

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS AGREEMENT, dated for reference June 13, 2022

BETWEEN:

MICHELE VENABLES, executor for the estate of Donna McLean, deceased, formerly doing business as Park Cafe, with an address at [REDACTED] [REDACTED] Courtenay, B.C., [REDACTED]

(the "Assignor")

AND:

VICTORIA SCOTT WADE, doing business as D's Place, with an address at [REDACTED] Courtenay, B.C., [REDACTED]

(the "Assignee")

AND:

THE CORPORATION OF THE CITY OF COURTENAY, a municipal corporation incorporated under the *Local Government Act* and having its offices at 830 Cliffe Avenue, Courtenay, B.C., V9N 2J7

(the "City")

(each a "party" and together the "parties")

BACKGROUND

- A. By lease dated for reference December 1, 2018, a copy of which is attached as Appendix A to this Agreement (the "**Lease**"), between the City as landlord and Donna McLean, doing business as Park Cafe as tenant (the "**Tenant**"), the City leased to the Tenant certain premises with a civic address of 102 A-20th Street, Courtenay, BC defined as the "Premises" in the Lease and as more particularly described in the Lease;
- B. The Lease does not allow the Tenant to assign their obligations under the Lease without the mutual agreement of the City;
- C. The Tenant is now deceased and the Assignor, as legal representative of Donna McLean, deceased, wishes to assign, and the Assignee wish to assume, all rights of the Tenant under the Lease, such assignment and assumption to be effective on June 15, 2022 (the "**Effective Date**");
- D. The City consents to the assignment described in Recital C and as more fully set out in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants below, the parties agree that:

- 1. **Defined Terms:** Except as otherwise defined in this Agreement, capitalized terms used in this Agreement have the meanings ascribed to those terms in the Lease.
- 2. **Assignment & Assumption:** The parties agree that:

- (a) on the Effective Date, the Assignor assigns to the Assignee all the Tenant's rights, obligations, and interest in and to the Lease and the Assignee assumes all obligations of the Tenant under the Lease;
- (b) in exchange for the Assignee's agreement to assume all obligations of the Tenant under the Lease, the City consents to the assignment and assumption set out in subsection (a);
- (c) for greater certainty, as of the Effective Date, the City will comply with all of the landlord's obligations under the Lease and the Assignee will comply with all of the Tenant's obligations under the Lease;
- (d) in accordance with Section 2.2 of the Lease, the City has provided the twelve (12) month's advance notice to terminate the Lease on November 30, 2023 and the Assignee agrees to the termination of the Lease on that date; and
- (e) upon termination of the Lease, the City and the Assignee will engage in good-faith negotiations to enter into a new lease with the rent fixed and determined by the City based on the applicable policies of the City in effect.
- (f) Section 12.1 (f) of the Lease is hereby amended as follows:

to clean the public washrooms on a daily basis at Tenant's cost and maintain the public washrooms in the Marina Building in good and reasonable condition and to install supplies (soap, paper towels, toilet paper) within these areas which supplies are to be provided by Landlord.

- 3. **Assignor's Representations and Warranties:** The Assignor represents and warrants to the Assignee that:
 - (a) the Assignor is the legal representative of the deceased Tenant has good and valid authority to legally act on behalf of the Tenant;
 - (b) the Lease is good, valid, and subsisting; and
 - (c) the Lease has not previously been amended or assigned other than set out in this Agreement.
- 4. **Assignor's Indemnity:** The Assignor indemnifies and will save harmless the Assignee and the City from all actions, suits, costs, losses, damages, charges, and expenses for or in respect of any misrepresentation or breach of this Agreement by the Assignor or of any breach by the Tenant of the Lease arising during the period before the Effective Date.
- 5. **Assignee's Indemnity:** The Assignee indemnifies and will save harmless the Assignor and the City from all actions, suits, costs, losses, damages, charges, and expenses for or in respect of any breach by the Assignee of the Lease arising on and after the Effective Date.
- 6. **Notices:** Any notice given in connection with this Agreement will be delivered to the respective addresses set out above or to such other address as any of the parties may designate in writing.
- 7. **Survival of Provisions:** The provisions of the Lease will survive the execution and delivery of this Agreement and will not merge in this Agreement.
- 8. **Further Assurances:** Each party will, at all times hereafter at the request and cost of any other party), execute such further and other documents as such other party may reasonably require in

Appendix A

The Lease

2. Term

- 2.1 To have and to hold for a term of Five (5) YEARS, commencing on December 1, 2018 and expiring at midnight on November 30, 2023 (the "Term") for the purpose of operating a café restaurant and no others, subject to the Rules and Regulations outlined in Schedule "C", and the Tenant hereby accepts the demise and lease of the Premises, all subject to the covenants, conditions, and agreements herein contained.
- 2.2 At any time during the Term or any renewal thereof, either the Landlord or Tenant may terminate this lease by giving twelve (12) month's advance notice of its intention to terminate this Lease, and after the expiration of such period of notification, this Lease shall be terminated and ended without further notice or delay.

