

THIS INDENTURE OF LEASE made as of the ____ day of August, 2024.

IN PURSUANCE OF The Short Forms of Leases Act.

B E T W E E N:

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE
(hereinafter called the “**Municipality**” or “**Kincardine**”)

OF THE FIRST PART

- and –

LISA STACEY
(hereinafter called the “**Lessee**” or “**Lisa Stacey**”)

OF THE SECOND PART

WHEREAS the Municipality is a municipal corporation in the Province of Ontario;

AND WHEREAS the Municipality is the owner of that parcel or tract of land municipally identified as 847 Saugeen Street, Kincardine and legally described as Lots 5, 6, 7 and 8, East Side of Saugeen Street, Original Plan of Penetangore in the Municipality of Kincardine, County of Bruce (the “**Subject Lands**”);

AND WHEREAS the Subject Lands are used for the purposes of a trailer park and campground (the “**Bluewater Trailer Park**” or “**Trailer Park**”);

AND WHEREAS the Municipality has agreed to enter into an agreement for the operation of the Bluewater Trailer Park with the Lessee for a period of three (3) years from October 2024 to October 21, 2027, subject to the terms and conditions of this Agreement;

AND WHEREAS the Parties understand and agree that it is the intention of the Municipality that this Agreement and Lease of the Subject Lands be terminated at the end of the three-year period being on October 31, 2027;

AND WHEREAS the Municipality has advised the Lessee that it will not renew this Agreement and at the end of the Lease Term expects the lands to be returned to the Municipality in accordance with the terms and conditions of this Agreement;

AND WHEREAS The Municipality has agreed to lease the Subject Lands and Bluewater Trailer Park for a fixed term of three (3) years to the Lessee on the terms and subject to the covenants and conditions set out in this Agreement;

AND WHEREAS Lisa Stacey acknowledges and agrees that they have all of the necessary and appropriate permits, licenses, insurance and any other approvals required by any governmental authority or regulatory body including but not limited to the Municipality ("**Applicable Laws**") to use the Subject Lands for the purposes set out in this Agreement;

AND WHEREAS Applicable Law or Applicable Laws means all applicable statutes, enforceable and published rules, guidelines and policies, regulations, laws, by-laws and ordinances of Canada, the Province of Ontario, municipalities or other Regulatory Authorities, including, without limitation, all Guidelines of the Ministry of the Environment, Conservation and Parks;

NOW THEREFORE THIS INDENTURE WITNESSETH that, in consideration of the mutual agreements and covenants and in consideration of the agreements hereinafter reserved and contained on the part of the Lessee to be paid, observed and performed, the Municipality has demised and leased and by these presents doth demise and lease unto the Lessee the Subject Lands.

RECITALS

1. The above recitals and true in substance and in fact and are hereby incorporated into this Agreement by reference.

DEMISE

2. The Municipality hereby demises and leases unto the Lessee the Subject Lands and Trailer Park. The Lessee acknowledges that it has accepted the Subject Lands and the Trailer Park in their existing condition (the lands subject to this lease are referred to as the "**Subject Lands**" or "**Demised Lands**").

TERM

3. This Lease Agreement shall start on October 31, 2024 ("**Lease Commencement Date**") and shall continue for a period of three (3) years until October 31, 2027, unless earlier terminated (the "**Term**").

OPTION TO RENEW

4. The Parties acknowledge and agree that there shall be no option to renew this Lease Agreement at the end of the Term.

RIGHT OF EARLIER TERMINATION

5. Either Party shall have the right to terminate this Lease: upon the Lessee providing the Municipality with a minimum of twelve (12) months written notice; or upon the Municipality providing the Lessee with a minimum of twelve (12) months written notice on or before January 15th annually advising that it requires the Subject Lands for a public purpose. The Lessee upon receipt of such written notification surrender this lease and

all of the remainder of the term, if any, as from the date mentioned in the written notice and shall vacate the Subject Lands and yield up to the Municipality the peaceful possession of the Subject Lands.

