



MARKET VENDOR AGREEMENT

THIS DOWNTOWN MARKET VENDOR AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2019, by and between _____, a [_____ corporation/individual residing in _____] ("Vendor"), and the Indian Boundary YMCA, an operating center of the YMCA of Metropolitan Chicago, a not-for-profit association constituted pursuant to special acts of the Illinois legislature ("YMCA").

WITNESSETH:

WHEREAS, Vendor is in the business of selling wholesome unused products directly to market and has applied to the YMCA to participate in the Downtown Downers Grove Market (Downtown Market) by submitting an Application (the "Application"); and

WHEREAS, YMCA is organizing the Downtown Market and is willing to provide space to Vendor and Vendor desires to participate in the Downtown Market, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the parties agree as follows:

1. Duties of Vendor. During the Term, Vendor shall:

(a) Sell wholesome unused products at the booth operated by Vendor ("Booth") at/in the Downtown Market location determined by the YMCA, which location may be changed in the YMCA's sole discretion. Vendor agrees to comply with all terms and conditions contained in the Application, which is incorporated herein by this reference;

(b) Open and operate the Booth on the days indicated in the Application for the duration of the Downtown Market or for each such day indicated; Set up time is between 5:00 a.m. and 6:45 a.m. **Vendors with trailers/truck parking must have their vehicle in position by 6:15 a.m. All other vendors must have their vehicles out of the lot by 6:45 a.m. No vehicles are allowed entry after 6:45 a.m.** Vendors may not take down booths before closing, 12:30 p.m. No vendor may enter or exit the lot with his/her vehicle before 12:45 p.m.

(c) Provide all staff necessary for the efficient operation of the Booth. While at the Downtown Market, Vendor's personnel shall comply with all policies and procedures and other requirements set forth in the Application;

(d) Not operate or allow the Booth to be operated in a way that violates any law, statute, regulation, rule, ordinance or order (including, but not limited to, environmental, health and safety laws and regulations and the Americans with Disabilities Act);

(e) Obtain and pay for any licenses and/or permits required to perform the services and for the payment of all taxes, fees and other costs associated with the operation of the Booth. Vendor's services and products shall comply with all federal, state, county and municipal laws, ordinances, rules and regulations. Vendor shall provide YMCA prior to the Term a current, valid food certification from the DuPage County Department of Health and any other business license or food service certification, necessary or desirable to participate in the Downtown Market;

(f) Keep the Booth and the equipment, including the tables, chairs and floor in a clean and sanitary condition in accordance with guidelines of state and local health departments and general cleanliness standards. Vendor shall dispose of all garbage and remove the Booth and all contents at the end of each Downtown Market. Vendor shall provide its own cleaning supplies for the purposes hereof;

(g) Park your vehicle in an off-site parking lot. Parking near the market is reserved for patrons/customers. Failure to park in an off-site space will result in a fine and possible suspension from the market.

(h) Vendors are responsible for payment for all days Vendor commits to. This includes rain dates and no-show dates. **Any changes in schedules must be received via email by 5:00 p.m. Wednesday of the Saturday market; marketintern@ymcachicago.org**

(i) Your booth space is approximately 10 X 10. You are required **to erect a tent and to provide professionally done signage for your booth.** We recommend you list business name and phone, email or website address; and

(j) **Only products agreed upon in your contract/agreement may be sold. For example, fruit vendors should sell only fruit. Cross selling is unfair to other vendors. Any exceptions need prior approval from the market director.**

2. Duties of YMCA. During the Term, YMCA shall:

(a) Furnish to Vendor, the use thereof except as set forth in the Application, (i) space to place the Booth; and (ii) the electricity requested by Vendor in the Application; and

(b) Provide such coordination and other services as set forth in the Application.

3. Fees. Vendor shall promptly pay such fees and penalties as set forth in the Application.

4. Term. The term of this Agreement shall commence on May 12, 2019 and terminate on October 20, 2019 (the "Term"), unless terminated earlier as set forth below.

5. General Indemnity. To the maximum extent permitted under applicable law, Vendor agrees to protect, indemnify, defend (with counsel acceptable to YMCA) and hold harmless the YMCA from and against any and all losses, costs, damages, liabilities, expenses (including, without limitation, reasonable attorneys' fees) and/or injuries (including, without limitation, damage to property and/or personal injuries) suffered or incurred by the YMCA (regardless of whether contingent, direct, consequential, liquidated or unliquidated) (collectively, "Losses"), and any and all claims, demands, suits and causes of action brought or raised against the YMCA (collectively, "Claims"), arising out of, resulting from, relating to or connected with:

- (i) any act or omission of the Vendor at, on or about the Downtown Market,
- (ii) any product or service sold or distributed at the Downtown Market; and/or
- (iii) any breach or violation of this Agreement on the part of Vendor. This indemnification shall include, but not be limited to, claims made under any workman's compensation law or under any plan for employee's disability and death benefits (including without limitation claims and demands that may be asserted by employees, agents, contractors and subcontractors).

6. General Waiver and Release. Vendor has not relied and will not rely on, and YMCA is not liable for, any express or implied representations, guarantees, warranties (including, without limitation, any warranties of fitness for a particular use or purpose) of any kind made or furnished by the YMCA or any party purporting to act on behalf of any of the YMCA, to whomever made or given, directly or indirectly, orally or in writing, as to the condition or repair of Downtown Market space or compliance thereof with any laws, and no agreements to make any alterations, repairs or improvements in or about the space have been made by or on behalf of YMCA. To the fullest extent permitted under applicable law, Vendor hereby waives any and all Claims against the YMCA, and fully and forever releases the YMCA, for any Losses suffered or incurred by Vendor in connection with the Downtown Market.

