

VILLAGE OF POINT EDWARD

By law Number 13 of 2022

Being a By-law to Authorize an Extension of the Lease between the Corporation of the Village of Point Edward and 467099 Ontario Ltd., acting as the Bluewater Anglers, for the Fish Hatchery Building in Waterfront Park

WHEREAS the Council of the Corporation of the Village of Point Edward deems it expedient to enter into an Extension of the Lease with 467099 Ontario Ltd.;

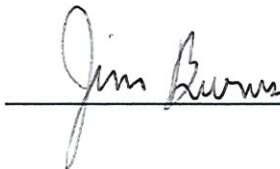
NOW THEREFORE the Council of the Corporation of the Village of Point Edward enacts as follows:

1. THAT the Extension of the Lease between the Village of Point Edward and 467009 Ontario Ltd., acting as Bluewater Anglers, for the Fish Hatchery Building in Waterfront Park, be approved.
2. THAT the Mayor and CAO/Clerk be and they are hereby authorized and instructed on behalf of the Corporation of the Village of Point Edward to enter into and execute under its corporate seal and deliver the Extension of the Lease, which is hereby incorporated into and forming part of this By-law.
3. THAT this by-law shall come into force and take effect as of the final passing thereof.

READ a FIRST, SECOND and THIRD READING and FINALLY PASSED this 26th day of April, 2022.



Mayor



Clerk

THIS AGREEMENT OF LEASE

Made as of the 26th day of April, 2022

IN PURSUANCE OF the Short Forms of Leases Act, R.S.O. 1990, c.S.11

BETWEEN:

THE CORPORATION OF THE VILLAGE OF POINT EDWARD

(hereinafter called the "Landlord")

Of the First Part

and

467099 ONTARIO LTD., (operating as Bluewater Anglers)

(hereinafter called the "Tenant")

Of the Second Part

WHEREAS THE LANDLORD and the Tenant are the parties to an Agreement of Lease (the "said Lease") made in 2014, and approved by the Village of Point Edward by By-law Number 19 of 2014, finally passed on the 10th day of June, 2014;

AND WHEREAS the said Lease affected the Demised Area as later defined herein;

AND WHEREAS the Landlord and the Tenant have agreed to terminate the said Lease effective the same date as a new lease is made in the terms of this document;

AND WHEREAS the Tenant has agreed to release to the Landlord all of its interest in the buildings, equipment and fences existing upon the Demised Lands;

THEREFORE, IN CONSIDERATION of the sum of \$2.00 and other valuable consideration now paid by each party to the other the parties agree as follows:

1. In this indenture: "Demised Area" shall mean the lands as set out in Schedule "A" attached hereto, which are more commonly referred to as the lands upon which is situated the Bluewater Anglers Fish Hatchery Facility within the Point Edward Waterfront Park. The Demised Area includes the existing main building and all fixtures and fish equipment therein (the fish hatchery) and the existing fenced area to the North of the existing main building (which contains the settling pond and the shed) and the lands surrounding these lands, needed from time to time by the Tenant for access to the main building and fenced area, including access from the adjacent parking area for the Waterfront Park, by the St. Clair River.
2. THE LANDLORD hereby demises and leases the Demised Area to the Tenant for a term of ten (10) years **commencing May 1, 2022, and expiring April 30, 2032** on the terms and conditions set out in the lease.
3. THE TENANT shall pay the Landlord rent consisting of an annual amount of \$2.00 payable on the first day of June in each and every year during the currency of this lease.
4. PROVIDED THAT THE LANDLORD agrees and provided that the Tenant is not in default hereunder, upon notice in writing delivered to the landlord not later than six (6) months prior to the expiry of the term hereof, the Tenant shall have two (1) option to renew this lease for periods of five (5) years commencing upon the expiration of the term hereof or upon the expiration of the term of the first renewal hereof as the case may be upon the same terms and conditions as this Lease, save and except as to the renewal provisions of this lease. The right to any further renewal, if any, shall be negotiated at the time that any renewal of this Lease is negotiated.
5. The Tenant covenants with the Landlord:
 - (i) To pay rent:
 - (ii) To pay all charges (including penalties and interest) for water, electricity and other utilities supplied to the Demised Area, directly to the supplier thereof in each case;