BASE RENT

6. Rent shall mean the amounts payable by the Lessee as set out in the chart below to the Municipality pursuant to this Article. In all cases the Rent is exclusive of any and all retail sales taxes, harmonized sales tax (HST), or value added tax imposed by any duly constituted governmental authority payable at law in respect of rent. The Lessee agrees that, along with the payment of Rent, the Lessee will pay any and all applicable retail sales tax, harmonized sales tax (HST) or value added tax, in all cases as Additional Rent.
7. The Lessee covenants to pay the Municipality, during the first year of the Term of this Lease for the Subject Lands and Trailer Park as and by way of Base Rent a total of THIRTY-THREE THOUSAND AND ONE HUNDRED AND FORTY DOLLARS (\$33,140.00 CND) plus all applicable taxes, annually in two payments payable as follows
 - (a) On or before May 31st annually an amount of SIXTEEN THOUSAND FIVE HUNDRED AND SEVENTY DOLLARS (\$16,570.00) plus all applicable taxes; and
 - (b) On or before June 30th annually an amount of SIXTEEN THOUSAND FIVE HUNDRED AND SEVENTY DOLLARS (\$16,570.00) plus all applicable taxes.
8. The Base Rent is calculated on the basis of a payment of 43 trailer park sites (individually referred to as “**Site**”) plus 2 transient sites at a rate of a \$770.70 per site. During the Term of this Lease in the event that the Lessee proves that there has been more than a 10% reduction in the number of Site Permits issued for any year the Municipality may upon receipt of a written request from the Lessee in its sole and absolute discretion consider reducing the amount of the Base Rent based on the percentage reduction in the number of Site Permits issued for any year at all times excluding the transient park sites from this calculation of Base Rent.
9. For every year thereafter Base Rent shall be increased in accordance with the CPI which shall then be the Base Rent for that particular year. For clarity the Base Rent for year 2 of the lease shall be calculated as follows:

Base Rent Year 1 + CPI increase = Base Rent Year 2;

Base Rent Year 2 + CPI increase = Base Rent Year 3.

CPI shall be defined as the rate set by the Bank of Canada.

ADDITIONAL RENT

10. The Lessee further covenants to pay all other sums required by this Lease to be paid by the Lessee and agrees that all amounts payable by the Lessee to the Municipality or to

any other party pursuant to the provisions of this Lease shall be deemed to be additional rent (hereinafter referred to as "**Additional Rent**") whether or not specifically designated as such in this Lease.

END OF TERM

11. On or before October 31, 2027 the Lessee shall peaceably give up and surrender possession of the Subject Lands and Trailer Park unto the Municipality upon the expiration of the Term or earlier termination of this Lease, as the case may be, in the condition and state of repair as of the Lease Commencement Date subject to normal wear and tear.

NET, NET LEASE

12. The Municipality and Lessee agree that it is their mutual intention that this Lease shall be a completely carefree net-net Lease for the Municipality and that the Municipality shall not, during the Term of this Lease, be required to make any payments in respect of the Subject Lands and Trailer Park:

- (a) and to effect the said intention of the Parties the Lessee shall pay the following expenses related to the Subject Lands and Trailer Park as Additional Rent:

- (i) business taxes and licenses;
 - (ii) any and all permitting fees including but not limited to *Planning Act* and *Building Code*;
 - (iii) utilities (including but not limited to gas, electricity, water, sewage disposal, waste disposal, heat, air conditioning, telephone, internet);
 - (iv) services supplied to the Subject Lands, provided that this does not in any way oblige the Municipality to provide any services, unless otherwise required of the Municipality by the terms of this Lease;
 - (v) property taxes and rates, duties and assessments;
 - (vi) maintenance, including but not limited to cleaning;
 - (vii) snow removal and landscaping maintenance;
 - (viii) security; and
 - (ix) insurance premiums;

herein referred to as "expense related additional rent".

- (b) and, if any of the foregoing charges set out above shall be invoiced directly to the Lessee, subject to any opportunity the Lessee may have to contest or appeal any

such charges at the Lessee's expense, the Lessee shall pay same as and when they become due and shall provide proof of payment to the Municipality immediately if requested so to do;

