

VENDOR LICENSE AGREEMENT FOR THE KUNA MARKET VILLAGE

PARTIES:

	Licensee	
City of Kuna	City	P.O. Box 13 Kuna, Idaho 83634

THIS PERMIT/LICENSE AGREEMENT made and entered this ___ day of _____, 20__, by and between _____ whose address is _____ hereinafter referred to as Licensee, and the City of Kuna, a Municipal corporation existing by virtue of the laws of the state of Idaho, hereinafter referred to as City, with its principal offices at located at 751 W. 4th Street Kuna, Idaho 83634 and its mailing address is P.O. Box 13, Kuna, Idaho 83634.

**ARTICLE 1
DEFINITIONS**

For all purposes of this Agreement, the following words in bold print that appear in this Agreement have the definitions as herein provided in this Section unless the context of the term clearly requires otherwise and is not capitalized:

- 1.1 **“Agreement”**: means and refers to this Vendor License Agreement for the Kuna Market Village.
- 1.2 **“Licensee”**: means and refers to _____, whose address is _____ and who is the Licensee here in this Agreement, and a party to this Agreement.
- 1.3 **“Licensed Location”**: means and refers to that portion of the Kuna Market Village as described as Vendor Space Number _____, and identified on the Kuna Market Village map attached as Exhibit A to this Agreement.
- 1.4 **“Licensed Use”**: means and refers to the operation of the business described in Licensee’s “Kuna Market Village 2020 Vendor Application” attached hereto as Exhibit B.
- 1.5 **“KCC”**: means and refers to the Kuna City Code.
- 1.6 **“Kuna Market Village”**: means and refers to an area of real property within the City, that includes pathways, electricity, small non-permanent structures, and other improvements. In addition to the area of real property, this term also means and refers to the retail incubator activities the City intends to conduct on this property for the purpose of assisting small business owners develop and grow a retail business within the City.
- 1.7 **“City”**: means and refers to the City of Kuna, a Municipal corporation organized and existing under and by virtue of the laws of the state of Idaho, licensor, here in this Agreement, and a party to this agreement.

**ARTICLE 2
RECITALS**

The Parties recite and declare:

- 2.1 The City has leased real property from Joint School District No. 3, Ada and Canyon Counties in order to develop and locate a retail incubator program known as the Kuna Market Village; and
- 2.2 The City has authority to enter into lease agreements, erect buildings or structures for needful purposes of City, operate cultural activities, and make resolutions to promote the general welfare, trade, commerce, and industry pursuant to I.C. §§ 55-302 through 55-303; and
- 2.3 Pursuant to I.C. § 50-307, City has authority issue licenses and collect license fees from any business within the City boundaries; and
- 2.4 City has authority pursuant to KCC § 7-3-9 to permit or license use of public property for special events or outdoor markets; and
- 2.5 The Kuna Market Village shall have various retail spaces, including small non-permanent sheds, and City shall issue vendor licenses to certain businesses who apply for use of said spaces and pay the appropriate license fees; and
- 2.6 A vendor license shall authorize the possessor to operate a business within a designated space within the Kuna Market Village;
- 2.7 Licensee, desiring a Kuna Market Village vendor license, submitted a “Kuna Market Village 2020 Vendor Application,” which is application is attached as Exhibit B to this Agreement; and
- 2.8 City reviewed Licensee’s vendor application, and pursuant to that review desires to issue a vendor license to Licensee for the particular Licensed Use described within that application; and
- 2.9 Licensee desiring a vendor license, and City desiring to issue a vendor license to Licensee, enter this Agreement, which shall authorize Licensee to occupy the Licensed Location for the Licensed Use, subject to the terms stated herein.

ARTICLE 3

GRANT OF PERMIT/LICENSE FOR LICENSED USE OF THE LICENSED LOCATION

- 3.1 The City grants to the Licensee, permission for the Licensed Use of the use of the Licensed Location subject to the conditions and regulations hereinafter set forth.

- 3.2 The permission for the Licensed Use of the Licensed Location is exclusive only to the Licensed Location and only at times as herein defined as part of the Licensed Use.

**ARTICLE 4
COMPLIANCE WITH APPLICABLE LAWS AND
LICENSED USE, AND LICENSEE CONDUCT**

- 4.1 Licensee will comply with all laws, ordinances, orders, rules, regulations, and requirements of federal, state, county, and city government regulating the Licensed Use and the Licensed Location.
- 4.2 Licensee shall use the Licensed Location for the Licensed Use, and no other purpose without express written approval from City.
- 4.3 Licensee shall provide a copy of their sales tax license and any other licenses required by City, State, or Federal government that may be required to perform its Licensed Use. Licensee shall also obtain a business license from the City.
- 4.4 Vendors shall be supportive and courteous to other vendors, customers, and other business owners.