- (iii) To pay all taxes, rates, charges, licenses, duties and assessments whatsoever, whether municipal, provincial, federal or otherwise, now or hereafter charged, assessed, levied or imposed in respect of any property, personal property, fixtures, business or other activity carried out upon or in connection with the Demised Area. The obligation to pay all taxes, charges, licenses, duties and assessments are not affected by the tenant becoming exempt from taxes under charitable regulations or any other manner;
- (iv) Not to make changes in surfacing, grade, landscaping, fencing, buildings or structures at or on the Demised Area, except in accordance with plans therefor which have been submitted to, and approved by, the landlord, such approval not to be unreasonably withheld, and to make any such changes expeditiously in a good and workmanlike manner (including proper cleanup) to the satisfaction of the Landlord and that, subject to the obligations of the Landlord hereinafter set out in Clause 7(b), the Tenant shall be responsible for the cost of site alterations and improvements;
- (v) To keep the Demised Area in a clean and well-ordered condition, and to maintain the interior of the buildings on the Demised Area and not to permit any rubbish, refuse, debris or other objectionable material to be stored, or to accumulate therein, all to the satisfaction of the Landlord and that no open storage of goods, or materials of any kind will be permitted and that the fencing, buildings, structures and appurtenances will be kept in a well-ordered condition, subject to the said obligations of the Landlord;
- (vi) To use the Demised Area only for the purposes of operating a fish hatchery and other uses directly ancillary to the operations of a fish hatchery and to the operation of Bluewater Anglers, including but not limited to a clubhouse, and for no other purpose;
- (vii) Not to assign or sublet without leave, which may be arbitrarily withheld;
- (viii) Not to erect or alter any signs, building, structures, fences or other non-landscaping structure on the Demised Area without the written consent of the Landlord;
- (ix) To plant and maintain trees, shrubs to act as landscaping plantings to screen and buffer the buildings and structures within the Demised area. The details of these plantings shall be subject to the approval of the Landlord;
- (x) To assume all responsibility for the maintenance, repair, and upkeep of the fencing, buildings, and structures within the Demised Area, subject to the said obligations of the Landlord;
- (xi) To ensure that nothing is done or kept at or on the Demised Area which is or may be a nuisance, or which causes damage to or interference with normal usage of any adjoining property as a public park, provided that the use referred to in clause (vi), and the vehicles, supplies and equipment necessarily incidental thereto shall not be deemed to be, in and of themselves, a nuisance;
- (xii) To comply with all federal, provincial and municipal laws, by-laws, rules and regulations affecting the Demised Area, including the obtaining of all necessary permits and licenses, and to save the Landlord harmless from any liability or cost suffered by it as a result of failure to the Tenant to do so;
- (xiii) Subject to fifteen (15) days written notice, to permit the Landlord and its agents at all reasonable times during the said term to enter the Demised Area, including all buildings and structures within the Demised area, to inspect the condition thereof and where an inspection reveals remedial work is necessary and required by the Lease to be done by the Tenant, the Landlord shall give the Tenant notice in writing and thereupon the Tenant will, within sixty (60) days from the delivery of the notice, make, or commence making and diligently proceed to complete the necessary work in a good and workmanlike manner;