- (c) and the Lessee hereby agrees to indemnify and protect the Municipality from any liability accruing to the Municipality in respect of the expenses payable by the Lessee as provided herein;
 - (d) and, if the Lessee fails to make any of the payments required by this Lease, then the Municipality may make such payments and charge to the Lessee as Additional Rent the amounts paid by the Municipality; and, if such charges are not paid by the Lessee on demand, the Municipality shall be entitled to the same remedies and may take the same steps for recovery of the unpaid charges as in the event of Rent in arrears;
13. The expense related additional rent required to be paid by the Lessee under this Agreement shall be payable as part of the two annual payments made and on the same dates stipulated for the payment of the Rent and the Municipality shall at least once each year provide the Lessee with a statement providing such information as may be required to calculate accurately the amounts payable by the Lessee as expense related additional rent.
14. All Rent in arrears and all sums paid by the Municipality for expenses incurred that should have been paid by the Lessee shall bear interest from the date payment was due, or made, or expense incurred at a rate per annum equal to the prime commercial lending rate of the top five banks in Canada plus two (2) percent ("**Lease Interest Rate**").

UTILITIES

15. In addition to the rents and all other amounts payable hereunder, the Lessee shall be responsible to provide all utilities to the Subject Lands and Trailer Park required by the Municipality relating to the occupancy of the building for the permitted use including but not limited all electricity and water used for the purposes of the Trailer Park.

TAXES AND ASSESSMENTS

16. As of the Lease Commencement Date the Lessee shall pay all taxes, rates, local improvements rates, duties, charges, levies and assessments of every nature and kind whatsoever, whether school, municipal, provincial, parliamentary or otherwise, now charged or hereafter to be charged upon or against the Subject Lands or Trailer Park, any improvements to the Subject Lands and/or Trailer Park and/or the business of the Lessee carried on upon or from the Subject Lands or any part or parts thereof or upon or against the Municipality on account thereof; provided further, that if, by law, any of such taxes, rates, local improvement rates, duties, charges, levies and assessments are payable or may at the option of the taxpayer be paid in instalments, the Lessee may pay the same in instalments as the same respectively become due and before any fine or

penalty may be added thereto for non-payment of any such instalments. Evidence of such payment shall be given by the Lessee to the Municipality forthwith upon prior written demand by the Municipality.

CHANGE IN TAX STRUCTURE

17. In the event that there shall be any change in the basis upon which any of the taxes referred to in this Agreement are calculated, levied or assessed or in the event that any new realty taxes or business taxes are created by any federal, provincial or municipal authority, parliamentary or otherwise, all such taxes in respect of the Subject Lands and Trailer Park shall be paid by the Lessee in addition to the Base Rent and all other amounts payable hereunder, as of the Lease Commencement Date and the provisions of this Agreement shall apply, *mutatis mutandis*, to the payment thereof. It is the intent of the Parties hereto that all taxes, levies, charges and rates assessed against or in connection with the Subject Lands and / or Trailer Park and/or the business operations of the Lessee carried out thereupon and therein shall be paid by the Lessee.

DEFAULT IN PAYMENT

18. If the Lessee shall fail to pay when due any of the taxes, duties, charges, levies and assessments referred to in this Agreement any other taxes, charges, levies, rates or assessments as contemplated by this Agreement, or any other payment required to be made by it hereunder or resulting from the provisions hereof, then the Municipality may at its option and in addition to, and not in lieu of or in substitution for, any other rights that it may have under this Lease by reason of such failure to pay as aforesaid, pay the same and a sum equal thereto shall immediately become due and payable by the Lessee as rent and shall bear interest at the Lease Interest Rate from the date that the said payment is made by the Municipality until the date of payment by the Lessee to the Municipality of the amount expended by the Municipality as aforesaid. Any amount of monies paid by the Municipality in order to cure the default of the Lessee, together with the interest aforesaid, shall be payable on demand

REMEDY FOR DEFAULT

19. The Municipality may take the same steps for the recovery of all sums which it has paid pursuant to the provisions of this Agreement as it might take for the recovery of rent in arrears under this Lease, together with interest thereon at the Lease Interest Rate.

DISPUTE

20. If the Lessee has a *bona fide* dispute concerning the validity or correctness of any tax, rate, duty, charge, levy or assessment referred to in this Agreement, now or hereafter charged upon or in respect of it or the Subject Lands and Trailer Park and/or Improvements or any part or parts thereof, the Lessee shall not be in default hereunder so long as it is maintaining legal proceedings in respect thereof and prosecuting the same diligently and provided the Lessee pays all sums required to be paid by it

hereunder as the same become due. For greater certainty, the Lessee shall be entitled to initiate, conduct, and maintain any challenge or appeal of any imposed tax that it in its discretion deems appropriate, provided that it shall save the Municipality harmless with respect to any obligation or cost associated herewith.

