

FOOD TRUCK AGREEMENT

This Agreement is made this ____ day of _____, 201__, by and between **The University of Texas at Tyler**, an institution and agency of higher education organized under the laws of the state of Texas (hereinafter known as "University") and **XXXXXXXX**, (hereinafter known as "Vendor").

1. **Licensed Space:** University grants to Vendor the limited use of that portion of the **XXXXXXXX** (the "Premises") set forth herein, subject to the terms and conditions of this Agreement, for the purpose of operating a food truck on the specific dates and times listed in Section 2 pursuant to University's _____ **XXXXXXXX** (the "Event").

(a) The space that Vendor is entitled to use consists of the following areas and facilities:
XXXXXXXXXXXXXXXXXXXX

(b) This Agreement does not entitle Vendor or the Vendor's servants, employees, agents, or invitees to occupy, enter, or use any area, facility, or equipment not specifically described herein.

(c) Vendor shall be responsible for the cleanup and removal of trash in licensed portions of the Premises, immediately following the conclusion of Vendor's operations.

2. **Use Dates and Times:** Use of the Premises shall be in accordance with the following schedule and is specifically restricted to the dates and times set forth in this this Section 2:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Move-in period shall begin no earlier than **XXXXXXXX** and move-out must be completed no later than **XXXXXXXX**.

3. **Fee; Payment Terms:**

(a) University shall pay to Vendor a **Fee** in the amount of **\$XXXX** as consideration for Vendor's services described in Paragraph 2 for the purpose specified in Paragraph 1.

4. **Equipment:** Vendor shall be responsible for providing all necessary equipment to conduct their operations hereunder. University shall provide access to utility connections (water and electric). Vendor will provide all necessary **extension cords and water hoses (if water connection desired)**.

5. **Cancellation by Vendor:** Should Vendor cancel the event covered under this Agreement, no fee shall be owed by the University.

6. **Cancellation by University:** Confirmed reservations are not subject to cancellation except when (a) Vendor fails to comply with the terms and conditions stated herein, or (b) University reschedules or cancels the Event due to a Force Majeure occurrence or other reason. If the Event is rescheduled Vendor will be invited to provide services on the new date(s), and may either accept the invitation or decline. If Vendor declines, no fees shall be owed by the University. If the Event is cancelled and not rescheduled, no fees shall be owed by the University.

7. **Force Majeure.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other

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circumstances of like character (“**force majeure occurrence**”). Provided, however, in the event of a force majeure occurrence, Vendor agrees to use its best efforts to mitigate the impact of the occurrence so that University may continue to provide services during the occurrence.

8. **Alcoholic Beverages**: Vendor shall not sell or allow beer, wine, or any liquors of alcoholic content to be sold, given away, or consumed upon University’s Premises.

9. **No Endorsement**: Vendor’s use of University’s Premises under this Agreement does not constitute, and shall not imply, an endorsement of Vendor by University.

10. **Signs and Displays**: Excepting signage for informational purposes, no signs, messages, or other materials will be posted, displayed, or distributed by Vendor without the written prior approval of University. Such materials may not be fastened to any part of the Premises except in spaces provided for this purpose and may not be permitted to interfere with crowd movement and safety.

11. **Sanitation, Health, and Public Safety**: Vendor will conduct all activities under this Agreement with regard for public safety and will observe and abide by all applicable regulations and requests by University and appropriate governmental entities, including all necessary food service and handling permits. Vendor will maintain clean, orderly and sanitary conditions (satisfactory to University in all respects) in all food preparation areas, service areas, and dining areas used by Vendor. In the event University reasonably believes that Vendor is not in compliance, and reasonably determines that the violation creates an imminent health hazard or immediate threat to the health and safety of University’s campus community or the public, University may immediately (a) report Vendor’s non-compliance to any governmental body or authority, and (b) terminate this Agreement *without notice or opportunity to cure*. Upon receipt of written notice of suspension or termination of this Agreement, Vendor will immediately cease performance of food service operations and vacate the Premises. Vendor shall not bring onto the Premises any material, substances, equipment, or object that is likely to endanger the life of, or to cause bodily injury to, any person on the Premises or that is likely to constitute a hazard to property thereon without the prior written approval of the University. All electrical connections (other than power cords that are plugged into existing outlets) and all water and wastewater connections must be made by University’s employees or agents.

