

This Seasonal Sidewalk Patio License Agreement (the "Agreement") made in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**BETWEEN:**

**THE MUNICIPAL CORPORATION OF  
THE CITY OF YELLOWKNIFE**

(the "Licensor")

OF THE FIRST PART,

and

\_\_\_\_\_

(the "Licensee")

OF THE SECOND PART,

**WHEREAS** the Licensor is the owner of STREETS, AVENUES AND LANES, PLAN 868, YELLOWKNIFE;

**AND WHEREAS** the Licensee has requested permission from the Licensor to encroach upon, occupy and use that parcel of Licence Area more particularly described as:

A portion of STREETS, AVENUES AND LANES, PLAN 868 in the Licensor of Yellowknife in the Northwest Territories as shown on Schedule A attached hereto and forming part of this Agreement (the "Licence Area") for the purpose of a sidewalk patio.

**AND WHEREAS** the Licensee is the owner of Lot, Block, Plan, a lot adjacent to the Licence Area (the "Licensee's Property").

**AND WHEREAS** the current use of food/beverage service of the Licensee's Property has been legally approved through necessary development permit and building permit process pursuant to Zoning By-law No. 5045, and Building By-law No. 5058; and the Licensee is in possession of a valid and existing Business Licence for the business operation.

**NOW THEREFORE** this Agreement witnesses that, in consideration of a one-time payment by the Licensee of the sum of ONE THOUSAND DOLLARS (\$ 1,000.00) and other good and valuable consideration by the Licensee (the receipt and sufficiency of which is hereby acknowledged) and in consideration of the mutual covenants and agreements herein contained and subject to the terms and conditions in this Agreement, the Parties agree as follows:

## ARTICLES

### 1. TECHNICAL

#### 1.1 PERMISSION TO OCCUPY

1.1.1 The Licensor hereby grants to the Licensee a licence to use, encroach upon, and occupy that approximate \_\_\_\_\_ m<sup>2</sup> of the Licence Area as illustrated in the Sidewalk Patio Permit Application, for the sole purpose of providing outdoor seating and the service of food and beverage to patrons of the Licensee's business (the "Purpose").

1.1.2 The Licensee shall obtain all licenses and permits required for the Purpose, which includes, but not limited to, a Sidewalk Patio Permit for the proposed seasonal sidewalk patio and temporary sidewalk development; and use the Licence Area in accordance with the approved Permit.

#### 1.2 TERM

1.2.1 The term of this Agreement shall commence as of the date first written above and continue until \_\_\_\_\_.

1.2.2 Upon request by the Licensee, the Licensor may renew the licence provided the following conditions are met by the Licensee:

(a) The design, location, and purpose of the Licence Area remains the same as previous year;

(b) The Licensee has complied with and is not in default of the terms and conditions if the License Agreement;

(c) The Licensor has determined that the use of the Licence Area in the previous year created no health or safety hazards or nuisances and did not unduly disturb or inconvenience the public.

### 2. GENERAL TERMS AND CONDITIONS

#### 2.1 COMPLAINE WITH LAWS AND REGULATIONS

2.1.1 The Licensee shall observe and comply with all applicable federal and territorial statutes and regulations and all municipal by-laws.

2.1.2 The Licensor shall not be responsible for the Licensee's failure to use the Licence Area in accordance with this Agreement, nor for its failure to comply with any applicable laws and/or regulations.

## **2.2 OBLIGATIONS OF THE LICENSEE**

- 2.2.1 The Licensee shall provide a temporary sidewalk in the parking space(s) adjacent to the sidewalk patio in order to preserve free unobstructed flow of pedestrian traffic. The sidewalk patio and the temporary sidewalk design shall comply with the approved Sidewalk Patio Permit.
- 2.2.2 The Licensee shall keep the Licence Area in clean and orderly condition and shall not permit water, paper, garbage, or waste of any objectionable material to accumulate thereon.
- 2.2.3 The Licensee shall not use the Licence Area for the storage of any materials other than tables, chairs, and umbrellas. Whenever furniture is stored on the Licence Area, it shall be stored so as not to obstruct passage or be a safety hazard.
- 2.2.4 The Licensee shall not use the Licence Area for cooking, barbecuing, or preparation of food or refreshments or for the storage of food or refreshments, without the express prior written permission of the Licensor.
- 2.2.5 The Licensee shall not do or permit to be done any act or thing, which in the opinion of the Licensor might interfere with, injure, or impair the operating efficiency of, use of, or access to any Licensor lands and infrastructure.
- 2.2.6 The Licensee shall permit persons authorized by the Licensor, at all reasonable times, to enter and examine the condition of the Licence Area and any and all improvements on it, and upon notice by the Licensor, to repair, clean-up or otherwise restore in accordance with such notice.
- 2.2.7 The Licensee covenants that on termination of this agreement the Licensee will deliver up possession of the Licence Area and restore the affected road right-of-way area by removing the temporary sidewalk, in substantially the same condition in which it existed at the start of the term to the satisfaction of the Licensor, acting reasonably.

