



## NMV POP-LOCAL

### Vendor Participation & Consignment /Lease Agreement 2020

This Vendor Lease/Consignment Agreement (whereas Night Market Vancouver LLC DBA NMV Pop-Local (“Store”) is the leases holder and by proceeding with payment, you as the business owner and business (“Consignor/Vendor”) will be in agreement to adhere to the rules, terms and regulations set forth by the Store, Night Market Vancouver, NMV Pop-Local and its organizers/affiliates as outlined in this agreement.

Upon payment Vendor acceptance and payment confirmation, this agreement will be valid for 2020 per invoiced contract term between you the Vendor and the Store, Night Market Vancouver LLC DBA NMV Pop-Local, a limited liability company with a place of business at 111 W 9th St. Vancouver, WA 98660. Whereas the Store is the leaseholders and provides shared retail space located at 111 W 9th St. Vancouver, WA 98660 for Vendors/Consignors in need of physical location to sell goods; whereas Vendors desire to consign in a shared retail space from the Store at NMV Pop-Local on the terms and conditions set forth below; now, therefore, in consideration of the mutual covenants, promises and conditions contained herein, the Store, NMV Pop-Local at 111 W 9th St. and Vendor each hereby agree as follows:

1. Term. Vendor contracts are “month to month”. The initial term of this Agreement shall commence upon the Effective Date(s)/Month as noted per invoice and shall end in accordance with the consignment agreed upon thereafter.
2. Consignment and Lease of Shared Space. Subject to the terms and conditions of this Agreement, Consignor/Vendor has consigned in the following shared retail space at 111 W 9th St. Vancouver, WA 98660.
3. Additional Services. Use of Vendor logo, brand content and product images for marketing material.
4. Vendor Fees. For general participation, **NMV Pop-Local charges a participation fee of \$80-\$100/ month plus 10% of all gross sales made in the Store minus merchant fees (~ 3%).**

**See breakdown of Vendor cost details below:**

1. NMV Pop-Local’s retail store will be open to the public 2 days a week (Saturdays 11:00 a.m. - 5:00 p.m. and Sundays 12:00 p.m. - 4:00 p.m.). There is a base participation fee of \$10/day for any weekend day we are open. This equates to 8-10 weekend days each month = Total of

\$80-\$100/month as Vendor's Base Participation Fee (*which must be paid in advance each month*).

2. Consignment: On top of the \$80-\$100 base participation fee, 10% of all Vendor's gross sales (aka 10% of Vendor product's MSRP) goes to NMV Pop-Local for all items sold in Store, minus merchant fees (3%).
  - a. Example: If Vendor Product cost is \$10 to the customer, that \$10 product sale in store would equate to \$8.97 payout to Vendor. (  $\$10 \text{ MSRP} - 10\% \text{ to Store } (\$1) - 3\% \text{ merchant fee } (\$.03) = \$8.97$  )
3. Washington sales tax is automatically added with our point of sale at time of customer purchase, currently 8.4%, and taken out before Vendor payment.

**Exhibit A.** Vendor revenue from sales will be issued and paid out monthly.

**5. Store Access.** All loading and unloading of goods shall be done during open store hours of operation, or as otherwise agreed upon between Vendor and Store management. Consignor shall not distribute any handbills or other advertising matter in the Store or in the surrounding premises. Consignors shall have access to the store during open hours of operation (same hours set forth for the general public) and for pre-scheduled events. If Consignor books events, Consignor is responsible for event set-up and event clean-up of the area used in the store when accessing space. Events can only be scheduled if an employee is available to facilitate and secure the premises. Only management and hourly employees may have keys to access the Store at all times. Reach out to management in order to schedule an event and for full details (terms individual to each event)

**6. Damage to the Premises.** Consignor is liable for damage to the Premises caused by Consignor, and authorizes NMV Pop-Local to charge Consignor for repair of any such damage upon notice of the damage to Consignor. NMV Pop-Local is not responsible for theft or damage caused by customers of Consignor's merchandise/property. NMV Pop-Local will do its due diligence with theft prevention and damage.

**7. Merchandise/Property.** Consignor shall remove any merchandise/property upon termination of this Agreement. A designated time and date agreed upon by management and Consignor must be arranged for merchandise pick up. Any merchandise/property remaining on the Premises 2 weeks after termination of the Vendor participation will be deemed abandoned and disposed of or donated to NMV Pop-Local. Consignor waives all claims regarding Consignor's abandoned merchandise/property.

**8. No-Sub-leases.** Consignor shall not sub-lease the retail space nor share their Vendor acceptance and space allocated in Store with another brand outside their own company. Sub leasing is not permitted at NMV Shop Local.