**ARTICLE 5
INSURANCE FOR LIABILITY AND PROPERTY DAMAGE
AND FAITHFUL PERFORMANCE**

- 5.1 The Licensee shall indemnify, and save and hold harmless, the City and its agents from, and for, any and all losses, claims, actions, or judgments for damages or injury to persons or property, and losses and expenses and attorney fees caused or incurred by the Licensee, his/her/its officers, employees and agents except to the extent caused by City.
- 5.2 The Licensee shall maintain throughout the term of this Agreement,
- 5.2.1 Worker's Compensation – if required by and in compliance with the laws of the State of Idaho; and
- 5.2.2 Comprehensive Premises Liability Policy – a minimum coverage of \$1,000,000.00 including the following coverage:
- 5.2.2.1 Premises and operations; and
- 5.2.2.2 Broad Form Commercial General Liability Endorsement to include blanket contractual liability (specifically covering but not limited to the contractual obligations assumed by the organization); and
- 5.2.2.3 Personal injury; and
- 5.2.2.4 Broad Form Property Damages coverage; and

- 5.3 The City shall be named as an Additional Interest party on all policies related to this Agreement excluding Workers Compensation; and
- 5.4 Licensee shall furnish City Clerk with a certificate of such liability insurance stating that said insurance is in full force and effect during the term of this Agreement or any extension thereof; and
- 5.5 The insurance policies shall provide that there shall be no termination, non-renewal, modification, or expiration of such coverage without forty-five (45) calendar days written notice to the City; and
- 5.6 All insurance shall be written with a company having an A.M. Best rating of at least the “A” category and size categories of VII; and
- 5.7 The limits of insurance shall not be deemed a limitation of the Licensee’s covenant to indemnify and save and hold harmless the City from such losses, claims, actions, or judgments, and if the City becomes liable for an amount in excess of the insurance limits herein provided, the Licensee covenants and agrees to indemnify and save and hold harmless the City from any and all such losses, claims, actions, judgments, or expenses for damages or injury to persons or property.

**ARTICLE 6
OPERATION AND MAINTENANCE OF
LICENSED USE AND LICENSED LOCATION**

- 6.1 City is authorized to conduct inspections of the Licensed Location upon reasonable notice to the Licensee. The Licensee shall provide the City’s Economic Development Committee with Licensee’s current listed telephone number, and shall be available so that City complaints and requests for repairs or adjustments regarding the Licensed Use may be received at any time.
- 6.2 The Licensee shall be liable to the City for any damages to City’s property (not including normal use wear and tear) or expenses reasonably incurred by the City as a result of the Licensee’s failure to comply with the provisions of this Agreement.
- 6.3 The Licensee shall only use the Licensed Location for the operation of a retail business consistent with the Licensed Use. Licensee shall make no changes to the inside or outside structure of the Licensed Location in such a manner as to detract from the character and standards of the Licensed Location and Kuna Market Village.
- 6.4 Licensee shall keep the Licensed Location and surrounding areas clean, neat, and safe. Licensee is responsible for removing any trash from the Licensed Location and sidewalks, pathways, or other areas immediately adjacent to the Licensed Location. If Licensee fails to remove trash, City may remove trash and charge Licensee an additional fee for the costs incurred for trash removal.