12. **Evacuation of Premises**: Should it become necessary in the judgment of University to evacuate the Premises for any reason of public safety, evacuation will be accomplished under the exclusive control of University. Vendor may, following evacuation, reestablish use of the Premises for sufficient time to complete services without an additional Use Fee, subject to the Event schedule. If it is not possible to complete services, the Use Fee shall be forfeited, prorated, or refunded at the discretion of the University. Vendor hereby waives any claim for damages or compensation from the University.

13. **Removal of Property**: All materials brought into the Premises by Vendor will be removed upon the expiration date of this Agreement. University shall be authorized to remove at the expense of Vendor all materials remaining in the Premises at the termination date of this Agreement. Vendor shall be responsible for payment of storage costs for such material and Vendor releases University from any claims for loss or damage to material removed or stored under this provision. University will have a first lien on such materials for payment of costs accrued for removal and storage.

14. **Hold Harmless**: **TO THE EXTENT AUTHORIZED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, UNIVERSITY WILL INDEMNIFY AND HOLD HARMLESS VENDOR AND VENDOR'S OFFICERS, AGENTS, AND EMPLOYEES**

FOR ALL CLAIMS, CAUSES OF ACTION, AND JUDGMENTS FOR THE INJURY OR DEATH OF ANY PERSON AND THE DAMAGE TO PROPERTY THAT ARISE, DIRECTLY OR INDIRECTLY, FROM THE INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF UNIVERSITY AND UNIVERSITY'S OFFICERS, AGENTS, OR EMPLOYEES IN THE PERFORMANCE OF THIS AGREEMENT.

15. Insurance and Indemnity:

Vendor agrees to maintain, at Vendor's sole expense, and to cause its agents, suppliers and permitted subcontractors (if any) to maintain, at their sole expense, the following insurance coverages in at least the amounts specified with companies authorized to do insurance business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code, having an A.M. Best Rating of A-, VIII or better:

1. Employer's Liability*: \$1,000,000 each accident, each employee and policy limit.
2. Workers' Compensation policy must include any states where vendor performs operations for University and a waiver of subrogation in favor of University.
3. Commercial General Liability (including contractual liability): \$1,000,000 per occurrence. The required Commercial General Liability policy will be issued on a form that insures Vendor's liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this agreement.
 - a. Medical Expenses (any one person) \$ 10,000
 - b. Personal & Advertising Injury \$1,000,000
 - c. General Aggregate \$2,000,000
 - d. Products - Completed Operations Aggregate \$2,000,000
4. Business Auto Liability** covering all owned, non-owned or hired automobiles, \$1,000,000 combined single limit per accident for bodily injury and property damage;
5. Umbrella Liability - \$2,000,000
6. All other insurance required by state or federal law

**Not required if services are provided off-campus, not on University's premises, unless Vendor owned, hired, or leased vehicles will be used in the performance of the services. If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.*

All insurance policies (with the exception of Worker's Compensation and Employer's Liability) **will be endorsed and name The University of Texas System Board of Regents, The University of Texas System, The University of Texas at Tyler, and The University of Texas Health Science Center at Tyler as Additional Insureds** for liability caused in whole or in part by Contractor's acts or omissions with respect to it on-going and completed operations up to the actual liability limits of the required insurance policies maintained by Contractor. Commercial General Liability and Business Auto Liability will be endorsed to provide **primary and non-contributory coverage**. All insurance policies will find a **Waiver of Subrogation** in favor of **The University of Texas System Board of Regents, The University of Texas System, The University of Texas at Tyler, and The University of Texas Health Science Center at Tyler**. (Additional Insured status and Waiver of Subrogation can be added to the certificate of insurance in two acceptable ways; (1) in the columns shown on the Accord form for each coverage; and (2) in the Description of Operations / Locations / Vehicles to be attached to the Accord 101 if more space is needed.)