**9. Termination.** After the Initial Month's paid term, Consignor/Vendor or NMV Pop-Local may terminate this Agreement for the following month of participation without cause upon **14 days written notice before the 1st of the following month** (notice must be submitted via email to [nightmarketvancouver@gmail.com](mailto:nightmarketvancouver@gmail.com)). After 14 days, funds are non-refundable or transferable. Failure to notify NMV Pop-Local for cancelling the following month's Vendor participation ( within 14 days of the 1st of the following month) will result in Vendor being charged \$80 for the next month's participation fee. NMV Pop-Local may terminate this Agreement immediately upon a material breach of this Agreement by Consignor.

**10. Indemnification.** Consignor agrees to indemnify and hold harmless NMV Pop-Local, Night Market Vancouver LLC, its organizers and its affiliates, their respective officers, directors, employees, and agents for all claims against losses, liabilities, costs or expenses, attorneys' fees, and damages whatsoever

("Claims"), including Claims arising by reason of accident, injury or death to persons or property of any kind, arising out of, in connection with, or incident to Consignor's participation in NMV Pop-Local arising out the setup, sale or supply of any products presented at the Store by NMV Pop-Local, or the acts or omission of Consignor or any of its employees or agents, except those Claims caused solely and directly by the negligence of the Store. This also includes loss, theft, burglary, robbery, and damages to property of any kind, including equipment, supplies, prizes, merchandise, exhibits, etc. of the Consignor or any of its agents, invitees, etc. This indemnification obligation shall survive the expiration or termination of this Agreement.

The validity, interpretation, and performance of this Agreement shall be governed by the laws of Washington, without regard to conflicts of laws principles. Any proceeding to enforce this Agreement or enjoin its breach is to be brought against any of the parties in a court located in Clark County, Washington, and each of the parties consents to the jurisdiction of such court (and of the appropriate appellate court) in any such action or proceeding and waives any objection to such venue.

**11. Limitation of Liability.** To the extent permitted by law, NMV Pop-Local disclaims all warranties, express or implied, with respect to the Premises and the services. NMV Pop-Local shall not be liable under any legal or equitable theory for (i) any special, indirect, incidental, punitive, compensatory or consequential damages of any kind whatsoever or (b) damages in excess of \$100. Without limitation to the foregoing, Consignor/ Vendor, on behalf of Consignor, and Consigno/Vendor's personal representatives, successors, heirs, and assigns, hereby voluntarily agree to release, waive, forever discharge and hold harmless NMV Pop-Local , its other Consignors and employees from any and all liability and all claims, actions, or losses which may arise from the actions of other Consignors or third parties on the Premises.

**12. Force Majeure.** Performance of any obligation of NMV Pop-Local hereunder will be excused so long as prevented by act of God, weather, pandemic, act of a public enemy, fire, or other casualty, labor dispute, 3 electrical shortage, failure of communications or common carrier or other circumstances reasonably beyond NMV Pop-Local's control and that it cannot circumvent using its best efforts ("Force Majeure"). Without limiting the foregoing, in the event that the Force Majeure continues for more than ninety (90) days, then Consignor may terminate the Agreement upon thirty (30) days' written notice to NMV Pop-Local .

**13. Relationship of the Parties.** The Agreement shall not create or be deemed to create any agency, partnership or joint venture between NMV Pop-Local and Consignor.

**14. Assignability.** This Agreement is not assignable by Consignor, either in whole or in party, without the written prior approval of NMV Pop-Local

**15. Severability.** If a court of competent jurisdiction shall declare any part of the Agreement invalid or unenforceable, it shall not affect the validity of the balance of the Agreement.

**16. No Waiver.** The failure by NMV Pop-Local to exercise rights granted to NMV Pop-Local herein upon the occurrence of any of the contingencies set forth in this Agreement shall not constitute a waiver of such rights upon the recurrence of such contingency.

**17. Interpretation.** The Agreement shall be fairly interpreted in accordance with its terms and without strict construction in favor of or against a party based on the identity of the drafter of the Agreement or any term or provision of it.

**18. Marketing.** Vendor hereby consents to the use and reproduction of any and all photographs and/or video clips taken of Vendor, Vendor products, logo, branding material, in any form whatsoever for use in the brochures, flyers, newsletters, website, social media, newspaper articles, and in any other publications produced for Night Market Vancouver/ NMV Pop-Local. Vendor hereby permits NMV Pop-Local to use photos from Vendor's public social media sites attached to Vendor business (such as Facebook, etsy, and instagram) to promote Vendor company and products. Vendors/Consignors and Store may only post comments about each business in a business and professional manner. No negative terminology will be used towards other Vendors or NMV Pop-Local.

**19. Consignment/Vendor Participation & Lease Rules.** Consignor agrees to abide by Rules set forth in **Exhibit B**

**20. Requirements and Expectations.** Consignor/Vendor will carry in good standing business license, business insurance and/or product liability insurance for topicals and edibles. Vendor must submit a copy of each document via email, [nightmarketvancouver@gmail.com](mailto:nightmarketvancouver@gmail.com). Vendor is expected to maintain and promote Store through one or more of Vendor's media: website, and social such as FB, Twitter, LinkedIn, Pinterest ect... Vendors are required to have up to date business and contact information.