LESSEE'S COVENANTS

21. The Lessee hereby covenants and agrees as follows:

- (a) to give the Municipality prompt written notice of any accident or other defect in the water pipes or any other utilities, infrastructure or services and any appurtenances thereto (collectively the “**Infrastructure**”) to the Subject Lands and Trailer Park;
- (b) to maintain the Infrastructure in a good workable manner at all times and in accordance with best practices and all Applicable Laws;
- (c) to contact the Municipality annually to blow out the water pipes prior to closing the Subject Lands and/or Trailer Park for the season and compensate the Municipality for any costs associate with this work;
- (d) to forthwith notify the Municipality of: any accident causing bodily injury or death; any substantial property damage; any spills/releases contrary to the *Environmental Protection Act* or that may result in an adverse effect; and/or any contravention of Applicable Law;
- (e) to be liable for any and all damages including but not limited to the water being left running from any taps situated on or accessible from the Subject Lands and/or Trailer Park;
- (f) to be responsible and liable for any and all damage to any property situated on the Subject Lands and/or Trailer Park caused by or arising from the Lessee’s neglect caused by any water, rain or snow that may leak into, or flow from any structure or from any plumbing works associated with any structure;
- (g) to comply with all Applicable Laws including but not limited to the *Residential Tenancies Act*, if applicable, and the *Environmental Protection Act*;
- (h) to establish the rules and regulations and enforce those rules and regulations associated with the operation of the Trailer Park situated on the Subject Lands and/or Trailer Park and such rules and regulations shall be in accordance with all Applicable Laws;
- (i) that upon the expiration or earlier termination of this Agreement, all fixtures belonging to the Lessee shall remain upon the Subject Lands and/or Trailer Park until taken down by the Municipality and the Lessee shall forthwith, upon the removal of such fixtures shall pay the Municipality the expense and costs

associated with the removal and repairing any damage arising from the removal of the fixtures;

- (j) that save and except as set out in this Agreement the Lessee shall not at any time erect or affix or remove, alter or change the location or style of any structures or buildings or the interior or any structures or buildings situated on the Subject Lands and/or Trailer Park;
- (k) to maintain the Subject Lands and Trailer Park in a clean and tidy state which shall be at the sole cost of the Lessee and shall be kept in a condition acceptable to the Municipality, acting reasonably;
- (l) that the Lessee shall not, during the Term set out in this Agreement, use the Subject Lands for any other purposes save and except for that of the Trailer Park;

INSURANCE

22. The Lessee shall maintain in force and effect for the duration of the term of this Agreement insurance that satisfies the following:
- a. such insurance shall provide comprehensive general liability insurance against claims for personal injury, death or property damage or loss arising in connection with the operation of the trailer park and campground and any ancillary services or facilities thereto on the Subject Lands;
 - b. such insurance shall provide primary coverage to the Municipality as an additional insured;
 - c. such insurance shall have limits of liability of at least Two Million (\$2,000,000.⁰⁰) Dollars per incident;
 - d. such insurance shall include a cross-liability clause protecting the Municipality against claims by the Lessee as if the Municipality was separately insured;
 - e. such insurance shall provide coverage which shall continue for the term of this Agreement; and
 - f. such insurance shall contain a clause that the insurer will not lapse, cancel, or change or refuse to renew the insurance without first giving the Municipality sixty (60) days' prior written notice;
23. Forthwith after the execution of this Lease Agreement, the Lessee shall provide the Municipality with evidence of the insurance to be provided as required by this

paragraph **Error! Reference source not found.** in the form of a certificate or certificates of insurance issued by an authorized agent of the insurer on the face of which certificate shall be the following endorsement:

The insurance evidenced by this certificate satisfies the insurance requirements of the Lease Agreement dated XXX, 2024 between the Corporation of The Municipality of Kincardine and Lisa Stacey.

