

**THIS AGREEMENT** made in triplicate this \_\_\_\_ day of July 26, 2021.

**BETWEEN:**

**THE CITY OF FREDERICTON**, a municipal corporation, by virtue of the Local Governance Act, S.N.B. 2017, c. 18, having its head office at 397 Queen Street, City of Fredericton, Province of New Brunswick (hereinafter referred to as the "City"),

**-AND-**

**NEW BRUNSWICK LIQUOR CORPORATION**, a crown corporation of the Province of New Brunswick, having its head offices at 170 Wilsey Road, City of Fredericton, Province of New Brunswick (hereinafter referred to as "ANBL"),

**-AND-**

**HARVEST JAZZ & BLUES FESTIVAL INC.**, a duly incorporated company under and by virtue of the laws of the Province of New Brunswick, having its head offices at the City of Fredericton, Province of New Brunswick (hereinafter referred to as "HJB").

(hereinafter referred to collectively as the "Parties")

**WHEREAS** HJB operates to promote, preserve and encourage interest in the cultural appreciation of the jazz and blues music forms in the Fredericton region. Further, it presents an annual Harvest Jazz and Blues Festival ("Festival") each September that incorporates live performances and educational workshops in multiple venues in Fredericton, NB;

**AND WHEREAS** HJB has entered into a partnership agreement with ANBL;

**AND WHEREAS** HJB and ANBL wish to provide free chartered bus shuttle services ("Free ANBL Safe Ride") to patrons attending the 2021 Festival;

**AND WHEREAS** the City is engaged in providing transit services within its municipal boundaries;

**AND WHEREAS** the "Free ANBL Safe Ride" allows for the marketing and promotion of Fredericton Transit for purposes of increasing ridership on its regular fixed-route service;

**AND WHEREAS** the Parties entered into a similar agreement in the past and wish to continue the partnership to provide the Free ANBL Safe Ride program during the 2021 Festival;

**WITNESSETH THAT** in consideration of the mutual covenants and agreements herein contained, the Parties hereto agree, one with the other, as follows:

## **1. PURPOSE**

1.1 The purpose of this Agreement is to set forth the obligations of the City, ANBL and HJB with respect to the Free ANBL Safe Ride program during the 2021 Festival.

## **2. AGREEMENT TERM**

2.1 The term of this Agreement begins on Thursday, September 16, 2021 and ends on Sunday, September 19, 2021 inclusive ("Term").

## **3. CITY OBLIGATIONS**

3.1 The City shall:

- (a) provide free transit service to the general public on all regular Fredericton Transit fixed routes between the hours of 5:00 p.m. until the last route of the day (occurring near 11 p.m.) during the Term of this Agreement;
- (b) provide four (4) Fredericton Transit buses for chartered routes;
- (c) determine the routes taken by the chartered transit buses between the hours of 11:00 p.m. to 3:00 a.m. during the Term of this Agreement;
- (d) provide free transit service to the general public on the chartered transit routes between the hours of 11:00 p.m. and 3:00 a.m. during the Term of this Agreement;
- (e) authorize the presence one (1) security guard on each of the four (4) chartered transit buses between the hours of 11:00 p.m. and 3:00 a.m. during the Term of this Agreement;
- (f) provide one (1) staff person to be on the ground for volunteer coordination and communication with Transit drivers, as required, between the hours of 11:00 p.m. and 3:00 a.m. during the Term of this Agreement;
- (g) provide HJB with the Fredericton Transit logo which shall be used on Free ANBL Safe Ride promotional material no later than the end of business day of August 13, 2021;
- (h) subject to service demand and staff capacity, provide a fourth chartered transit bus if required.

## **4. ANBL OBLIGATIONS**

4.1 ANBL shall:

- (a) promote Free ANBL Safe Ride within its retail locations throughout the Province of New Brunswick as part of the ANBL and HJB summer promotions campaign;  
and

- (b) provide two (2) staff or volunteers to assist with rider coordination and customer service between the hours of 11:00 p.m. and 3:00 a.m. during the Term of this Agreement,

## **5. HJB OBLIGATIONS**

### **5.1 HJB shall:**

- (a) pay to the City the sum of Thirteen Thousand Eight Hundred and Fifty-Four Dollars and Seventy-Five Cents (\$13,854.75), inclusive of HST, in the manner described in Sections 6 and 7 of this Agreement;
- (b) engage the services of a security company and ensure one (1) security guard is present on each of the four (4) chartered transit buses between the hours of 11:00 p.m. and 3:00 a.m. during the Term of this Agreement;
- (c) include the Fredericton Transit logo as part of promotional materials that are related to the Free ANBL Safe Ride program;
- (d) include information detailing the Free ANBL Safe Ride chartered transit routes on the HJB website and in HJB printed schedules; and,
- (e) cover the cost of any signage used to denote which Fredericton Transit buses are being used for the chartered Free ANBL Safe Ride service.