- (xiv) Upon termination of the tenancy, at its own risk and expense, to remove from the Demised Area, any chattels belonging to it, with all damage, if any, caused by such removal made good by it and to leave the Demised Area neat, clean and free of all waste material, debris and rubbish, all to the Landlord's satisfaction, and
 - (xv) That upon failure by the Tenant to comply with any covenant(s) incumbent upon it under this indenture within 60 (sixty) days after written notice requiring such compliances is given by the Landlord to the Tenant, the Landlord may enter the Demised Area and fulfill such covenant (s) at the sole expense of the Tenant, who shall forthwith upon being invoiced therefor reimburse the Landlord who is in default of such reimbursement may collect same as rent owing and in arrears.
6. The Tenant covenants that the entrance to and exit from the Demised Area shall be from the parking lot of the Point Edward Waterfront Park, adjacent to the St. Clair River only, as shown on a Schedule "A" attached hereto.
7. (a) The parties acknowledge and agree that the use of the Demised Area shall be mutually beneficial to both parties and both parties shall do all things necessary to cooperate in this regard.
- (b) The Landlord shall be responsible, at the Landlord's expense, for the maintenance and upkeep of the exterior of the existing main building, including its exterior decoration and signage, and for the maintenance and upkeep of the exterior fencing, and for landscaping around the exterior of the Demised Area, all, however, in consultation with the Tenant; and in the event any of the major fixed equipment within the main building requires to be repaired or replaced the cost of such repair or replacement shall be shared by the parties to the extent the parties agree from time to time.
- (c) The Tenant agrees that in the event the fish hatchery ceases to operate during the term of this Lease, the Tenant shall be responsible for the cost of demolition of the main building on the demised premises, except in the event the Landlord decides to keep the said building, in which event the Tenant shall have no further responsibility for the building from the date of being notified in writing by the Landlord of such decision to keep the said building.
8. (a) If the Tenant or any assignee or subtenant makes an assignment for the benefit of creditors, or becomes insolvent or commits an act of bankruptcy as defined by the Bankruptcy and Insolvency Act, R.S.C. 1985, c.B-3, or if the leasehold interest created by this indenture is at any time seized or taken in execution or in attachment, or if the Tenant or any corporate assignee or subtenant is subjected to voluntary or compulsory liquidation or winding-up, or if the license to operate a fish hatchery is terminated by the Provincial Government, or if the Demised Area becomes abandoned, then, at the option of the Landlord, the leasehold shall cease, the Term shall be at an end, the unpaid rent shall immediately become due and payable and the Landlord may re-enter and take possession.
- (b) Notwithstanding any present or future Act of the Ontario Legislature, one of the Tenant's property, goods and chattels on the Demised Area shall at any time during the Term be exempt from levy by distress for rent in arrears, and the Tenant, having waived any such exemption, shall by this clause be stopped from setting up any such exemption in any proceedings between the parties.
- (c) This indenture makes provision for re-entry by the Landlord on non-payment of rent or non-performance of covenants.
9. (a) The Tenant shall at all times indemnify and save harmless the Landlord from and against any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever (including those under or in connection with the Workers' Compensation Act, R.S.O. 1990, c.W.11, or any successor legislation), made or brought against, suffered by or imposed on the Landlord or its property in respect of any loss, damage or injury (including fatal injury) to any person or property (including, without restriction, employees, agents and property of the Landlord or the Tenant) directly or indirectly arising out of, resulting from or sustained as a result of the Tenant's occupation or use of, or any operation in connections with, the Demised Area

or any property, fixtures or chattels therein except to the extent attributable to the Landlord's negligence.

(b) The Tenant shall, at all times during the currency of the Term and any renewal thereof, at its own expense maintain in force insurance coverage with respect to the Demised Area and its use and occupation thereof, and shall provide the Landlord with certificates of a policy or policies or an insurance company or companies to the Landlord for:

- (i) insurance against loss by such insurable hazards as the Landlord may from time to time reasonably request, and
- (ii) comprehensive general liability insurance for bodily injury, death or property damage with limits not less than \$2,000,000.00 per occurrence.

Every policy or policies of insurance maintained shall include the Landlord as a named insured, provide cross-liability coverage and waiver of subrogation, and the Landlord may require the Tenant to supply evidence thereof from time to time.

(c) The Tenant shall at all times indemnify and save harmless the Landlord from and against any and all claims, demands, losses, costs, charges, actions and other proceedings under the Construction Lien Act, R.S.O. 1990, c. C.30, in connection with any work done for the Tenant at or on the Demised Area, and shall at its own expense promptly see to the removal from the registered title to the Demised Area, of every claim for lien or certificate of action having to do with such work and in any event within 60 (sixty) days of being notified in writing by the Landlord to do so, failing which the Landlord may see to such removal and recover the expense and all attendant costs from the Tenant as rent and in arrears.

(d) The Landlord assumes no responsibility for damage by fire, theft or otherwise whatsoever, to the property, goods, chattels, fixtures and improvements of the Tenant or of any other person except to the extent caused by the negligence of the Landlord or any person(s) for whom the Landlord is at law responsible.

(e) The provisions of this clause 9 will continue to apply, notwithstanding cessation of the tenancy created by this indenture, throughout the period(s) during which activities take place pursuant to clauses (xiii) and (xiv) of clause 5 of this lease.