3. Rent

- 3.1 The basic rent payable to landlord for the demised Premises on the first (1st) day of December 2018 and on the first (1st) of each month thereafter. Rent for the Premises for the first twelve months of the Term shall be calculated and paid to the Landlord in Canadian dollars and based on the rental rates shown in Schedule "B" (Rent Payments) and the Tenant shall pay to Landlord, from time to time upon demand, all other sums payable to the Landlord pursuant to this Lease (the "Additional Rent"). All delinquent Rent shall bear interest equal to five percent (5%) per annum above the prevailing prime lending rate then published by Landlord's bankers from the date due until paid.

4. Option to Renew

The Tenant, if not in default hereunder and Landlord subject to Council approval, may mutually agree in writing to renew this Lease for an additional term of Five (5) on the same terms and conditions contained herein, save except for this covenant for renewal and except that Rent to be paid during such renewal period shall be fixed and determined by the Landlord at the time of the renewal at greater or other rate than herein reserved (based on the applicable policies of the Landlord in effect). The Tenant shall exercise this renewal by giving written notice to the Landlord in the manner provided herein not less than Six (6) months prior to expiry of the term.

5. Holding Over

- 5.1 If upon the expiration of the term of this Agreement, the Tenant continues to occupy the Premises without any express agreement as to a new term, a tenancy from year to year shall not be created by implication of law, but the Tenant shall be a monthly occupant at a monthly rent equal to the instalments of rent hereby reserved in this Lease Agreement plus an increase of two (2) percent and otherwise on the same terms and conditions set forth in the Agreement insofar as the same applicable to a month to month tenancy for a maximum of one (1) year or as mutually agreed to in writing by both parties.

6. Assignment

6.1 The Tenant shall not assign this Agreement or sublet all or any part of the Premises without the written consent of the Landlord, which consent may not be arbitrarily or unreasonably withheld.

6.2 The Landlord shall not assign this Agreement without the prior written consent of the Tenant, which may not be arbitrarily or unreasonably withheld. However, in the event that the Agreement is assigned by the Landlord to a party unacceptable to the Tenant, and if a compromise acceptable to both Parties cannot be reached, the Tenant shall have the right to terminate this Agreement, or any renewal thereof without penalty, effective the date of such assignment.

7. Premises Leased "as is".

7.1 The Leased Premises are leased "as is".

8. Tenant Pays Taxes

8.1 The Tenant shall promptly pay when due municipal, regional district, school, hospital district, and other property taxes, charges, levies, assessments, and other fees which may be imposed or that may arise in respect of the Premises or the Tenant's use of the Premises including all charges for telephone service, cablevision, internet, and garbage removal. The Tenant shall pay to the Landlord all taxes, charges, levies and other fees, including Goods and Services Tax or any replacement tax, which may be payable in respect of this Lease.

9. Landlord's Covenants

9.1 The Landlord shall be responsible for all exterior building envelop repairs and maintenance, structural interior and exterior repair and maintenance, deck repairs and maintenance, building insurance coverage, and supply water, sewer, and electricity to the Premises.

10. Landlord's Right to Perform

10.1 If the Tenant shall fail to perform or cause to be performed each and every one of the covenants and obligations of the Tenant contained in this lease, on the part of the Tenant to be observed and performed, the Landlord shall have the right (but shall not be obliged) to perform or cause the same to be performed and to do or cause to be done such things as may be necessary or incidental thereto (including without limiting the foregoing, the right to make repairs, installations, erection and expend monies) and all payments, expenses, charges, fees, (including all legal fees on solicitor and client basis) and disbursements incurred or paid by or on behalf of the Landlord in respect thereof shall be paid by the Tenant to the Landlord forthwith.

11. Use of Premises

11.1 The use of Premises shall be restricted to the operation of a café restaurant and for no other use without the prior consent of the Landlord.