## **2.3 INDEMNIFICATION AND CONSEQUENTIAL LOSS**

The Licensee agrees to indemnify and hold harmless the Licensor, its Council, officers, employees and agents, against and from any and all loss, claims, actions or suits, costs, (including, but not limited to, legal fees on a solicitor and client basis), for or on account of injury, bodily or otherwise, to, or death of, persons or animals, damage to or destruction of property, by reason of anything done or omitted to be done by the Licensee in breach of this Agreement, excepting only such injury or harm as may be caused by the fault or negligence of the Licensor, its Council, officers, employees or agents.

## **2.4 INSURANCE**

- 2.4.1 The Licensee shall maintain public liability insurance, with a company licensed and registered to do business in the Northwest Territories, for the Licence Area and any improvements to it, and the temporary sidewalk, in an amount of not less than TWO MILLION DOLLARS (\$2,000,000.00), or such other amount as reasonably directed by the Licensor from time to time (the "Policy").
- 2.4.2 The Policy shall be endorsed to add the Licensor as an additional insured, so as to cover the activity in the Purpose of the Licence Area, with thirty (30) days written notice to be given to the Licensor prior to the cancellation of, or material change to, the Policy.
- 2.4.3 Upon request from the Licensor the Licensee shall provide the Licensor with a certificate of insurance as documentary evidence of such insurance.

## **2.5 APPLICABLE LAW**

This Agreement shall be governed by and construed in accordance with the laws in force in the Northwest Territories.

## **2.6 ASSIGNMENT**

The Licensee shall not assign this Agreement without the prior written consent of the Licensor.

## **2.7 NO WAIVER**

The failure of either party to insist upon or enforce strict performance by the other party of any of the terms of this Agreement, or to exercise any rights herein, shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any subsequent occasion.

## **2.8 TERMINATION WITHOUT NOTICE**

- 2.8.1 The Licensor may, in its sole discretion, terminate this Agreement without notice or delay on the happening of any of following events:
- (a) the Licensee breaching any of the terms or conditions of this Agreement;
  - (b) the Licensee becoming insolvent or being unable to pay its debts as they generally become due;
  - (c) the Licensee making an assignment for the benefit of its creditors or being petitioned into Bankruptcy; or
  - (d) a Receiver or Trustee in Bankruptcy of the Licensee being appointed.

2.8.2 The Licensor shall not, by reason of the termination of this Agreement without notice be liable to the Licensee for compensation, reimbursement or damages.

## **2.9 TERMINATION WITH NOTICE**

The Licensor may, in its sole discretion, terminate this Agreement with thirty (30) days written notice, and will not by reason of the termination be liable to the Licensee for compensation, reimbursement or damages.

## **2.10 COMPLETE AGREEMENT**

This Agreement constitutes the complete agreement between the parties. It is subject to change only by an instrument executed in writing by both parties.

## **2.11 SUCCESSORS AND ASSIGNS**

This Agreement shall enure to the benefit of and be binding upon the respective successors and assigns of the Licensor and the Licensee.

## **2.12 HEADINGS**

The division of the Agreement into paragraphs and articles is for convenience of reference only and shall not affect the interpretation or construction of this contract.

## **2.13 TIME OF THE ESSENCE**

Time shall be of the essence.

## **2.14 SEVERABILITY**

In the event that any of the provisions contained herein shall be held unenforceable or declared invalid for any reason whatsoever by a court of competent jurisdiction, such unenforceability or invalidity shall not affect the enforceability or validity of the remaining provisions of this Agreement and such unenforceable or invalid portion shall be severable from the remainder of this Agreement.

## **2.15 NOTICES**

2.15.1 Where notice is required, or is permitted to be served on one party by the other, the notice shall be given in writing and may be delivered personally, delivered or sent by mail or facsimile transmission to the following addresses:

Notices to: City of Yellowknife  
P.O. Box 580

Yellowknife, NT X1A 2N4  
Fax: (867) 920-5649

Attention: Manager, Planning & Lands Division

Notices to: \_\_\_\_\_

\_\_\_\_\_  
Yellowknife, NT

Attention: \_\_\_\_\_

2.15.2 Notwithstanding the above, each party shall use the most expeditious method of giving the written notice or communication.

2.15.3 A written notice or communication sent by mail shall be deemed to have been received ten (10) days after the date of posting. Whenever a notice or communication is sent by facsimile transmission, acknowledgement from the receiving party must be given to the other party that the notice or communication has in fact been received for it to be effective.

***[Remainder of Page Intentionally Left Blank. Execution Page follows.]***

**3. EXECUTION**

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first written above.

**THE MUNICIPAL CORPORATION OF THE CITY OF YELLOWKNIFE**

Per: \_\_\_\_\_ (seal)  
PLANNING ADMINISTRATOR

**LICENSEE**

Per: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Per: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Schedule A DM# #####