

THIS LICENCE made in duplicate as of the 10 day of April, 2019.

BY AND BETWEEN:

THE CITY OF SAINT JOHN having its City Hall at 15 Market Square, Saint John, New Brunswick, a body corporate by Royal Charter, confirmed and amended by Acts of the Legislative Assembly of the Province of New Brunswick, hereinafter called the "Licensor",

OF THE FIRST PART

- and -

FOG CUTTER INC., a body corporate duly incorporated under the laws of the Province of New Brunswick, having its head office in the City of Saint John in the County of Saint John and Province of New Brunswick, hereinafter called the "Licensee",

OF THE SECOND PART

RECITALS:

WHEREAS the Licensor is the owner of the lands bearing PID number 18614 shown on Schedule A attached hereto and forming part hereof (hereinafter the "Lands");

AND WHEREAS the Licensee wishes to operate a mobile unit for the sale of food products in the Lands outlined in red on Schedule "A" (hereinafter the "Licensed Area");

AND WHEREAS the Licensor has agreed to give the within Licence under the terms and conditions hereinafter set forth;

NOW THEREFORE THIS LICENCE WITNESSETH that for and in consideration of the sum of Two Dollars of lawful money of Canada now paid by the Licensee to the Licensor, the receipt and sufficiency whereof is hereby acknowledged, the Licensor does hereby grant, subject to the terms, conditions, covenants and provisions herein contained, permission and Licence to the Licensee to enter into and upon and exit from the Lands for the sole purpose of using the Licensed Area to set up and operate a mobile unit for the sale of food products, hereinafter the "Fog Cutter Mobile Unit", for the term of this Licence, on the following terms and conditions.

IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. This Licence shall be for a period of four (4) months, beginning on June 1, 2019 and ending on September 30, 2019 (the "Term").
2. The Licensee shall pay to the Licensor for the permission and license herein given the sum of Three Thousand, Two Hundred and Thirty-six Dollars (\$3,236.00) (Canadian dollars) exclusive of HST payable in four (4) equal installments of eight Hundred and Nine Dollars (\$809.00) (Canadian dollars) each payable on the 1st day of each and every month from and including June 1, 2019 and including September 1, 2019.
3. The Licensor shall provide electrical power to the Licensee and the cost shall be included in the rent as per item two (2) above;
4. The Licence may be terminated at any time by the Licensor giving to the Licensee fifteen (15) days' written notice to terminate this Licence or by the Licensee giving to the Licensor a like notice.
- 5.. Notice to the Licensor shall be by email; in the case of the Licensor, to commonclerk@saintjohn.ca; and in the case of the Licensee, Fog Cutter Inc. notice shall be by email to chris@grannangroup.com.
6. Notwithstanding anything else herein contained, this Licence may be terminated forthwith without notice to the Licensee in the event that the Licensee shall, in the opinion of the Licensor, be in default of any of the terms and conditions of this Licence
7. No transfer or assignment of this Licence or of any of the rights or privileges herein granted shall be made, or caused or permitted to be made by the Licensee.
8. The Licensee hereby covenants and agrees with the Licensor as follows:
 - a) that they shall only use the Licensed Area for the location of the Fog Cutter Mobile Unit to be used only for the sale of food products and for no other purpose;
 - b) that they shall pay for all connection and operational costs associated with water and drainage for the Fog Cutter Mobile Unit and for the disconnection of same upon completion of the Term;
 - c) that the hours of operation will conform to daily retail hours, weather permitting and will not exceed 2:30 a.m. daily;
 - d) that only the Fog Cutter Mobile Unit is permitted in the Licensed Area (no passenger/cargo vehicles);

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- e) that they shall comply with all applicable Canadian Food Inspection Agency and other applicable regulations and legislation;
- f) that they shall not use the Licensed Area for any other purpose than that which is stated at paragraph a) hereof;
- g) that they shall keep the area around the Fog Cutter Mobile Unit clean and tidy at all times and clean up daily in the immediate area surrounding the Fog Cutter Mobile Unit. Clean up shall include the disposal of any/all debris associated with fast food delivery (pop cans, bottles, coffee, cups, napkins, plates, utensils and related articles) within a 40 foot diameter of the Fog Cutter Mobile Unit;
- h) that they shall, at no expense to the Licensor, obtain and maintain in full force and effect during the entire term of this Licence, a Commercial General Liability Insurance policy with policy limits of not less than five million dollars (\$5,000,000.00) inclusive per occurrence for bodily injury and property damage; which policy shall name the City as an additional insured and shall contain a cross-liability clause;
- i) that they shall, on or before June 1, 2019, submit to the City a Certificate of Insurance or other satisfactory evidence of having obtained and maintained the insurance coverage required at paragraph h) hereof;

IT IS FURTHER MUTUALLY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

- 9. No change or modification of this Licence shall be valid unless it is in writing and signed by the Licensor and the Licensee.
- 10. This Licence supersedes and takes the place of all prior agreements entered into by the parties with respect to the Licensed Area.
- 11. This Licence shall not be enforced or bind any of the parties thereto, until executed by all the parties named in it.
- 12. Notwithstanding any clauses herein, the Licensee does hereby indemnify and save harmless the Licensor from all damages, cost, claims, demands, actions, suits or other proceedings by whomsoever claimed, made, brought or prosecuted in any manner and whether in respect of property owned by others or in respect of damage sustained by others based upon or arising out of or in connection with the use of the Licensed Area and Fog Cutter Mobile Unit pursuant to the within Licence or anything done or purported to be done in any manner hereunder, except for damages caused by the City's negligence.

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THIS LICENCE shall enure to the benefit of and be binding upon successors and assigns of the parties hereto respectively.

SIGNED, SEALED & DELIVERED
In the presence of:

THE CITY OF SAINT JOHN

Mayor

Common Clerk

Common Council Resolution:
_____, 2019

FOG CUTTER INC.

Per: _____

President

Chris Grannan



SAINT JOHN

Fog Cutter Inc. Licence - 2019