24. The Lessee shall maintain the insurance specified in Articles **Error! Reference source not found.** and **Error! Reference source not found.** hereof in full force and effect during the whole of the Term of this Lease. The policies shall be issued in the name of the Lessee with the Municipality being named as an additional insured. If the Lessee shall fail to provide any of the insurance coverage that it is obligated to provide under this Agreement, then the Municipality may at its option and in addition to, and not in lieu of or in substitution for, any other rights that it may have under this Lease by reason of such failure, arrange suitable insurance coverage and a sum equal to the aggregate cost thereof shall immediately become due and payable by the Lessee as Additional Rent. Any further costs of deductibles incurred by the Municipality as a result of having to place insurance shall also become immediately due and payable by the Lessee as Additional Rent. All such policies of insurance shall contain a waiver of subrogation, as between the insurers and the Municipality and the Lessee.

INDEMNIFICATION

25. The Lessee shall defend, indemnify and save harmless the Municipality its elected officials, officers, employees, contractors, sub-contractors and agents from and against any and all claims of any nature, actions, causes of action, applications, demands, administrative penalties, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, personal injury, sickness, disease and/or death and/or damage to and/or destruction of tangible property including but not limited to loss of revenue or incurred expense resulting from or out of any occurrence in, upon or at the Subject Lands, or the occupancy or use by the Lessee of the Subject Lands or occasioned wholly or in part by any act or omission of the Lessee, disruption of service, arising out of or allegedly attributable to the acts, errors, omissions, nuisance, misfeasance, nonfeasance, negligence, breach of statute, fraud or willful misconduct of the Lessee, its agents, contractors, subcontractors, employees, servants, volunteers, licensees or concessionaires or by anyone permitted to be on the premise by the Lessee, or any of them, in connection with or in any way related to the this Lease Agreement and/or use of the Subject Lands. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Lessee in accordance with this Lease Agreement and shall survive the termination of this Lease Agreement.

LESSEE TO REPAIR

26. The Lessee shall, at its own cost and expense during the whole of the Term of this Lease, be responsible for the repair and maintenance of the Subject Lands and any improvements thereon and all parts thereof, and all of the Improvements. Such repairs shall meet the requirements of all municipal or governmental authorities and the fire insurance underwriters.

ALTERATIONS

27. The Lessee shall not construct or erect or make any alterations to the Subject Lands or Trailer Park or any other improvements on the Subject Lands (the "**Work**"), without the prior written approval from the Municipality, and Lessee shall submit in support of the request to construct, erect or make alterations to the Subject Lands or Trailer Park the following information unless it first submits to the Municipality in advance for review, comment and approval the following:
- (e) general description of the Work with proposed schedule of completion;
 - (f) the proposed location of any Improvements on the Subject Lands;
 - (g) detailed plans and specifications of the proposed buildings and any improvements proposed on the Subject Lands or to the Trailer Park;
 - (h) detailed plans and specification of any construction including but not limited to any grading or alteration of the Subject Lands and such plans shall be to the satisfaction of the Municipal Engineer, acting reasonably; and
 - (i) evidence satisfactory to the Municipality, acting reasonably, that the proposed Work meets the requirements of Applicable Law, including compliance with municipal by-laws and all zoning requirements.

EXECUTION OF WORK

28. The Lessee hereby covenants that any Work shall be completed in a good and workmanlike manner substantially in accordance with the plans and specifications submitted to the Municipality under the terms and conditions of this Agreement. All Work commenced by the Lessee shall be undertaken with reasonable diligence to completion and be completed within a reasonable time. All costs and expenses of obtaining any approvals, permits and licenses for undertaking and completing the Work shall be borne by the Lessee.

LIENS ARISING FROM WORK

29. The Lessee covenants and agrees that, commencing upon the Lease Commencement Date and thereafter throughout the Term, it will at its own expense cause any and all construction liens or other claims under which the claimant may be entitled to a lien, charge or encumbrance upon the whole or any part or parts of the Subject Lands or Trailer Park as a result of any work or service performed or materials placed or

furnished by or at the request of the Lessee after the Lease Commencement Date (the "Lien") to be released, discharged and vacated from title to the Subject Lands by payment of the Lien or by the order of a court of competent jurisdiction within ten (10) days of its receipt from the Municipality of notice of such Lien, failing which the Municipality shall be entitled to seek the discharge or release or have such Lien vacated and all monies paid by the Municipality in this regard, together with interest thereon at the Lease Interest Rate, shall be payable by the Lessee to the Municipality on demand.

USE OF THE SUBJECT LANDS

30. The Subject Lands and Trailer Park shall be used by the Lessee for the purposes of the Trailer Park only and any such other uses that are specifically approved in writing by the Municipality and in accordance with all Applicable Laws.