12. Tenants Covenants

12.1 The Tenant covenants with the Landlord as follows:

- (a) to pay the rent on the days and in the manner aforesaid;
- (b) the Tenant shall pay for any damage arising from its occupation and use of the Premises; normal wear and tear accepted;
- (c) to well and truly observe and fulfil the provisions and requirements of all Statutes, Codes, Regulations, By-laws, Rules, Orders and Instructions, Regulations or other requirements of any government authority having jurisdiction including but not limited to scheduling the cleaning and maintenance of grease traps, fire suppression systems and hood ranges;
- (d) to effect all repairs necessary to the Premises at its own expense and shall provide copy of service records within thirty days of written request by Landlord of regularly scheduled maintenance and inspections of Tenant's equipment and fixtures, with the exception of structural repairs which shall be the responsibility of the Landlord;
- (e) that the Premises are now in good and tenantable state of repair and covenants at all times during the term of this agreement to maintain appurtenances and fixtures, in good and substantial repair, reasonable wear and tear and the Tenant will, upon notice in writing, reimburse the Landlord for costs of repairing or restoring any damage to the Premises caused by the negligence or wilful act by the Tenant, its sub-tenants, licensees, invitees, agents and employees;
- (f) to maintain the public washrooms in the building in a good and reasonable condition and to install supplies (soap, paper towels, toilet paper, etc) within these areas which supplies are to be provided by Landlord. Tenant shall be responsible for one half of the cleaning cost of the public washrooms in the building;
- (g) (i) the Tenant shall make no alterations, installations, removals or additions or improvements in or about the demised premises without Landlord's prior written consent and in the event of such consent all works shall be done at the Tenant's sole expense and at such times and as such manner as the Landlord may approve.

(ii) All articles of personal property and all business trade fixtures, machinery and equipment, cabinet work, furniture and moveable partitions owned or installed by the Tenant at the expense of the Tenant in the demised premises shall remain the property of the Tenant and may be removed by the Tenant at any time during the Term and any renewal provided the Tenant is not in default of the Lease and that the Tenant at its expense shall repair any damage to the demised Premises or the building, caused by such removal or original installation. The Landlord may elect to require the Tenant to remove all or part of the aforescribed property at the expiration of this Lease in which event such removal shall be done at Tenant's expense and

If the Tenant does not remove its property forthwith after written demand by the Landlord, such property shall, if the Landlord elects, be deemed to become the Landlord's property, or the Landlord may remove the same at the expense of the Tenant, the cost of the removal to be paid by the Tenant forthwith to the Landlord on written demand, the Landlord not to be responsible for any loss or damage to such property because of such removal.

13. Inspections

- 13.1 The Tenant agrees that a representative of the authority to carry out Health and Safety inspections may inspect the Premises and common areas of the Premises either prior to or subsequent to occupation and periodically thereafter as he may deem fit;
- 13.2 The Tenant agrees that a representative having the authority of the Fire Commissioner of Canada may conduct fire inspections and fire evacuation drills not less frequently than once a year;
- 13.3 The Tenant agrees to comply with any orders issued by the authority of jurisdiction identified in Clauses 13.1 and 13.2 which involves any matter for which the Tenant is responsible under the terms of this Agreement.

14. Security

- 14.1 The Tenant shall be solely responsible for securing the Premises.

15. Yielding Up

- 15.1 The Tenant shall yield up the Premises at the expiration of the term, or of any renewal thereof as the same may have been renewed, together with such alterations and moveable effects as paid for by the Landlord, in good repair, reasonable wear and tear excused.

15.2 Provided Tenant is not in default of paying Rent, Landlord and Tenant agree that all articles of personal property and all business and trade fixtures, machinery and equipment, cabinet work, furniture and moveable partitions owned or installed by Tenant at the expense of the Tenant in the demised Premises shall remain the property of the Tenant and may be removed by the Tenant at any time during the Term and any renewal or extension thereof, provided that the Tenant at its expense shall repair any damage to the demised Premises or the building which the demised Premises is located, caused by the original installation. The Landlord shall have the option to require the Tenant to remove all or any part of the afore described property at the expiration of this Lease Agreement in which event such removal shall be done at the Tenant's expense and the Tenant shall at its expense repair the damage to the demised Premises or the building caused by such removal. If the Tenant does not remove its property forthwith after a written demand by Landlord, such property shall, at Landlord's discretion, be deemed Landlord's property, or Landlord may remove the same at the expense of the Tenant, the cost which shall be paid by Tenant forthwith to Landlord on written demand, the Landlord shall not be responsible for any loss or damages to such property because such removal.