Contractor hereby waives all rights of subrogation against The University of Texas System

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Board of Regents, The University of Texas System, The University of Texas at Tyler, and The University of Texas Health Science Center at Tyler. All insurance policies will be endorsed to provide a waiver of subrogation in favor of **The University of Texas System Board of Regents, The University of Texas System, The University of Texas at Tyler, and The University of Texas Health Science Center at Tyler.** A Blanket Waiver of Subrogation Certificate is also acceptable. No policy will be canceled until after thirty (30) days' unconditional written notice to University. All insurance policies will be endorsed to require the insurance carrier providing coverage to Contractor to send notice to University thirty (30) days prior to any cancellation, material change, or non-renewal relating to any insurance policy required in this Section.

Vendor shall submit Certificate(s) of Insurance evidencing the foregoing requirements to the University contact listed below immediately following Vendor's receipt of this Addendum:

Chris Kinsey, Risk and Claims Analyst
The University of Texas at Tyler
Office of Environmental Health and Safety, STE 343
3900 University Boulevard
Tyler, TX 75799
E-mail: riskmanagement@uttyler.edu or ckinsey@uttyler.edu
Fax: (903) 565-5829

Vendor shall note any known deficiencies in coverage, or non-compliance with the stated requirements, at the time the Certificate(s) of Insurance are submitted. University will review the information provided and contact Vendor regarding any concerns. In the event that University's concerns cannot be resolved to University's satisfaction then University may cancel the award of this Agreement and discontinue the process.

Vendor shall not commence any services under this Agreement until Vendor has provided Certificate(s) of Insurance evidencing coverage satisfactory to University

VENDOR WILL INDEMNIFY AND HOLD HARMLESS UNIVERSITY AND ITS OFFICERS, AGENTS, AND EMPLOYEES FOR ALL CLAIMS, CAUSES OF ACTION, AND JUDGMENTS FOR THE INJURY OR DEATH OF ANY PERSON AND THE DAMAGE TO PROPERTY THAT ARISE, DIRECTLY OR INDIRECTLY, FROM THE INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF VENDOR OR THE OFFICERS, AGENTS, EMPLOYEES, GUESTS, AND INVITEES OF VENDOR DURING THE USE OR OCCUPANCY OF UNIVERSITY'S PREMISES FOR PURPOSES OF THIS AGREEMENT.

16. **Compliance with Laws and Regulations:** Vendor shall comply with all applicable laws of the United States and of the State of Texas, all ordinances of the City of Tyler, and all rules and regulations as set out by University, and will require that its agents, servants, employees, vendors or invitees comply. Vendor shall be responsible for payment of all licenses, permits, fees, registrations, taxes, assessments, and charges of every kind and character levied or required by any federal, state, or local law, ordinance, or regulation in connection with or because of any act or activity engaged in by Vendor or Vendors agents, servants, employees, or invitees within the Premises or facilities described herein, and to protect, indemnify, save, and hold harmless University from any and all liability for same.

17. **Control of Premises:** In permitting the use of the Premises, University does not relinquish custody and control thereof and does hereby specifically retain the right to enforce any and all appropriate laws, rules, and regulations applicable to the Premises. All facilities, including the

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area that is the subject of this Agreement, shall at all times be under the charge and control of the University.

18. **Occupancy Interruptions:** In case the Premises covered by this Agreement are destroyed or damaged by fire or any other cause, or if any other casualty or unforeseen occurrence or other causes shall render the fulfillment of this Agreement by University impossible, then the term of this Agreement shall end and Vendor shall be liable to pay Use Fees only up to the time of such termination and Vendor hereby waives and releases University from any claim for damages or compensation on account of such termination.