- 6.5 Licensee shall not abandon or leave vacant the Licensed Location on the days and times set forth in Section 7.3 of this Agreement during the Kuna Market Village operating season.
- 6.6 Licensee shall not conduct an auction, ‘going-out-of-business,’ bankruptcy sale, or similar practice at the Licensed Location.
- 6.7 Licensee shall not display merchandise outside of the Licensed Location, or obstruct pathways or other areas immediately adjacent to the Licensed Location without prior written consent from City.
- 6.8 Licensee shall not use the Licensed Location in a manner that is disruptive, a nuisance, annoyance, or inconvenience to the other vendors or patrons within the Kuna Market Village. If City determines Licensee is using the Licensed Location in such a manner, the Licensee shall immediately cease such problematic activities. If Licensee fails to cease the problematic activities, City may revoke the permission or licenses granted by this Agreement.
- 6.9 Licensee will not install any signs on the Licensed Location or display any signs on the sidewalk or porch. No outside displays shall be attached to the structure of the Licensed Location, cover the structure, or cover the windows. If outdoor displays are used, they must be tastefully decorated and approved by City. They cannot be on the sidewalk or pathways. It is the Licensee’s responsibility to inform their employees of these terms. Items must be removed immediately when requested by City and a fifty dollar (\$50) fee will be charged after the second warning of the season related to issues identified in this subsection. If racks are used, they are limited to one rack for their outdoor display. Three or more violations of this section may result in not being allowed to participate as a vendor in future seasons of the Kuna Market Village.
- 6.10 Licensee will maintain and replenish its stock of merchandise throughout the Kuna Market Village operating season. Further, Licensee will not change its merchandise offering, or add new items, without first obtaining approval of the City. The City shall have authority to reject such proposed changes or additions.
- 6.11 Licensee shall participate in marketing efforts including social media, events, and participating in activities at the Kuna Market Village in order to increase community knowledge and support of the Kuna Market Village and Licensee’s particular Licensed Use.

**ARTICLE 7
DURATION OF AGREEMENT, AND HOURS OF OPERATION**

- 7.1 The duration of this Agreement shall start on the day the Agreement is signed by both Parties, and shall expire on the ____ day of _____, 2020.

7.2 The Kuna Market Village will open to the public for retail purposes on the ____ day of _____, 2021. This date shall be the start of the Kuna Market Village operating season. Licensee shall have its Licensed Location ready for business to perform the Licensed Use on this date.

7.3 After the opening of the operating season, the Kuna Market Village shall have the following days and hours of operation:

- Fridays: 4:00pm – 8:00pm MST.
- Saturdays: 11:00am – 8:00pm MST.
- Sundays: 11:00am – 4:00pm MST.
 - Licensee may opt-out of the Sunday hours.

Licensee shall be required to have their Licensed Location open and operating the Licensed Use during the days and hours specified above for the entire operating season of the Kuna Market Village.

7.3.1 Recognizing that unexpected situations may arise that require Licensee to close its business on a particular day, Licensee is entitled to five (5) days of business closure during the operating season. After five (5) such closures, Licensee shall be subject to a fee of fifty dollars (\$50) per day that it fails to open and operate its Licensed Location for the Licensed Use unless the closure is specifically authorized by City. This fee would be due upon the occurrence of an additional closure.

7.4 The Kuna Market Village shall cease operations for the season on the ____ day of _____, 2021. This will be the close of the Kuna Market Village operating season, and Licensee shall be required to cease its Licensed Use on this date. Within ten (10) days of the close of the operating season, the Licensee shall remove its property from the Licensed Location without damaging or injuring to the Licensed Location. Should the Licensee fail to timely remove its property, City may remove and dispose of the property, and charge Licensee any fees incurred by City for this work.

**ARTICLE 8
ELECTRICITY, INTERNET, WATER, AND SIMILAR SERVICES**

8.1 Licensee acknowledges that the electricity supply to the Kuna Market Village is limited. Due to this limitation, Licensee is authorized to plug in a lamp, air conditioner or heater, cell phone, and/or music player. Plugging in any other items such as an electric cooler, refrigerator, other appliances, and any other devices not specifically approved by City shall require Licensee to pay an additional \$50 fee for the entire season per additional item. Pursuant to this provision, Licensee identifies the following devices it intends to plug in at the Licensed Location:

If upon inspection of the Licensed Location, City discovers any devices plugged in that are not identified above, City may require the devices to be unplugged or require payment of the fifty dollar (\$50) fee for each additional device. If the City does not require the fee upon first discovery of an additional device, and Licensee again plugs in an additional device, Licensee shall then be required to pay the additional device fee.

- 8.2** Licensee is responsible for its own internet connection to accept payments, and for any other purpose Licensee may require. The City will attempt to provide free wi-fi for payment processing but this service is not guaranteed. The City is not responsible for any missed sales that may happen from the lack of internet. The City will not attempt to repair the internet on weekends or after City hall hours.
- 8.3** There is no running water at the Kuna Market Village. If Licensee requires water for the operation of its business, drinking, or other purposes Licensee agrees City shall have no obligation to provide for such needs. Therefore, Licensee shall have the burden of bringing water to the Licensed Location through its own efforts. This provision does not permit Licensee to install plumbing, irrigation, or other permanent water supply features, but contemplates that Licensee may haul limited quantities of water to the Licensed Location for its use.