## **6. PAYMENT**

6.1 HJB agrees to pay the City of Fredericton the total sum of Thirteen Thousand Eight Hundred and Fifty-Four Dollars and Seventy-Five Cents (\$13,854.75), inclusive of HST, in the following manner:

- (a) Fifty percent (50%), being Six Thousand Nine Hundred and Twenty-Seven Dollars and Thirty-Seven Cents (\$6,927.37), paid no later than September 10, 2021; and
- (b) Fifty percent (50%), being Six Thousand Nine Hundred and Twenty-Seven Dollars and Thirty-Eight Cents (\$6,927.38), paid no later than September 24, 2021.

## **7. INVOICING**

7.1 The City shall invoice HJB at the address indicated under the Section 10 of this Agreement.

## **8. INSURANCE**

8.1 The City shall:

- (a) for the term of this Agreement and at its own expense, acquire and maintain from an insurance company licensed to do business in the Province of New Brunswick, insurance policies as follows:

- (i) a Comprehensive General Liability insurance policy having a limit of liability of not less than Five Million Dollars (\$5,000,000) per occurrence.
- (b) All policies of insurance shall name the "Harvest Jazz and Blues Inc" as an additional insured, and any other party required by HJB as an additional insured, and such policies shall contain a provision stating that each policy will not be cancelled or permitted to lapse unless the insurer notifies HJB in writing at least thirty (30) days prior to the date of cancellation or lapse.
- (c) The City shall provide a Certificate of Insurance to HJB as requested no later than September 15, 2021.
- (d) The City shall indemnify and hold harmless HJB, its directors, employees, contractors, subcontractors, agents and officials from and against any and all actions, damages, debts, accounts, claims and demands which may be brought against it resulting from this Agreement.

#### 8.2 HJB shall:

- (a) for the term of this Agreement and at its own expense, acquire and maintain from an insurance company licensed to do business in the Province of New Brunswick, insurance policies as follows:
  - (i) a Comprehensive General Liability insurance policy having a limit of liability of not less than Five Million Dollars (\$5,000,000) per occurrence.
  - (b) All policies of insurance shall name the "City of Fredericton" as an additional insured, and any other party required by the City as an additional insured, and such policies shall contain a provision stating that each policy will not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the date of cancellation or lapse.
  - (c) HJB shall provide a Certificate of Insurance to the City no later than September 15, 2021.
  - (d) HJB shall indemnify and hold harmless the City, its directors, employees, contractors, subcontractors, agents and officials from and against any and all actions, damages, debts, accounts, claims and demands which may be brought against it resulting from this Agreement.

### 9. TERMINATION OF CONTRACT

9.1 The City reserves the right to terminate this Agreement with Thirty (30) days notice for any reason.

### 10. COVID-19

10.1 The ANBL Free Safe Ride shall be announced following the Government of New Brunswick's official move to Phase 3 on the "Path to Green", thus ensuring the Festival can proceed.

10.2 In the event the Festival is cancelled due to impacts related to Covid-19, the City shall not require payment of the Fee under Sections 5 and 6 of this Agreement.

## 11. NOTICES

11.1 Any notice to be given pursuant to this Agreement shall be in writing and maybe delivered by registered mail, email or delivered personally to the Parties hereto as follows:

To the City:

Fredericton Transit  
470 Saint Mary's Street  
Fredericton, NB E3A 8H5

Attention: Meredith Gilbert  
Email: [meredith.gilbert@fredericton.ca](mailto:meredith.gilbert@fredericton.ca)

To ANBL:

New Brunswick Liquor Corporation  
170 Wilsey Road  
Fredericton, NB E3B 5B8

Attention: Lara Wood  
Email: [lara.wood@anbl.com](mailto:lara.wood@anbl.com)

To HJB :

Harvest Jazz and Blues Festival Inc.  
73 York Street  
Fredericton, NB E3B 3N4

Attention: Lucas Hicks  
Email: [lucas@harvestjazzandblues.com](mailto:lucas@harvestjazzandblues.com)

Or delivered to such other person or faxed or emailed or sent by registered mail to such other address as any Party may designate for itself by notice given in accordance with this Section.