(f) For clarification, the Tenant shall not be responsible for insuring the building and fixtures owned by the Landlord. The Landlord shall be responsible for the Term of the Lease and all renewals thereof, for maintaining insurance coverage on the said building and fixtures owned by the Landlord.

10. If, at the expiration of the Term, including any renewal or renewals thereof, the Tenant remains in possession with the consent of the Landlord but without any further written agreement, a tenancy from year to year shall not be created by implication of law or otherwise, but the Tenant shall be deemed to be a monthly tenant only at a rental payable monthly in advance at the rate payable at the expiration of the Term or renewal and otherwise upon and subject to the terms and conditions contained in this lease.

11. Any notice pursuant to any of the provisions of this indenture shall be deemed to have been properly given if delivered in person, transmitted by telefax or mailed by prepaid registered post addressed to:

- (i) in the case of notice to the Landlord to:
 - The Village of Point Edward
 - 135 Kendall St.
 - Point Edward, ON
 - N7V 4G6
- (ii) in the case of notice to the Tenant to:
 - Bluewater Anglers
 - P.O. Box 174
 - Sarnia, ON
 - N7T 7H9

or to such other address as either party may notify the other of, and in the case of mailings as aforesaid, such notice shall be deemed to have been received by the

addressee, in the absence of a major interruption in postal service affecting the handling or delivery thereof, on the fifth business day, excluding Saturdays, next following the date of mailing.

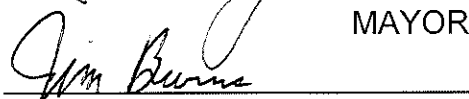
12. (a) All sums, for rent or otherwise, payable to the Landlord under this lease shall bear interest commencing the 30th day next following the failing due thereof, at the then current rate of interest charged to the Landlord by its bankers until the actual date of payment.
- (b) The Tenant shall pay to the Landlord all the Landlord's legal costs, on a solicitor and client basis, of all actions or other proceedings in which the Landlord participates in connection with, or arising out of the obligations of the Tenant under this lease or arising out of the Tenant's occupation of the Demised Area, except to the extent that the Landlord is not successful therein.
13. (a) No condonation, excusing or overlooking by the Landlord of any default, breach or non-observance of any of the Tenant's obligations under this lease at any time or times shall affect the Landlords' remedies or rights with respect to any subsequent (even if by way of continuation) default, breach of non-observance.
- (b) No waiver shall be inferred from or implied by anything done or omitted by the Landlord.
- (c) Any written waiver by the Landlord shall have effect only in accordance with its express terms.
- (d) All rights and remedies of the Landlord under this lease shall be cumulative and not alternative.
14. (a) The termination of the Term by expiry or otherwise shall not affect the liability of either party to this lease to the other with respect of any obligation under this lease which was accrued up to the date of such termination but not been properly satisfied or discharged.
- (b) The Tenant acknowledges that there are no covenants, representations, warranties, agreements or conditions expressed or implied, collateral or otherwise forming part of or in any way affecting or relating to this lease, which constitutes the entire agreement between the parties concerning the Demised Area and which may be modified only by further written agreement under seal.
15. If any one or more clauses or paragraphs or part or parts thereof in this Lease be illegal or unenforceable, it or they shall be considered separate and severable from the Lease and the remaining provisions of the Lease shall remain in full force and effect and shall be binding upon the parties hereto as though the said clause or part or parts of clauses had never been included.
16. The provisions of this lease shall be binding upon, and ensure to the benefit of the parties and their respective successors and (where applicable), permitted assigns.
17. The said Lease made in 2014 is hereby terminated.

IN WITNESS WHEREOF the parties have affixed their corporate seals attested to by the hands of their officers in that behalf duly authorized.

THE CORPORATION OF THE VILLAGE OF POINT EDWARD

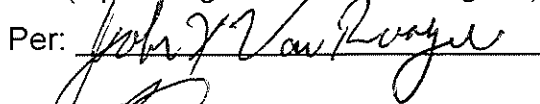


 MAYOR



 April 28, 2022 CLERK

467099 ONTARIO LTD. (Operating as Bluewater Anglers)

Per: 

Per: 
