THIS LICENCE AGREEMENT

Made as

BETWEEN:

Cheesy Monkii Food Trailer

(Hereinafter called the "Vendor")

-AND-

The Corporation of the Municipality of Kincardine

(Hereinafter called the "Municipality")

WHEREAS the Municipality is the owner of the premises commonly referred to as the Kincardine Municipal Airport, located at 1987 Highway 21 and which is referred to throughout this agreement as the "Venue".

AND WHEREAS the Vendor owns and operates a Food Truck for the benefit of the citizens of the Municipality which is referred to throughout this agreement as the "Food Truck";

AND WHEREAS it has been deemed desirous by the Council of the Municipality of Kincardine to allow the Vendor to operate a Food Truck at the Venue;

NOW THEREFORE, in consideration of the sum of $1.00 and other good and valuable consideration, the parties hereto agree as follows:

1. EXCLUSIVE USE OF THE VENUE

a) The Municipality hereby grants and sets over to the Vendor the exclusive use of the Venue on and subject to the terms and conditions of this agreement.

2. TERM

a) This agreement shall be in effect from May 1st, 2021 to May 1st, 2022, with the ability to renew for a 12-month period up to 36 months.

   Provided this agreement is and has remained in good standing, the Vendor shall have the first option to renew the agreement by providing a written request to the Municipality on or before March 1st, 2022. The terms and provisions of the renewal agreement shall be satisfactory to the Municipality in its sole discretion. If a renewal agreement has not been negotiated and executed by both parties on or before March 15th 2022, the Municipality shall be at liberty to search for an alternative Vendor for the Venue.

b) The Municipality reserves the right to cancel this Agreement, by giving thirty (30) calendar days written notice should the Vendor fail to comply with the terms and conditions of the Agreement.

c) This Agreement may be canceled by either party, with or without cause, by delivering a Notice of Termination to the non-terminating party.

Termination shall be effective on the thirtieth (30th) day after the date of actual receipt of such notice by the non-terminating party.

3. TERMS OF OPERATION

The Vendor shall operate the Venue on the following terms and conditions:

a) The Vendor shall operate in compliance with the site plan approval from the Municipality and Ministry of Transportation included as Appendix "A".

b) The Vendor shall have full disclosure of hours of operation except such instances as the closure of Highway No. 21, discontinuation or disruption to utility services not as a result of the Vendors actions, or any item reasonably recognized as Force Majeure, and only for the time in which the Force Majeure remains in effect.

c) The Vendor shall take no action which would result in the Venue or any of the attached uses associated with it, being sold, transferred or in any way encumbered.

d) Allowable Hours of operation of the Food Truck can be between 7 am till 10 pm, seven days a week.

e) Parking of vehicles (Staff, Customers, Delivery Vehicles etc.) relating to the Food Truck will be designated by the Municipality or the Airport Service Provider and at its discretion in areas in which parking may be allowed. As this is a new venture for both parties the Municipality or the Airport Service Provider maintains the right to alter the parking arrangements if it feels necessary to maintain a well-run Airport Facility.

f) The Vendor shall supply their own garbage and recycling receptacles with lids and remove all waste from the property at the end of each day without exception.

g) The Vendor shall keep areas clear of all waste and or clutter during the entire time period of the contract (airports must not have any litter that are attracting birds or other forms of wild life that may become a hazard or nuisance to the public and or air traffic).

h) From time to time special events will be held at the Municipal Airport (example: air shows, open house, meetings, etc.). It is expected that food may become part of the event. The Vendor understands that they do not hold the sole rights to serving food at the Municipal Airport, however they may be asked by the Municipality or the Airport Service Provider to Quote or participate in the event in question.

i) All fixtures and equipment supplied and installed by the Vendor remains the property of the Vendor and can be removed prior to the term of this agreement, providing the Venue is left in a state of repair similar to the start of the term.

j) The Vendor will leave the Venue in good repair save and except only reasonable wear and tear accepted.

k) The Vendor shall be responsible for any damage or loss suffered by them in respect of the use of the Venue.

l) The Municipality agrees as an inducement to the Vendor to enter into this agreement not to permit third party food vendors, Food Trucks and/or other food vendor competitors to operate on the Venue, save and except for special events including but not limited to Air Shows, or unless prior consent is given by the Vendor.

m) The Vendor shall provide the Municipality with the name(s) and telephone number(s) of his/her representative(s) who can be contacted on a 24-hour basis in case of an emergency during the Term of the Agreement.

n) The Municipality shall have the right upon twenty-four (24) hours' notice to the Vendor to enter the Venue to examine the same, to show them to prospective purchasers, lessees and to make such repairs, alterations, improvements or additions to the Venue related to the Food Truck operations as the Municipality may deem necessary or desirable. The Rent shall not abate while repairs, alterations, improvements or additions are being made by reason of loss or interruption of the business of the Vendor, or otherwise, provided that none of such events materially impairs the occupancy or use of the Venue by the Vendor. During the six (6) months prior to the expiration of the Term, or any renewal term, the Municipality may show the Venue to prospective Vendors which notices the Vendor shall permit to remain without interference.

o) If the Food Truck is to be removed from the site at any time the Vendor shall notify the Municipality in advance. The Vendor shall provide dates and reasons for doing so.