17. Destruction of Premises

17.1 If a fire or any other casualty ("Casualty") which damages the Premises or the Building occurs and materially affects the use of the Premises, Landlord shall determine whether the Premises are rendered substantially untenable and make an initial estimate of the time needed to complete necessary repairs to the Building and Premises. Within thirty (30) business days after the Casualty, Landlord shall notify Tenant in writing of Landlord's determinations ("Landlord's Notice") as follows:

- (a) If Landlord's Notice states that the Premises has been rendered substantially untenable by the Casualty and Landlord's initial estimate of the time needed for repair exceeds 180 days, Landlord or Tenant may, by written notice, terminate this Lease as of the date of the Casualty. Written notice of Landlord's or Tenant's election to terminate the Lease pursuant to 17.1 (a) and 17.1 (c) will be given by the 45th business day after the date of the Casualty. If Landlord's Notice states that the Premises have been rendered substantially untenable by the Casualty but Landlord's initial estimate of the time needed for repair is 180 days or less, Landlord may at its option proceed with the restoration of the Premises and Building as set forth in 17(d) below, and this Lease shall remain in full force and effect.
- (b) If Landlord's Notice pursuant to its Architect's report states that the Premises are still substantially tenable after the Casualty, then neither Landlord nor Tenant shall have the right to terminate this Lease.
- (c) Either party may terminate this Lease if the Casualty occurs within the last 6 months of the Term or Landlord's estimate of the time needed to repair the damage caused by the Casualty exceeds more than 20% of the then remaining Term.

- (d) Unless the Lease is terminated, Landlord will repair the Premises and Building (other than leasehold improvements installed by Tenant and Tenant's personal property) to substantially the same condition as existed immediately prior to the Casualty. Tenant shall relocate, at Tenant's expense, all personal property from the Premises prior to and during the repairs.
- (e) If the Premises are damaged by Casualty and the Lease is not terminated, the Rent shall abate for that part of the Premises which have been rendered untenable and not occupied by Tenant on a per diem and proportionate area basis from the date of the Casualty until the date which Landlord has Substantially Completed the required work. If Landlord makes other space available to Tenant, Rent for the substitute premises shall be payable on an equitable basis as reasonably determined by Landlord.

18. Landlord Right to Enter

- 18.1 The Landlord, its servants or agents shall have full and free access for inspection purposes during normal business hours and in the presence of the Tenant or a representative of the Tenant to any and every part of the Premises; it being expressly understood and agreed, however, that in cases of emergency, the Landlord, its officers, servants or agents, shall at all times and for all purposes have full and free access to the Premises.

19. Default

- 19.1 If the Tenant defaults in the payment of any money payable under this Lease or fails to observe, comply with or perform any of its covenants, agreements or obligations under this Lease, the Landlord may deliver to the Tenant a notice of default (in the manner required herein for giving notices) stipulating that the default must be rectified or cured within 15 days of the notice if the default is non-payment of Rent or Additional Rent and within 30 days of the notice for other defaults, but less or no notice is required to be given by the Landlord in emergency or urgent circumstances, as determined by the City in its sole discretion, acting reasonably, or where the Tenant has failed to keep the Premises insured.
- 19.2 If the default (other than payment of money payable by the Tenant under this Lease and other than failure to keep the Premises insured) reasonably requires more time to rectify or cure than 30 days, the Tenant will be deemed to have complied with the rectification or curing of it if the Tenant commences rectifying or curing the default within 30 days after notice from the Landlord and diligently completes the same.

20. Insurance & Indemnification

20.1 Without limiting the foregoing, the Tenant shall at its own expense, throughout the term of this lease, secure and maintain in force during the Term of this lease or any renewal thereof:

- (a) a policy of comprehensive/commercial general liability insurance for the benefit of the Landlord and the Tenant providing coverage for death, bodily injury, property loss, property damage and other potential loss and damage arising out of the Tenant's use and occupation of the Premises or the Lands ; and
- (b) product liability insurance to cover any liability that might arise out of the sale of goods and any other products by the Tenant,
- (c) all with an inclusive limit of not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence for bodily injury and property damage, cross liability clause and naming the City of Courtenay as additional insured.
- (d) All insurance shall be underwritten by a responsible insurance company or companies licensed to do business in the Province of British Columbia and that meet with the reasonable approval of the Landlord, be upon the terms and conditions satisfactory to the Landlord, shall contain a waiver of segregation clause in favour of the Landlord, and shall contain a clause requiring the insurer not to cancel or change the insurance without first giving the Landlord thirty days written notice thereof. Copies of all policies shall be delivered to the Landlord upon request.
- (e) The Tenant agrees that if it does not provide or maintain in force such insurance, the Landlord may take out the necessary insurance and pay the premium therefore for periods of one year at a time, and the Tenant shall pay to the Landlord as additional rent the amount of such premium immediately upon demand.
- (f) In the event that both the Landlord and the Tenant have claims to be indemnified under any insurance, the indemnity shall be applied first to the settlement of claims of the Landlord and the balance, if any, to the settlement of the claim of the Tenant.

20.2 The Tenant shall indemnify and save harmless the Landlord from any loss or damage arising from any wrongful act or omission of the Tenant, and against all claims, demands, losses, costs, damages, actions, suits or other proceedings by whomsoever made resulting from the negligence of its employees.