WASTE

31. The Lessee shall permit or commit no waste including but not limited to animal waste, organic waste, recyclables, garbage waste (collectively "**Waste**") to remain on the Subject Lands or Trailer Park and the Lessee shall be responsible for the appropriate removal and disposal of all waste.

NUISANCE

32. The Lessee will not do or omit or permit to be done or omitted upon the Subject Lands or Trailer Park anything that shall result in a nuisance. The Municipality acknowledges and agrees that the Lessee's operation of the Trailer Park shall not be considered a nuisance provided that the operation of the Trailer Park is in accordance with all Applicable Laws.

OBSERVANCE OF APPLICABLE LAWS

33. The Lessee shall not use the Subject Lands and/or the Trailer Park in any manner that may be considered hazardous or contrary to Applicable Laws. The Lessee shall comply with all Applicable Laws, permits, approvals and the lawful requirements of fire insurance underwriters relating to the construction, use and maintenance of any structures and buildings situated on the Subject Lands, the Trailer Park, and its operations thereon, and will indemnify the Municipality and save it harmless from each and every suit, claim, application, administrative charge or demand brought or commenced against the Municipality and all damages, losses, costs, charges and expenses (including reasonable counsel's and solicitor's fees) suffered or incurred by the Municipality, by reason of the failure of the Lessee so to do. Without limiting the generality of the foregoing, prior to the Commencement Date the Lessee shall have obtained any and all permits and approvals required pursuant to Applicable Law to conduct its operations.

EXPROPRIATION

34. If any expropriation of the Subject Lands or any part thereof takes place during the Term of this Lease, the Municipality and the Lessee shall negotiate or settle by suit or otherwise with the expropriating authority their respective damage claims arising from the said expropriation. Provided that nothing herein shall preclude the Lessee from bringing or maintaining any such claim or action, on its own behalf or otherwise, separate and independent from the Municipality or others claiming through or under the Municipality.

SIGNS

35. The Lessee shall have the right to erect, at its sole cost and expense, on the Subject Lands a sign or signs advertising its business operation; provided that such sign or signs are in compliance with Applicable Laws. The Lessee shall be responsible for and at its expense shall procure all necessary governmental permits and approvals prior to erecting any sign or signs.

EVENT OF DEFAULT

36. An event of default ("**Event of Default**") shall mean, during the Term of this Lease, any of the following:
- (a) the Lessee shall fail to pay any instalment of Rent, or other sum herein specified to be paid by the Lessee and such failure shall continue for thirty (30) days after the Municipality has in writing demanded the same;
 - (b) the Lessee shall fail to observe, perform or keep in any material respect any of its covenants, agreements or obligations hereunder and such failure is not cured within thirty (30) days (or such failure is not cured within a reasonable time if such failure cannot be cured within thirty (30) days) after the Municipality shall have given to the Lessee written notice of such failure.

DEFAULT DURING TERM

37. Upon the occurrence of an Event of Default at any time prior to the last day of the Term of this Lease, the Municipality may sue for rents and/or damages and to enforce any alleged breach of Last any covenant or condition of this Lease.

DEFAULT EXISTING ON DAY OF TERM

38. To the extent that an Event of Default exists or continues to exist on the last day of the Term of this Lease:
- (a) the Municipality shall be entitled to claim all amounts due hereunder, together with taxes, rates, duties, levies and other charges to be paid by the Lessee, or the accrued portion thereof, which shall immediately become due and payable and

such accelerated rent and taxes, rates, duties, levies and other charges shall be recoverable by the Municipality in the same manner as the rental hereby reserved and the Municipality may, at its option, re-enter the Subject Lands or Trailer Park or any part thereof in the name of the whole and resume actual possession thereof and thereafter shall have, possess and enjoy the Subject Lands and Trailer Park, and the other improvements as if this Lease had not been made; whereupon the Term of this Lease shall thereby become forfeited and determined; and

- (b) the Municipality may, in addition to the foregoing remedies and regardless of whether it does or does not re-enter the Subject Lands or Trailer Park or terminate this Lease, sue for rents and/or damages and to enforce any alleged breach of any covenant or condition of this Lease.