19. **Complete Agreement:** This Agreement constitutes the entire understanding of the parties hereto relating to the subject matter hereof and supersedes any and all prior agreements, written or oral, between University and Vendor. No modifications or amendments, if any, of the terms hereof shall be valid or binding unless made in writing and signed by University and Vendor.

20. **Authorized Representatives:** The representative of University, in signing this Agreement, warrants that he or she signs as a properly authorized representative of University and does not assume any personal liability for meeting the terms of the Agreement. The representative of Vendor, in signing this Agreement, warrants that he or she signs as a properly authorized representative of Vendor and does not assume any personal liability for meeting the terms of the Agreement.

21. **Retention of University Privileges:** That failure of University to insist upon strict and prompt performance of the covenants and agreements hereunder, or any of them, and the acceptance of such performance thereafter shall not constitute or be construed as a waiver or relinquishment of University's right thereafter to enforce the same strictly according to the tenor thereof in the event of a continuous or subsequent default on the part of the Vendor.

22. **Vendor Certification regarding Business with Certain Countries and Organizations.** Pursuant to [Subchapter F, Chapter 2252, Texas Government Code](#), Vendor certifies Vendor is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

23. **Vendor Certification Regarding COVID-19 Vaccination.** Pursuant to Section 161.0085, *Texas Health and Safety Code (enacted by [SB 968, 87th Texas Legislature, Regular Session \(2021\)](#))*, Vendor certifies that it does not require a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Vendor's business. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

24. **Representations and Warranties by Vendor.** Vendor represents and warrants Vendor is duly organized, validly existing and in good standing under the laws of the state of its organization; it is duly authorized and in good standing to conduct business in the State of Texas; it has all necessary power and has received all necessary approvals to execute and deliver this Agreement; and the individual executing this Agreement on behalf of Vendor has been duly authorized to act for and bind Vendor.

25. **Tax Certification.** If Vendor is a taxable entity as defined by [Chapter 171, Texas Tax Code](#), then Vendor certifies it is not currently delinquent in the payment of any taxes due under Chapter 171, Vendor is exempt from the payment of those taxes, or Vendor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

26. **Payment of Debt or Delinquency to the State.** Pursuant to §§[2107.008](#) and [2252.903](#),

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Texas Government Code, Vendor agrees any payments owing to Vendor under this Agreement may be applied directly toward any debt or delinquency Vendor owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until paid in full.

27. Texas Family Code Child Support Certification. Pursuant to [§231.006, Texas Family Code](#), Vendor certifies it is not ineligible to receive the award of or payments under this Agreement, and acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

28. Notices. Except as otherwise provided by this Section, notices, consents, approvals, demands, requests or other communications provided or permitted under this Agreement, will be in writing and sent via certified mail, hand delivery, overnight courier, facsimile transmission (to the extent a facsimile number is set forth below), or email (to the extent an email address is set forth below) as provided below, and notice will be deemed given (i) if delivered by certified mail, when deposited, postage prepaid, in the United States mail, or (ii) if delivered by hand, overnight courier, facsimile (to the extent a facsimile number is set forth below) or email (to the extent an email address is set forth below), when received:

If to University: The University of Texas at Tyler
3900 University Blvd.
Tyler, TX 75799
Attention: _____

with copy to: The University of Texas at Tyler
Legal Affairs
3900 University Blvd., Ste 326
Tyler, TX 75799
Email: uttlegalaffairs@uttyler.edu

If to Vendor: _____

UNIVERSITY

VENDOR

The University of Texas at Tyler

XXXXXXXXXX

By: _____

By: _____

Name: Amir Mirmiran, Ph.D.

Name: XXXXXXXXXXXX

Title: Provost and EVP for Academic Affairs

Title: _____

Date: _____

Date: _____