21. Environmental Compliance and Indemnification

- 21.1 The Tenant shall use the Premises and Land in compliance with all applicable laws, bylaws, rules, and regulations of the appropriate jurisdictions pertaining to the environment, health and welfare and occupational safety. The Tenant shall not, unless specifically required for police purposes, bring or permit to be brought onto the Premises, any substance in a toxic or otherwise hazardous form, or any substance which if it were to remain on or escape from Premises, may contaminate or pollute the Premises or any other property with which it may come in contact.
- 21.2 In the event that the Premises is contaminated or polluted by any action or omission of the Tenant, its employees, agents, contractors, or invitees, the Tenant shall immediately notify the Landlord and any governmental department or agency as may be required by law, of such pollution or contamination. The Tenant shall immediately conduct or have conducted, at Tenant's own expense, an environmental audit as may be required by the Landlord and any appropriate governmental department or agent, which shall include an estimate of the scope of work required to eliminate the contamination and/or pollution caused by the Tenant, its employees, agents, contractors, or invitees. The remediation work suggested in the environmental audit to eliminate the said contamination and/or pollution shall not proceed without prior approval and consent of the Landlord. Upon receipt of said approval, the Tenant will undertake, at Tenant's own expense, the necessary rededication to the satisfaction of the Landlord and the appropriate government department or agency.

22. Dispute Resolution

- 22.1 In the event of any dispute or difference shall arise between the Parties hereto in connection with the use of the Premises as to the interpretation of any part of this Agreement or as to any matter not referred to in this Agreement and requiring agreement or as to matters requiring further agreement by the Parties, such dispute or difference shall be determined by arbitration pursuant to the *Arbitration Act of the Province of BC*. The costs and expenses of the arbitration shall be paid by the party requiring the arbitration.
- 22.2 Nothing herein shall preclude either party from recourse to the Courts where there is an excess of jurisdiction or error of law relating to or in the arbitration process.

23. Notice

23.1 Whenever in this Lease it is required or permitted that notice or demand be given or served by either party to this Lease to or on the other, the same shall be in writing and shall be sufficiently Any notice required to be given to any party shall be deemed to have been sufficiently communicated if delivered in person, sent by Priority Post or sent by facsimile;

(a) to the Landlord at the following address:

The City of Courtenay
830 Cliffe Avenue,
Courtenay, B.C.
V9N 2J7
Fax: (250) 334-4241

(b) and to the Tenant at the following address:

Donna McLean
[REDACTED]
Courtenay, BC
[REDACTED]

and any such notice, if forwarded by Registered Mail, shall be deemed to have been served on the fifth business day next following the date it is mailed and, if by facsimile, shall be deemed to have been served on the day following the day of transmittal.

24. Distress

24.1 If and whenever the Tenant is in default of the payment of any money, including rent, whether expressly reserved by this Lease or deemed as Rent, the Landlord may without notice or any form of legal process whatsoever, enter the Premises and seize, remove and sell the Tenant's goods, chattels and equipment and seize, remove, and sell any goods, chattels and equipment at any place to which the Tenant or any other person may have removed them in the same manner as if they had remained and been distrained in the Premises, notwithstanding any rule of law or equity to the contrary, and the Tenant hereby waives and renounces the benefit of any present or future statute or law limiting or eliminating the Landlord's right of distress.

25. Waiver or non-action

25.1 Waiver by the Landlord of any breach of any term, covenant or condition of this Lease by the Tenant must not be deemed to be a waiver of any subsequent default by the Tenant. Failure by the Landlord to take any action in respect of any breach of any term, covenant or condition of this Lease by the Tenant must not be deemed to be a waiver of such term, covenant or condition.

26. No Abatement

26.1 The Tenant is not entitled to any abatement or reduction or deduction from the Rent or Additional Rent.

27. Remedies Cumulative

27.1 No reference to or exercise of any specific right or remedy by the Landlord prejudices or precludes the Landlord from any other remedy, whether allowed at law or in equity or expressly provided for in this Lease. No such remedy is exclusive or dependent upon any other such remedy, but the Landlord may from time to time exercise any one or more of such remedies independently or in combination. Without limiting the generality of the foregoing, the Landlord is entitled to commence and maintain an action against the Tenant to collect any rent not paid when due, without exercising the option to terminate this Lease.

28. No Joint Venture

28.1 Nothing contained in this Lease creates the relationship of principal and agent or of partnership, joint venture or business enterprise or entity between the parties or gives the Tenant any power or authority to bind the Landlord in any way.

29. Enurement

29.1 This Lease and everything herein contained shall enure to the benefit of and be binding upon the successors, assigns and other legal representatives, as the case may be of each of the parties hereto, and every reference herein to every party hereto shall include the successors, assigns and other legal representatives of such party.