ASSIGNMENT - SUBLEASE

- 39. The Lessee shall not be entitled to assign, set over, transfer, sublet or sublease, hypothecate, encumber or in any way deal with or part with the whole or any part of the said Subject Lands or Trailer Park to anyone, for or during the whole or any part of this term, without written consent first being obtained from the Municipality provided however, and it is made a condition to the giving of such covenant that:
 - (a) the proposed assignee or sub-lessee of this Lease shall agree in writing to assume and perform all of the terms, covenants, conditions and agreements by this Lease imposed upon the Lessee herein in a form to be approved by the Municipality; and
 - (b) in the event of an assignment consent to by the Municipality the Lessee shall nonetheless remain responsible to the Municipality for the fulfillment of all obligations created by this Lease.

RETURN OF SUBJECT LANDS TO ORIGINAL STATE

- 40. Upon the expiration or earlier termination of this Lease, the Tenant shall surrender the Demised Lands to the Municipality and shall remove any Improvements or any other appurtenances save and except for the existing light poles, office and shower / washroom facilities, located on the Demised Lands. In addition, at the expiration or earlier termination of this Lease, the Tenant shall cause the Demised Lands to be returned to the Municipality in the condition that existed prior to this Lease and shall, upon written request by the Municipality, cause an environmental investigation for the Demised Lands to be completed by a qualified person agreed upon by the Municipality, acting reasonably, in accordance with the applicable regulatory requirements as set out in the *Environmental Protection Act* and the associated regulations and, in that connection the following provisions shall apply:
 - (a) The qualified person shall certify, as of the date of the expiration or earlier termination of this Lease, that the Demised Lands meet the applicable full depth generic site condition standards, or other approved standard(s) as agreed to in

writing by the Municipality, prescribed for all contaminants in the soil, ground water and sediment in relation to the uses approved by the Municipality for the Demised Lands in accordance with the *Environmental Protection Act* and the associated regulations within a period of three (3) months prior to the expiration or earlier termination of this Lease and shall, within that period, deliver to the Municipality a copy of the reports, analytical data and other documentation prepared by the qualified person including reliance letters in favour of the Municipality for all reports and documentation prepared by the qualified person confirming the same.

- (b) The Tenant acknowledges and agrees that at all times to maintain the Demised Lands in a clean, habitable condition, free of contamination or hazardous materials (normal wear and tear excepted). This clause shall survive the Termination of the lease.
- (c) The Tenant shall immediately upon becoming aware of any contamination, hazardous materials and/or pollutants existing on, in, under, migrating from, or migrating to the Demised Lands notify the Municipality.

NO AGENCY OR PARTNERSHIP CREATED

- 41. Nothing contained herein shall be construed by the parties hereto nor by any third party as creating the relationship of principal and agent or of a partnership or of a joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rental nor any other provisions contained herein nor any acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of Municipality and Lessee.

MUNICIPALITY MAY PERFORM COVENANTS

- 42. If the Lessee shall fail to perform any of its covenants, agreements or obligations under or in respect of this Lease within the time limits specified herein (including, without limiting the generality of the foregoing, the obligation to make from time to time payments to be made by it hereunder), the Municipality may, in addition to and not in lieu of or in substitution for any other rights that it may have under this Lease by reason of such failure, perform or cause to be performed any of such covenants, agreements or obligations or any part thereof and for such purpose may do such things as may be necessary or desirable to perform the same or cause the same to be performed, which shall, without limiting the generality of the foregoing, include entering upon the Subject Lands (forcibly or otherwise). All expenses incurred and expenditures made by or on behalf of the Municipality hereunder shall be deemed to be Additional Rent payable immediately by the Lessee hereunder, together with interest thereon at the Lease Interest Rate and the Municipality may take the same steps for the recovery of such expenses and expenditures as it might take for the recovery of rental in arrears under this Lease.

CUMULATIVE RIGHTS

43. No right or remedy conferred or reserved to the Municipality in this Lease is intended to be inclusive of any other right or remedy herein or by law provided, but each shall be separate and distinct and in addition to every other right or remedy given herein or now or hereafter existing at law.

TERMINATION - PRO-RATA APPORTIONMENT OF EXPENSES

44. In the event of termination of this Lease for any reason not occasioned by the default of the Lessee, then taxes, including local improvement rates, hydro rates, water rates, water meter charges, rentals, fire and other insurance premiums and other items of expense with respect to the operation of the Subject Lands and Trailer Park shall be pro-rated and apportioned between the Municipality and the Lessee as of the date of such termination.