4. INDEMNITY

a) The Vendor agrees to fully indemnify and hold harmless the Municipality from and against all suits, judgments, claims, demands, expenses, actions, causes of action and losses of any kind and for any and all liability for damages to property and injury to persons (including death) which the Municipality may incur, sustain or suffer as a result of, arising out of or in any way related to the matters addressed in this Agreement, unless such losses are caused solely by the Municipality's own gross negligence or willful misconduct.

5. INSURANCE

The Vendor shall put in effect and maintain in its name, at its expense, all the necessary insurance that would be considered appropriate for a prudent tenant undertaking this type of operation for the period during which the Agreement is in effect with insurers acceptable to the Municipality, including:

a) Commercial General Liability Insurance, for third party bodily injury, personal injury and property damage to an inclusive limit of not less than Two Million Dollars ($2,000,000.00) per occurrence. The policy shall include:

   i. The Corporation of the Municipality of Kincardine as an additional insured;
   ii. Cross liability;
   iii. Contractual liability;
   iv. A thirty (30) day written notice of cancellation;
   v. Contents coverage on a replacement cost basis for all property owned by the Vendor;

b) The Vendor shall provide the Municipality with a valid Certificate of Insurance as evidence of the above coverages upon signing the agreement.

c) The Vendor shall provide the Municipality with additional Certificates of Insurance within 15 calendar days of either an annual renewal for insurance coverage as set out in 1 above or the date of the written insurance requirement as set out in 3 above. Certificates shall be provided for the entire period during which this Agreement is in effect.

d) The Vendor shall be entirely responsible for the cost of any deductible, which is maintained in any insurance document.

e) If the Venue or any other part of the Building is damaged by fire or other casualty resulting from any act or negligence of the Vendor or any of the Vendor's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair, and the Vendor shall be responsible for the costs of repair not covered by insurance.

f) The Municipality shall maintain fire and extended coverage insurance on the Building and the Venue in such amounts as Municipality shall deem appropriate. The Vendor shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located at the Venue.

g) The Municipality shall not be required to maintain insurance against thefts within the Venue or the Building.

h) The Vendor shall be required to supply a Certificate from the Workplace Safety and Insurance Board prior to the start of the Agreement and at a minimum of every ninety (90) days during the Term of the Agreement indicating that all of the assessments the Vendor or any contractor is liable to pay under the Worker's Safety Insurance Board Act or successor legislation have been paid and they are in good standing with the Board.

6. FINANCIAL TERMS

The parties agree that the cost of operating the Food Truck shall be based on the following terms and conditions:

a) The costs of operating the Food Truck are the responsibility of the Vendor.

b) The Vendor shall pay rent of $15.15 (plus HST), per day to the Municipality. The Vendor as per Appendix "A" to this agreement shall be permitted to:

   i. Make connection to Municipal Hydro and Water servicing on the site to operate the Food Truck appliances.
   ii. Use of terminal washrooms (toiletry supplies and cleaning provided by the Municipality) and the parking area for its staff and customers.
   iii. Use of space within the Municipal hangar area for fridges, freezers, storage lockers or shelving supplied by the Vendor. The Municipality shall not be held responsible for any spoilage of food etc. for any reason (example: power failure, breaker kicks out). The Vendor agrees to use the space at their own risk.

c) Default has occurred when the Vendor has failed to pay rent or other amounts due under this Agreement for a period of 15 consecutive days, regardless of whether demand for payment has been made or not.

d) The Municipality will invoice rent semi-annually (May 30th and October 30th) to the Vender. All rent in arrears shall bear interest from the date payment was due at a rate of 1.25% per month.

e) Customer Service/Payment: The Vendor is responsible to look after its own financial transactions and to maintain a proper float of cash as well as providing an alternative method of electronic payment. The Vendor will be responsible for all its own monetary transactions and agrees NOT to send customers to the Terminal office for payment or to obtain change.

f) Should the vendor be forced to halt business for circumstances related to a Global Covid 19 pandemic mandated shut down, the daily rent pursuant to clause 6 b) will be waived until such time as restrictions are lifted.