30. Interpretation

30.1 Any note appearing as a heading in this Lease has been inserted for convenience and reference only, and of itself cannot define, limit or expand the scope of meaning of the present Lease or any of its provisions. Where there is a male, female or corporate party, the provisions hereof shall be read with all grammatical changes to gender and number required by the context. All covenants and obligations shall be deemed joint and several. The invalidity of any clause for any reason whatsoever shall not invalidate any other clause of this Lease. Every reference to each party is deemed to include the heirs, executors, administrators, successors, directors, employees, members, servants, agents, officers, and invitees of such party where the context so permits or requires.

31. Powers Preserved

31.1 Nothing in this Lease affects the right of the Landlord to exercise its powers within its jurisdiction.

32. Authority

32.1 The Tenant represents and warrants to the Landlord that it has full authority to enter into this Lease and to carry out the actions contemplated herein, that all resolutions and other preconditions to validity have been validly adopted, and that those signing this Lease on its behalf are authorized to bind the Tenant by their signatures.

33. Entire Agreement

33.1 The provisions herein contained constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements whether verbal or written between the parties with respect to the subject matter hereof. This Lease may not be modified or amended except by an instrument in writing signed by the parties.

34. Covenants and Conditions

34.1 All of the provisions of this Lease shall be deemed and construed to be conditions as well as covenants as though the words specifically expressing or importing covenants and conditions were used in each separate section:

35. Registration

35.1 If the Tenant wishes to register this Lease, the Tenant will pay all registration costs and fees, including the costs of preparing and registering a registrable plan of the leasehold premises.

35.2 Upon expiration or early termination of this Lease, the Tenant will remove the registration of the Lease including the cost of removal.

36. Leasehold Improvements

36.1. Subject to advance written Landlord approval and sections 36.1, 36.2 and 36.3., the Tenant may make improvements at Tenant cost to the Premises:

(i) by the Landlord, pursuant to section 36.3; and/or

(ii) by an independent contractor, provided such contractor meets the Landlord's contractor requirements which shall include but not limited to insurance, indemnification and health and safety requirements, and such requirements are provided to the Landlord for written approval prior to improvement commencement which approval shall not be unreasonably withheld.

- 36.2. No changes, alterations, additions or improvements to any of the heating, air conditioning, electrical and plumbing systems, roof, partition walls, and structural bearing walls of the building shall be made without the prior written consent of the Landlord.

37. Expropriation and Condemnation

- 37.1 If the demised premises shall be acquired, or expropriated by an authority having the power for such acquisition or expropriation for any public or quasi-public use or purpose then and in that event this Lease shall cease from the date of entry by such authority. If only a portion of the demised premises shall be so acquired, or expropriated, this Lease shall cease and terminate at the Landlord's option or at the Tenant's option and if such option is not immediately exercised by Landlord or by the Tenant, an equitable adjustment of the rent payable by the Tenant for the remaining portion of the demised premises shall be made. In either event, however, and whether all or only a portion of the demised premises shall be so acquired, or expropriated, nothing herein contained shall prevent the Landlord or Tenant or both from recovering damages from such authority for the value of their respective interests or for such other damages and expenses allowed by law.
- 37.2 If all or part of the Project is taken or condemned by any authority for any public use or purpose (including a deed given in lieu of condemnation), which renders the Building or the Premises not suitable for its intended purpose in Landlord's reasonable opinion, this Lease shall terminate as of the date title vests in such authority, and the Rent shall be apportioned as of such date. Otherwise, this Lease shall continue in full force and effect, except, the Rent shall abate for that part of the Premises which is rendered untenable and not occupied by Tenant on a per diem and proportionate area basis from the date when that part of the Premises is no longer available for the use of the Tenant. Landlord, upon receipt and to the extent of the award in condemnation or proceeds of sale, shall make necessary repairs and restoration (exclusive of leasehold improvements and personal property installed by Tenant) to restore the Premises remaining to as near their former condition as circumstances will permit and to the extent necessary to constitute the portion not so taken or condemned as complete. Landlord shall be entitled to receive the entire award from any sale, taking or condemnation without any payment to Tenant. Tenant shall have the right separately to pursue against the condemning authority, an award in respect of Tenant's business damages and relocation expenses. Under no circumstances shall Tenant seek or be entitled to any compensation for the value of its leasehold estate which Tenant hereby assigns to Landlord.