7. Insurance. Vendor agrees throughout the Term to procure and maintain, at its expense, in companies reasonably acceptable to YMCA, the following types of insurance (or such other amounts or types of policies as YMCA shall reasonably require from time to time): (i) general liability insurance with coverage (a) having limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate limits, and (b) extending to premises and operations liability, product liability, personal injury and contractual liabilities, (ii) Workers Compensation and Employers Liability with minimum limits of \$1,000,000 (or statutory limit), and (iii) Auto Liability coverage covering any auto with minimum limits of \$1,000,000; furthermore, it shall furnish the YMCA of Metropolitan Chicago with a certificate(s) of insurance that (a) evidence the coverages described above, (b) expressly names the YMCA of Metropolitan Chicago as an additional insured to the general liability insurance and provides that such coverage is primary and non-contributory, and (c) states that the Workers Compensation and Employers Liability coverage contains a waiver of subrogation.

Vendor shall furnish to YMCA certificates evidencing such coverage, which certificates shall state that such insurance may not be materially reduced or materially changed without thirty (30) days prior written notice to Vendor and YMCA.

8. Termination. The Booth may be closed by the YMCA at any time or from time to time if in the reasonable opinion of the YMCA it is necessary for the health or safety of the public. The YMCA may allow Vendor to reopen the Booth if, in its sole discretion, Vendor has remedied the reason or reasons that the Booth was closed. If the deficiency is not remedied to the sole satisfaction of the

YMCA in the time determined as appropriate by the YMCA, the YMCA may terminate this Agreement immediately by written notice to Vendor. With or without cause, either party may terminate this Agreement if it has given at least thirty (30) days prior written notice to the other of its intent to terminate. The parties shall deal with each other in good faith during the thirty (30) day period after any notice of termination has been given. Vendor's obligations in this Agreement concerning taxes, indemnification, waiver and release, authority, and use of trade names shall survive termination or expiration of this Agreement.

9. Limitation of Liability. Neither party will be liable for incidental, special, or consequential damages, including for the loss of profits or other economic damages, even if advised of the possibility of such damages. This limitation will apply regardless of the form of action, whether in contract or not, including negligence.

10. Use of Name. Vendor acquires no rights under this Agreement to use, and shall not use, YMCA's name or any of YMCA's marks or logos (either alone or in conjunction with or as part of any other word or name):

- (a) in any advertising, publicity, or promotion except to identify the location of the Booth;
- (b) to express or imply any endorsement by YMCA of Vendor's services to third parties; or
- (c) in any other manner whatsoever, without the prior written approval of YMCA.

11. Relationship of the Parties. Vendor is participating in the Downtown Market only for the purposes and to the extent set forth in this Agreement and Vendor's relationship to the YMCA shall, during the Term, be that of an independent contractor. Accordingly, Vendor shall not withhold, from sums becoming payable to YMCA hereunder, any amounts for State or Federal Income Tax, or for FICA (Social Security). Taxes and employees of one party are not entitled to any of the benefits that the other party provides for its own employees. Vendor has no authority to enter into contracts or agreements on behalf of YMCA.

12. Force Majeure. Except to the obligation to make any payment hereunder, neither YMCA nor Vendor shall be held liable for the failure to perform their respective obligations under this Agreement when such failure is caused by fire, explosion, water, act of God, civil disturbance, sabotage, weather and energy related closing, governmental rules or regulations or similar causes beyond the reasonable control of such party.

13. Entire Agreement. The terms, provisions, covenants and conditions herein and in the Application contained constitute the entire agreement between YMCA and Vendor and may not be altered, modified or amended except by a subsequent writing signed by both parties.

16. Severability. In the event any term, provision, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, provision, covenant or condition herein contained.

17. Headings/Waiver. Any heading are solely for convenience and shall not be considered in the interpretation of this Agreement. A waiver of any failure or default under this Agreement shall neither be construed nor constitute a waiver of any subsequent failure or default.

18. Controlling Law. This Agreement shall be construed in accordance with, and its performance shall be governed by, the laws of the State of Illinois.

19. No Third Party Beneficiaries. Vendor and YMCA agree and acknowledge that, except as expressly set forth herein, there are no intended third party beneficiaries of this License nor any of the rights and privileges conferred herein.

20. No Assignment by Vendor. This Agreement and the rights and obligations of the parties hereto shall be binding upon and inure to the benefit of the parties and their respective successors, personal representatives and assigns; provided, however, Vendor acknowledges that this Agreement is personal to Vendor and that Vendor shall have no right to assign all or any portion of its right, title, interest or obligation in this Agreement or under this Agreement without the prior written consent of YMCA, which consent may be granted or withheld by YMCA in its sole and absolute discretion.

IN WITNESS WHEREOF, the parties have signed this Agreement on the day and year first above written.

_____ (Vendor Name—please print)	YMCA OF METROPOLITAN CHICAGO Indian Boundary YMCA
_____ (Business Name—please print)	By: _____ (YMCA Representative Signature)
_____ (Vendor Signature)	_____ (YMCA Representative Name please print)
Date: _____	Date: _____

Have you included the following items?



Auto Insurance card for **all drivers** who are entering the parking lot via a motorized vehicle

Auto Insurance Company: _____

Policy Number: _____



Liability Insurance Policy



First payment (one of three invoices)



We agree and will abide by the parking regulations