7. REPAIRS AND IMPROVEMENTS

a) The Vendor acknowledges that the Venue will be used by the public and must be maintained at all times in a safe condition for those using it.

b) The Vendor acknowledges and agrees to maintain the Venue in such a manner to meet standards of the Ontario "Occupiers' Liability Act".

c) All improvements to the Venue shall accrue to the benefit of the Municipality and shall remain with the Municipality upon the termination of this agreement.

d) The Vendor agrees that upon termination of the agreement they shall surrender possession of rented areas to the Municipality and shall leave it as good a condition as when this agreement commenced. Prior to such termination, there shall be a complete inspection of the Venue and an inventory taken of all contents, which are the property of the Municipality.

e) Following the Municipality's consent, the Vendor shall have the right to place on the Venue, at locations selected by the Vendor, any signs which are permitted by applicable zoning ordinances and private restrictions and within compliance of the Municipalities sign By-Law. The Municipality shall assist and cooperate with the Vendor in obtaining any necessary permission from authorities or adjoining owners and occupants for the Vendor to place or construct the foregoing signs. The Vendor shall repair all damage to the Venue resulting from the construction or removal of signs installed by the Vendor. The Municipality's consent shall be reasonable in the circumstances.

f) The Vendor, at the Vendor's expense, shall have the right following the Municipality's consent to make additions, improvements and replacements to the Venue related to the operation of the Food Truck from time to time as the Vendor may deem desirable, provided the same are made in a workmanlike manner and utilizing good quality materials. The Vendor shall have the right to place and install personal property, trade fixtures, equipment and other temporary installations in and upon the Venue and fasten the same to the Venue following the Municipality's consent. All personal property, equipment, and temporary installations excluding servicing upgrades for connection to Municipal Hydro and Water, whether acquired by the Vendor at the commencement of the Agreement Term or placed or installed on the Venue by the Vendor thereafter, shall remain the Vendor's property free and clear of any claim by the Municipality. The Vendor shall have the right to remove the same at any time during the term of this Agreement provided that all damage to the Venue caused by such removal shall be repaired by the Vendor at the Vendor's expense.

8. GENERAL

a) The Vendor shall be responsible for all damages caused by it, its employees, agents, Contractors hired by the Vendor, any workers or persons employed by it, or under its control, or arising from the execution of the Agreement, or by reason of the existence, location, or condition of work, or of any materials, plant or machinery used thereon or therein, or goods supplied in execution of this Agreement, or which may happen by reason of their failure or the failure of those for whom they are responsible, to do or perform any or all of the several acts or things required to be done by them under the Agreement.

b) This agreement shall be binding on the Municipality, and any successor Municipal corporation, which may succeed or replace the Municipality.

c) This agreement shall not be assigned or transferred by the Vendor without the expressed written consent of the Municipality having been first obtained.

d) The Vendor shall provide a copy of a Food Premises Inspection Report, R. R. O.1990, Regulation 562, signed by the Local Board of Health Official certifying that the refreshment vehicle has been inspected within the last (3) months and it conforms to the applicable sections of the Health Protection and Promotion Act; include a signature from the Fire Chief or authorized officer of the Municipality of Kincardine Fire Department having inspected the refreshment vehicle within the last three (3) months and confirming that it confirms with the applicable sections of the Ontario Fire Code; and be accompanied by a copy of a Mobile Food Service Equipment (MFSE) Annual Inspection Certificate for MFSE' s from the Technical Standards & Safety Equipment (TSSA).

e) This agreement shall become in force and effect once executed by the Vendor and the Municipality.

f) Any changes or other amendments to this agreement may only be made by further agreement in writing and duly authorized by the parties.

g) Municipal Freedom of Information and Protection of Privacy: Information provided by the Vendor may be released in accordance with the Municipal Freedom of Information and Protection of Privacy Act R.S.O. 1990, c. M 56, as amended. The Vendor must clearly identify any information they consider confidential and specify the exemption the Vendor is relying upon and the reasons why they feel the exemption applies.

h) The Municipality will use best efforts not to disclose any such information but shall not be liable to the Vendor where information is disclosed by virtue of an order of the Privacy Commissioner or otherwise as required by law.

i) Any notice required or permitted under this Agreement shall be deemed sufficiently given or served if sent by Canada Post, return receipt requested, addressed as follows:

i. To Municipality:
Clerk
The Corporation of the Municipality of Kincardine
1475 Concession 5,
Kincardine ON N2Z 2X6

ii. To Vendor:
Lauren Morris
548 Huron Terrace
Kincardine ON
N2Z 2H5

IN WITNESS WHEREOF, the Parties have caused this agreement to be executed by their duly authorized representatives to be effective as of the date stated at the top of this Agreement.

_____
Owner
I have authority to bind the Corporation

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE

_____
Randy Roppel – Deputy Mayor

_____
Sharon Chambers – CAO
We have authority to bind the Corporation