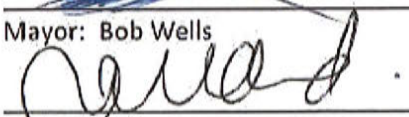
38. Impossibility of Performance

38.1 Whenever and to the extent that the Landlord shall be unable to fulfil or shall be delayed or restricted in fulfillment of any obligation hereunder in respect of use of the space, the supply or provision of any service or utility or doing any work or the making of any repairs by reason of being unable to obtain the material, goods, equipment, service, utility or labour required to enable it to fulfil such obligation by reason of statute, law, or order in council of any administrator, controller, board or any government department, or officer or other authority, by reason of not being able to obtain any permission or authority required thereby, or by reason of any other cause beyond its control whether of the foregoing character or not, the Landlord shall be entitled to extend time for fulfillment of such obligation of such obligation by time equal to the duration of such delay or restriction, and the Tenant shall not be entitled to compensation for any inconvenience, nuisance of discomfort thereby occasioned.

IN WITNESS WHEREOF the parties hereto have executed this Lease.

The Corporate Seal of THE CORPORATION OF THE CITY OF COURTENAY was hereunto affixed in the presence of:

Mayor: Bob Wells



Director of Legislative and Corporate Services: John Ward

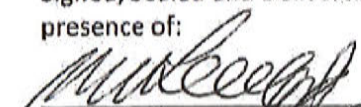
Date: Nov 30, 2018.

Donna McLean

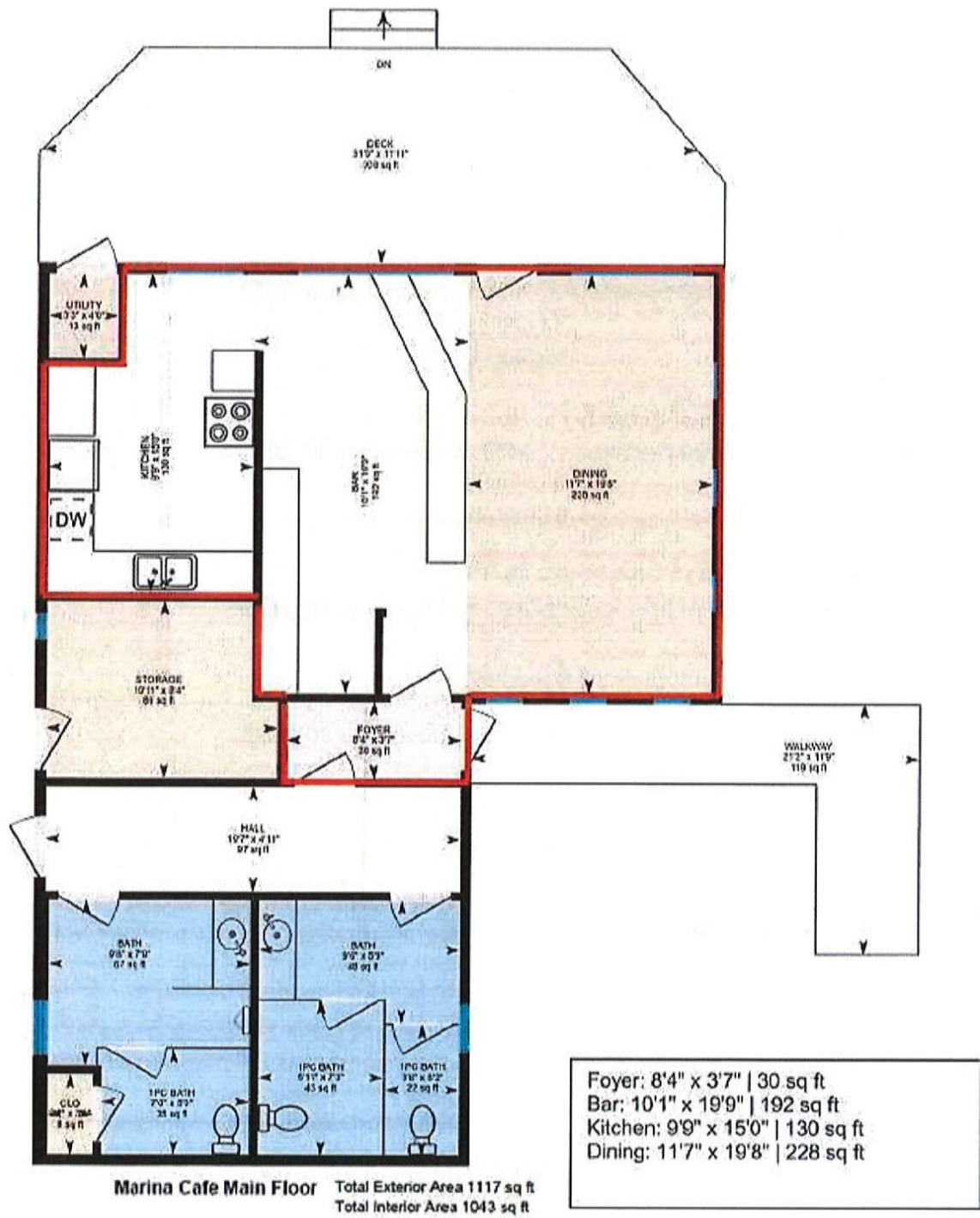


Date: Nov. 28, 2018.

