

1. Interpretation

1.1 For this Agreement,

- (a) “City of Edmonton Online Store” means the web site maintained by the City located at <http://store.edmonton.ca>;
- (b) “Commission” means the amount that the Distributor is entitled to retain from the sale of Product;
- (c) “DATS” means Disabled Adult Transportation Service, which is a service for persons with disabilities that would inhibit them from using regular transit services. To use DATS service, a person must be an assessed and approved registrant.
- (d) “ETS” means Edmonton Transit System, which is a municipal public transit system within the City of Edmonton operated by the City;
- (e) “Monthly Pass Product” means a transferable pass which allows unlimited travel on all ETS buses and LRT for a one-month period as identified on the face of the pass;
- (f) “Product” means all fare products produced by the City for use on ETS or DATS and includes Monthly Pass Product, Adult and Youth/Senior Ticket Strips, and Day Passes.
- (g) “Retail Price” means the total price to be charged by the Distributor to the customer for the Product.

2. General

- 2.1 The Outlet Terms and Conditions and the Fare Product Price List may be amended by the City at any time without notice to the Distributor. All such amendments will be posted on the City of Edmonton website at www.takeETS.com/Distributors and the Distributor shall be responsible for monitoring the web site on a regular basis. Unless stated otherwise in the posted document(s), any amendments to the Outlet Terms and Conditions or the Fare Product Price List shall take effect immediately upon their posting to the City of Edmonton website and the Distributor shall comply with such amendments.
- 2.2 This Agreement shall be deemed to have been made in and shall be construed in accordance with the laws of the Province of Alberta. For the purpose of all legal proceedings, this Agreement shall be deemed to have been performed in the Province of Alberta and the courts of the Province of Alberta shall have the exclusive jurisdiction to entertain any action arising under it.

- 2.3 Should any provision of this Agreement be found to be unenforceable or illegal it will be considered separate and severable from the remaining provisions of this Agreement, which will remain in force and be binding as though the said provision had not been included.
- 2.4 The City may delegate any of the City's duties, powers, or functions in this Agreement to any employee or agent of the City.
- 2.5 The City's rights, remedies, and privileges under this Agreement are cumulative and the City may exercise any one or more in any situation.
- 2.6 Any waiver by the City of any right or interest herein will not imply the waiver of any other right or interest or any subsequent waiver.
- 2.7 The Distributor shall not assign this Agreement.

3. Indemnity

- 3.1 The Distributor agrees to indemnify and hold harmless the City, its agents, and its employees from and against losses, claims, demands, payments, suits, judgments, or expenses of every nature and description arising out of or in consequence of the purchase of the Product from the Distributor pursuant to this Agreement, except for claims arising out of the sole negligence of the City, its employees, and/or its agents.
- 3.2 The City will not be liable for any personal or bodily injury or property damage that may be suffered or sustained by the Distributor, the Distributor's employees, or the Distributor's agents with respect to this Agreement.
- 3.3 The Distributor will not, in respect of any third party claims, actions, or demands respecting the distribution of Product, admit liability to a third party or assume any obligations or incur any expenses without the prior notification and approval of the City. The Distributor has no authority to bind the City in any way in respect of the settlement of third party claims, actions, or demands respecting the distribution of Product.

4. Termination

- 4.1 Either party may terminate this Agreement without cause, at any time, provided that written notice is provided to the other party 30 days in advance of the date of termination.
- 4.2 Upon termination of this Agreement for any reason, the Distributor will immediately:
 - (a) remit all monies owing to the City for the sale of Product;

- (b) return to the City, in the same condition in which it was received, all unsold Product; and
 - (c) remove and arrange for the return of all materials associated with the ETS Fare Product Outlet program.
- 4.3 If, in the opinion of the City, the Distributor fails to meet its obligations under this Agreement, the City may, at its option, terminate this Agreement forthwith upon providing written notice to the Distributor. Such termination will be effective on the date specified in the termination notice and is without prejudice to any other rights or remedies that the City may have at law or pursuant to this Agreement. The breaches or potential breaches of the Distributor's obligations resulting in termination include, but are not limited to:
- (a) the Distributor becoming insolvent or bankrupt;
 - (b) the Distributor, if a sole proprietorship, partnership, or corporation, dying, dissolving, or becoming inactive, respectively;
 - (c) the Distributor receiving an excessive number of customer concerns; and
 - (d) the Distributor breaching any term of this Agreement.
- 4.4 In no circumstances will the City be liable for any damages or claims or for the payment of any financial or other compensation to the Distributor as a result of the termination of this Agreement for any reason.

5. Communication

- 5.1 The Distributor will immediately notify the City of any changes in the location, address for service, or telephone number of its corporate headquarters, and of any changes to the location, address for service, telephone number, email address or contact person for any locations referenced in the Agreement Form or the List of Distribution Outlets, if applicable.
- 5.2 The Distributor will ensure any changes to this Agreement are communicated to their staff and to all locations referenced in the List of Distribution Outlets, if applicable.
- 5.3 The Distributor consents to the publication of its name, location, and telephone number by the City for marketing purposes.