**ARTICLE 9
FEES**

- 9.1** Licensee shall pay one-thousand one-hundred and sixty dollars (\$1,160) (June/July/August/September) in fees for permission to occupy the Licensed Location and operate its Licensed Use. The payment shall be due upon signing this Agreement. If special considerations are needed for alternate payment periods, additional administrative fees may apply.
- 9.2** Electricity fees for additional electronics, appliances, refrigerators, or other devices identified in Section 8.1 above: _____. This amount is due at signing.
- 9.3** Licensee shall deposit with City a one hundred and fifty dollar (\$150) security deposit, due upon signing, to protect against damage beyond normal wear and tear to the Licensed Location. After Licensee vacates the premises, City shall inspect the Licensed Location for

any damage, and may use all or a portion of this deposit to pay for the cost to repair any damage to the Licensed Location that occurred while Licensee used the space. In the event all, or a portion of this deposit, is not used by City, it shall be returned to Licensee within thirty (30) days of the expiration or termination of this Agreement.

ARTICLE 10 RIGHTS RESERVED TO CITY

- 10.1** The right is hereby reserved by the City to adopt, in addition to the provisions contained herein, such additional regulations as it shall find necessary; provided, that such regulations shall be reasonable and not in conflict with the rights herein granted and not in conflict with the laws, rules and regulations of other governmental regulatory agencies having jurisdiction over Licensed Use. Such regulations shall be applied in a non-discriminatory manner to all similar Licensees.

ARTICLE 11 FORFEITURE OF VENDOR LICENSE

- 11.1** This Agreement may be terminated and canceled, amended, amplified, at any time for failure of the Licensee to comply with the terms and conditions hereof and as provided. Prior written notice of intent to terminate and cancel, shall be issued by the City Economic Development Director, of the matters and facts of which Licensee is claimed to be in default or noncompliance with a stated time the default or noncompliance must be corrected, such written notice to be given in accordance with the notice provisions of this Agreement. Should Licensee fail to correct and remedy such default or noncompliance within a reasonable time, stated in the written notice, from the day of receipt of said notice, such reasonable time to depend upon the exigencies surrounding the matters and facts set forth in said notice, then and in that event, the Economic Development Director may forthwith give Licensee notice of Order of Immediate Termination and Cancellation of this Agreement (the "Order").

ARTICLE 12 GENERAL PROVISIONS

- 12.1 Severability:** The provisions of this Permit/License Agreement are hereby declared separable, and if any section, clause, or phrase hereof is hereafter declared invalid and unconstitutional, the same shall not affect the validity of the remaining portions of this Agreement.
- 12.2 Assignment of Permit/Licenses:** Licensee may not assign all or any portion of its rights under this Agreement without the permission of the City Economic Development Director in writing and only upon the assignee's agreement in writing to be bound to and perform the terms and conditions of this Agreement. The Economic Development Director is not required to approve a requested assignment, and may choose to deny any assignment request.

12.3 Changes-alterations: No change, alteration, modification, or addition to this agreement shall be effective unless in writing and properly executed by the Parties hereto.

12.4 Governing Law. This Agreement shall in all respects be subject to, and governed by, the laws of the state of Idaho.

12.5 Attorney’s Fees. In the event any Party shall file suit or action at law or equity to interpret or enforce this Agreement, the provisions of Idaho Code Section 12-117, or any subsequent amendment or recodification of the same, shall apply to the determination of the prevailing Party and the award of reasonable attorney’s fees, witness fees and other reasonable expenses.

12.6 Notices: All notices required to be given to each of the Parties hereto, under the terms of this Agreement, shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below:

Licensee	City of Kuna
Attn:	P.O. Box 13
Mailing address:	Kuna, ID 83634
E-mail address:	Attn: Economic Development Director lholland@kunaaid.gov

Or, to such other address as may be designated by writing and delivered to the other party. All notices given shall be deemed completed as of the date of mailing except as otherwise expressly provided herein.

12.7 Waiver: No failure of the City to enforce any term hereof shall be deemed to be a waiver.

12.8 Entire Agreement: This Agreement contains the entire agreement between the parties and may be modified only by an addendum to this Agreement or by a new Agreement in writing, signed by the Parties.

12.9 Captions: The subject headings of the paragraphs and subparagraphs of this agreement are included for purposes of convenience only, and shall not affect the construction of interpretation of any of its provisions.

DATED the _____ day of _____, 2021.

LICENSEE:

By: _____

Title: _____

CITY OF KUNA

By: Lisa Holland

Economic Development Director

ATTEST: _____
Chris Engels, City Clerk

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