Signed, Sealed and Delivered in the presence of:


Name Marilee Rutherford
981 Fitzgerald Avenue
Address Courtenay BC V9N 2K4
Notary Public
Occupation

SCHEDULE "A" The Premises



SCHEDULE "B"

Rent Payments

All Monthly Rent Payments are subject to applicable statutory taxes.

1. Rent for the period of December 1, 2018 to November 30, 2019
Monthly Rent \$1,041.00
2. Rent for the period of December 1, 2019 to November 30, 2020
Monthly Rent \$1,062.00
3. Rent for the period of December 1, 2020 to November 30, 2021
Monthly Rent \$1,083.00
4. Rent for the period of December 1, 2021 to November 30, 2022
Monthly Rent \$1,105.00
5. Rent for the period of December 1, 2022 to November 30, 2023
Monthly Rent \$1,127.00

SCHEDULE "C"

RULES AND REGULATIONS

1. Landlord may from time to time adopt and amend Rules and Regulations for the security or safety of the Premises or persons using the Building. Whenever the term Tenant is used it shall include the Tenant, its employees and invitees.
2. The sidewalks, halls, passages, exits and entrances of the Premises will not be obstructed by Tenant or used by it for any purpose other than for ingress to and egress from the Premises. Tenant will not permit loitering, illegal or dangerous activity by its employees and/or invitees. Tenant will not permit any blockage of truck ways or laneways.
3. Tenant will not go upon the roof of the Building and Tenant will not be permitted to place or install any object or equipment on the exterior or on the roof of the Building, without Landlord's written permission. However, Tenant shall be responsible for all costs to repair any damage done by such installation or placement which has been approved by Landlord.
4. No signs of any kind or window coverings, save and except those requested to be installed by Landlord, visible from the exterior of the Premises will be displayed by Tenant on any part of the Building or the Premises without the prior written consent of Landlord. Landlord will adopt and furnish to Tenant general guidelines relating to signs. Tenant agrees to conform to such guidelines. In the event of the violation of this rule by Tenant, Landlord may remove the violating items without any liability, and may charge the expense incurred to remove such signs to Tenant together with an administration fee of 15%.
5. Space on any exterior signage will be provided in Landlord's sole discretion. Tenant will not have any right to the use of any exterior sign, unless otherwise approved by Landlord.
6. All damages resulting from any misuse of the plumbing fixtures will be borne by Tenant.
7. Tenant will not in any way deface any part of the Premises or the Building of which they form a part.
8. Tenant will not replace, or re-key any lock or install a new lock or a knocker on any door of the Premises without notifying the Landlord. Landlord, its agents, or employees will retain a key to all door locks on the Premises.
9. Without Landlord's prior written approval, Tenant will not use any method of heating or air conditioning in the Premises other than that supplied by Landlord. Tenant shall not use or keep or permit to be used or kept any foul or noxious gas or substance or combustible, hazardous or environmentally dangerous material in the Premises or on the Building.
10. Landlord will have the right, exercisable upon written notice and without liability to Tenant, to change the name and street address of the Building.

11. Tenant will not bring any animals (except service animals) into the Building and will not permit bicycles or other vehicles inside the Building or on the sidewalks outside the Building except in areas designated from time to time by Landlord for such purposes.
12. Tenant must provide its own trash container for the Premises at its own cost. Tenant will store all its trash and garbage within its Premises or in its designated trash container. Tenant must keep the exterior of its premises clean and orderly.
13. Tenant will ensure that the doors of the Premises are closed and locked and that all water faucets, water apparatus, and utilities are shut off before Tenant leaves the Premises, so as to prevent waste or damage. For any Default or carelessness in this regard Tenant will make good all injuries sustained by all other tenants or occupants or visitors of the Building.
14. Tenant will not play loud music or create other disturbances.
15. All parking is unreserved except for short term or handicapped parking designated by Landlord. Landlord will not be held responsible for any damage to Tenant vehicles unless otherwise determined by a court of competent jurisdiction.
16. Smoking will only be permitted in areas allowed under B.C. Tobacco Control Laws and Occupational Health and Safety Regulations
17. Landlord will not be responsible for lost or stolen personal property, money or jewelry from the Premises or public or common areas regardless of whether such loss occurs when the area is locked against entry or not.
18. These rules and regulations are in addition to, and will not be construed to modify or amend, in whole or in part, the terms and conditions of the Lease.