Any such notice shall be deemed to have been given and received on the day on which it was delivered or transmitted or if such day is not a business day, on the next following business day.

## 12. ADDITIONAL TERMS AND CONDITIONS

12.1 Sections and Headings - The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the interpretation of this Agreement.

12.2 Entire Agreement - This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as herein provided.

12.3 Amendments - If at any time during the continuance of this the Parties shall deem it necessary or expedient to make any alterations or additions to this Agreement they may

do so by means of an executed written Agreement between them which shall be supplemental to and form part of this Agreement.

- 12.4 Applicable Law - The Parties acknowledge and agree that this Agreement shall be governed by, construed and enforced in accordance with the laws of the Province of New Brunswick. The courts of the Province of New Brunswick shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.
- 12.5 Severability - If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct.
- 12.6 Successors and Assigns - This Agreement shall enure to the benefit of and shall be binding on and enforceable by the Parties. The Parties shall not assign any of their rights or obligations hereunder.
- 12.7 Waiver - No breach of any provision of this Agreement shall be waived except with the express written consent of the Party not in breach.
- 12.8 Interpretation - In this Agreement, a reference to a statute or statutory provision includes a reference to that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and any subordinate legislation made under that statute or statutory provision.
- 12.9 Dispute Resolution - The Parties hereto expressly agree that any dispute arising from the operation or interpretation of this Agreement shall be submitted to binding arbitration. Any submission hereunder shall be to a Board of three arbitrators, one to be appointed by each Party and the third to be appointed by the appointees of the parties. The Arbitration Act, S.N.B. 2014, c. 100 shall govern any arbitration hereunder.
- 12.10 Counterparts- This License Agreement may be executed in multiple counterparts, each of which shall be deemed an original but together shall contribute one and the same instrument.

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PROVINCE OF NEW BRUNSWICK  
COUNTY OF YORK

AFFIDAVIT OF CORPORATE EXECUTION

I, Jennifer Lawson, of the City of Fredericton, in the County of York and Province of New Brunswick, MAKE OATH AND SAY AS FOLLOWS:

1. I am the City Clerk of the City of Fredericton, one of the parties named in the foregoing instrument and as such I have personal knowledge of the matters herein deposed to.
2. The seal affixed to the foregoing instrument purporting to be the seal of the City of Fredericton is the Corporate Seal of the City of Fredericton and was so affixed by order of the City Council.
3. The signature "Kate Rogers" subscribed to the foregoing instrument is the signature of Kate Rogers, the Mayor of the City of Fredericton, and the signature "Jennifer Lawson" subscribed thereto is my signature.
4. The Mayor and City Clerk are the officers of the City of Fredericton duly authorized to execute the foregoing instrument.

**SWORN TO BEFORE ME** at the )  
City of Fredericton, in the County )  
of York and Province of New )  
Brunswick, this \_\_\_ day of )  
July, 2021. )  
)  
)  
)  
\_\_\_\_\_)  
)  
A Commissioner of Oaths )  
Being a Solicitor )

\_\_\_\_\_  
Jennifer Lawson



PROVINCE OF NEW BRUNSWICK  
COUNTY OF YORK

AFFIDAVIT OF CORPORATE EXECUTION

I, Meghan Morrison, of the City of Fredericton, in the County of York and Province of New Brunswick, MAKE OATH AND SAY AS FOLLOWS:

1. I am the 2021 Festival Chair for the Harvest Jazz & Blues Festival Inc., a duly incorporated company under the laws of the Province of New Brunswick, and as such have personal knowledge of the matters and things herein disposed to and have the authority to make this affidavit on behalf of the Corporation.
2. Harvest Jazz & Blues Festival Inc. is one of the patties named in the foregoing instrument and as such I have personal knowledge of the matters herein deposed to.
3. That the Corporation has no corporate seal.
4. The signature of "Meghan Morrison" subscribed to the foregoing instrument is the signature of Meghan Morrison, the 2021 Festival Chair of Harvest Jazz & Blues Festival Inc., and the signature "Meghan Morrison" subscribed thereto is my signature.
5. The 2021 Festival Chair is an officer of Harvest Jazz & Blues Festival Inc. and is duly authorized to execute the foregoing instrument.

**SWORN TO BEFORE ME** at the )  
City of Fredericton, in the County )  
of York and Province of New )  
Brunswick, this \_\_\_ day of )  
July, 2021. )  
)  
)  
)  
\_\_\_\_\_)  
A Commissioner of Oaths )

\_\_\_\_\_  
Meghan Morrison