6. Product Ordering and Delivery

- 6.1 The City will provide initial training to the Distributor regarding the Product ordering and returns process. The Distributor shall be responsible for all further training of staff required to ensure subsequent orders and returns follow proper procedures.
- 6.2 The Distributor must order all Product utilizing the City of Edmonton Online Store. The City will provide the Distributor with a user name and password for the City of Edmonton Online Store.
- 6.3 The Distributor must carry a minimum of one (1) each of each Product listed in the Fare Product Price List. It is the Distributor's responsibility to ensure that adequate stock is carried at all times.
- 6.4 Monthly Pass Product will be made available by the City for online ordering by the start of business on the first Tuesday of the month prior to the valid month, unless the first Tuesday occurs on the first three days of the month, in which case the second Tuesday of the month will be used.
- 6.5 Payment for Product must be provided by credit card (Visa, MasterCard, or American Express) unless otherwise approved by the City.
- 6.6 The Distributor must sign for all Product deliveries at the time of delivery.
- 6.7 The Distributor is responsible for counting the Product listed on the packing slip on the date it is delivered and advising the City of any discrepancies by phone or email by 4:00 PM MST on the date of Product delivery.

7. Product Sales and Pricing

- 7.1 The Distributor agrees to sell Product in accordance with the instructions of the City and will not distribute, dispose of, or deal with any Product in any manner except as provided in this Agreement. In particular, the Distributor:
 - (a) will sell Product at the Retail Price specified in Fare Product Price List, which may be amended from time to time.
 - (b) will sell Product as a full unit only;
 - (c) must be prepared to sell Monthly Pass Product to the public at the start of business on the 22nd day of the month prior to the valid month as indicated on the face of the Monthly Pass Product and must continue to sell such Product until the end of business on the 8th day of the valid month;

- (d) will not distribute Product from any location NOT listed in this Agreement, either directly or through a third party; and
 - (e) will sell Product to all persons who request them without any restrictions as to clientele.
- 7.2 The City retains sole discretion over the Commission, Retail Price, effective dates, and the Goods and Services Tax (GST) status of all Product.
- 7.3 The City will sell Product to the Distributor at the Retail Price and separately credit the Distributor for Commission and GST. Credits for Commission and GST will be credited to the credit card used by the Distributor to purchase the Product.
- 7.4 The Distributor is solely responsible for reporting and remitting GST amounts to Canada Revenue Agency as required.

8. Product Returns

- 8.1 All Product returns must be sent using the pre-addressed return bag supplied by the City to ensure the cost of the return is borne by the City. All return costs for Product returned without using the pre-addressed return bag supplied by the City will be borne by the Distributor.
- 8.2 All returns are to be sent to:
- ETS Fare Distribution
Westwood Facility – Central Stores
100, 12404 – 107 Street NW
Edmonton, AB T5G 0M7
- No personal deliveries will be accepted.
- 8.3 Any unsold Monthly Pass Product must be returned between the 8th and 12th day of the month that they are valid in order for the Distributor to receive credit for them as returned Product. Product will be considered received by the City as of the postmarked date as verified by the shipment tracking number issued to the Distributor. Credit for Monthly Pass Product returned after the 12th day of the month in which it is valid will be reduced by an amount which is the lesser of \$100 or the cost of the returned Monthly Pass Product.
- 8.4 Damaged or worn Product will not be credited as returned. The City retains sole discretion as to the condition of the Product.
- 8.5 No credit will be provided for Product returned later than its date of expiry.

9. Other Terms

- 9.1 A selection of signs and other promotional material will be provided to the Distributor by the City at no cost.
- 9.2 The Distributor must post the following signs supplied by the City at each distribution location:
- (a) Storefront Signage: a small or large door decal must be displayed in a prominent place at the entrance(s) to each location, to designate the location as an approved vendor of ETS Product; and
 - (b) Pricing Signage: a small or large price decal must be displayed in a prominent place at each point of purchase location informing customers of the current price of ETS Product.
- 9.3 The Distributor must provide secure storage for all Product in its possession.
- 9.4 The City may, during normal business hours, perform inspections of the Product in the possession of the Distributor. The Distributor will co-operate with such inspections by providing access to the premises.
- 9.5 In the event of lost and/or stolen Product, the Distributor will report the incident to the City within 24 hours and, within five (5) business days thereafter, the Distributor will provide written notification of the incident, a copy of the Police Report (if applicable), and a statutory declaration form to the City.
- 9.6 The City will investigate any customer concerns it may receive regarding the Distributor. The Distributor will be contacted to advise of any customer concerns and must provide the City with pertinent information regarding the concern.