Pilot Project (excluding Public Property, the use of which is governed herein).