#### **Exhibit A**

Application to apply as a Vendor/Consignor is free of charge. A new application is required for acceptance if Vendor chooses to no longer participate for any given month at NMV Pop-Local.

Consignor sales will be paid each month or every 30 days. The actual date may vary each month.

#### **Exhibit B**

- **Provide Printed 5x7 'Brand Story' & Business Information** - (See management for sample if not attached to separate Vendor Guide) This 5x7" print must be provided by Vendor/Consignor at time of inventory drop off/intake and will be framed and displayed by NMV Pop-Local near Vendor products. DIY signs are not permitted at this location without management approval. Space is limited.
- **Business Cards** – We recommend that you leave business cards for NMV Pop-Local to display near your products so customers can follow up with orders or questions.
- **Promotions and Sales** – Additional fliers, signage, marketing material, in store sales or promotions are not allowed unless arranged in advance and approved by management.
- **Samples and Testers** – Food Samples are not permitted at this time due to safety protocols with COVID (subject to Store discretion and rules/regulations set forth by the state). For product samples such as topicals, Consignors are required to supply and replenish samples monthly or as needed if the product samples are approved for Vendor display.
- **Inventory and Restocking Inventory** – Consignors are required to have an ample amount of inventory on hand and to drop off inventory as needed to NMV Pop-Local. Drop off times can be arranged via email to [nightmarketvancouver@gmail.com](mailto:nightmarketvancouver@gmail.com). Low volume of inventory may be pulled from the sales floor. Consignors are responsible to maintain no less than five (5) of each item on the sales floor at all times. Each Consignor must maintain a small inventory of back stock no less than 5 or more of each item at all times. Inventory count is subject to type of item. There are some exceptions to this; for example, original, one-of-a-kind products such as artwork. Please check with management per Vendor's inventory specifics.
- **Inventory Rotation and Shelf Life** - Products with a shelf life of less than two years must have an expiration date. Products must abide by FIFO rule (first in first out).
- **Food and beverage vendors must have valid liability insurance and required state permits as applicable.** Further details and state requirements can be found through Clark County Public Health Website.

- **Vendor Product Display** - NMV Pop-Local is responsible for all merchandising and display of all Vendor/Consignor products. Management approval is required for consideration of Vendor's own product displays. Vendors are welcome to submit the display for management approval (or by emailing us at [nightmarkevancouver@gmail.com](mailto:nightmarkevancouver@gmail.com) with an image and description of your product display preference). However, be aware that NMV Pop-Local cannot guarantee that we will use your displays or display your products in the suggested manner in Store. Store displays and the location of products will rotate frequently in order to keep things fresh and exciting!
- **Authorization On New Products** – New products and product lines must be approved by management before adding to the system and Store.
- **In Store Inventory**- NMV Pop-Local reserves the right to refuse products at any time. If products are not selling, we may reach out to Vendor about changing up product selection.
- **Demo And Sales During Demo** – Product in store inventory must be sold through the store POS system. Special promotion & products not in store inventory have to be transacted by Consignor with their own card processing system.
- **Labeling** – Every product must contain a price tag and a way to identify Vendor's Business Name. All topical and food products must have ingredients and warning labels. Brand, business name, and one contact info must be on packaging, product or business card.
- **Customer Return Policy** – At this time, all items are final sale unless it is a damaged good or contains a defect; in which case, we will work with Vendor/Consignor to inspect the product for replacement/exchange. Size Exchange For Clothing: Because changing rooms are not permitted at this time for safety reasons with COVID, we allow customers to exchange in store within 14 days of purchase for another size. If we do not have the correct size, NMV Pop-Local will refer the customer to the Vendor for size exchange.
- The primary Vendor registering for space in the Store must be 18 years old or older and is responsible for reviewing all terms.

Vendor/Consignor understands that Vendor is agreeing to this Agreement as a part of the application process and unless and until NMV Pop-Local accepts Vendor's application and payment, this Agreement is not binding on either party. If and when NMV Pop-Local accepts Vendor's application and upon payment confirmation, this Agreement becomes binding on both Vendor and NMV Pop-Local. NMV Pop-Local will provide Vendor with a fully executed copy of this Agreement.

Consignment/Vendor Lease Agreement and terms may be amended from time to time by Night Market Vancouver LLC, NMV Pop-Local in their sole discretion. Any Amendments will be distributed to the Consignor a minimum of 10 days before such new rules or terms go into effect. At that time, a new Agreement and invoice will be distributed and the amended terms will apply to Vendor/Consignor on their next billing cycle upon payment confirmation.

This document is property of NMV Pop-Local. Night Market Vancouver LLC states if any unauthorized changes made to written language will void this agreement. Published August 24th, 2020.