GENERAL PROVISIONS

45. It is hereby mutually agreed between the Municipality and the Lessee that:
- (a) Any general repairs necessary to the Subject Lands and/or Trailer Park that are agreed by the Municipality and Lessee in writing to be undertaken at the expense of the Lessee must have the prior written approval of the Municipality;
 - (b) No waiver of any of the provisions contained in this Lease Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be construed as further or continuing waiver of any such provision or as a waiver of any provision contained in this Lease Agreement;
 - (c) Time shall in all respects be of the essence of each and every part of this Lease.
 - (d) This Lease Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter of this Lease Agreement and supersedes all prior agreements, representations, warranties, negotiations, discussions, and understandings, whether oral or written, express or implied, with respect to the subject matter of this Agreement. Time is and shall continue to be of the essence;
 - (e) The invalidity of any provision of this Agreement or any covenant herein contained on the part of any party shall not affect the validity of any other provisions or covenant hereof or herein contained;
 - (f) This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated, in all respects, as an Ontario contract. The Parties hereto irrevocably attorn to the exclusive jurisdiction of courts located in Goderich, Ontario, Canada;

- (g) Notwithstanding anything contained in this Agreement, neither party shall be liable to any other party for any lost profits, lost revenues or, failure to realize expected savings even if informed of the possibility thereof in advance;
- (h) The Lessee shall return to the Municipality the Subject Lands and/or Trailer Park at the termination of this Agreement, to the Municipality in good repair subject to reasonable wear and tear;
- (i) All improvements, equipment, chattels or fixtures placed on the Subject Lands and/or Trailer Park existing as of the date of this Lease Agreement shall become and remain the property of the Municipality save and except for those more particularly described in this Lease Agreement;
- (j) All major unattached furnishings and major appliances purchased at the expense of the Lessee, subsequent to the date of this Agreement, shall remain the property of the Lessee and shall be immediately removed from the Subject Lands and/or Trailer Park upon termination of this Lease Agreement;
- (k) if, without the prior written consent of the Municipality, the Subject Lands and Trailer Park shall be used by any other person than the Lessee, or for any other purpose than that for which they were leased, or upon the Municipality's becoming entitled to re-enter upon the Subject Lands and Trailer Park under any of the provisions of this Lease, or if the term of any of the goods or chattels of the Lessee shall be at any time seized or taken in execution or in attachment by any creditor of the Lessee, or if a writ of execution shall be issued against the goods or chattels of the Lessee and remain unsatisfied for ten days, or if the Lessee shall execute any chattel mortgage or bill of sale of any of its goods and chattels, or if the Lessee shall make any assignment for the benefit of creditors or any bulk sale or shall be adjudged bankrupt or insolvent by any court of competent jurisdiction under any legislation then in force or shall take the benefit of any Act that may be in force for bankrupt or insolvent debtors or shall attempt to abandon the Subject Lands and Trailer Park or to sell or dispose of its goods and chattels so that there would not remain after such sale or disposal a sufficient distress on the Subject Lands and Trailer Park in the opinion of the Municipality;
- (l) The Municipality has a right for re-entry of the Subject Lands and Trailer Park immediately upon any non-performance of covenants, subject to the provisions of this Lease Agreement;
- (m) In the event that the Lessee defaults in the performance of any covenants in this Lease and if such default shall continue for ten (10) days, (after receiving written notice) the Municipality may perform that covenant on the Lessee's behalf and may enter the Subject Lands and Trailer Park for the purpose of rectifying the default and shall not be liable to the Lessee for any loss or damage so caused. If the Municipality at any time is compelled or elects to incur any expense

including legal fees in instituting, prosecuting or defending any action or proceeding based upon any default of the Lessee under this Lease Agreement (including any action or proceeding against the Lessee) any reasonable sum including any legal fees paid by the Municipality, together with all interest and damages, shall be payable by the Lessee on demand;

- (n) No waiver of a breach of any of the covenants of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant;
- (o) The Municipality at all reasonable times, may enter upon and view the state of repair of the Subject Lands and Trailer Park and the Lessee agrees to comply with all reasonable requirements of the Municipality with regard to the care, maintenance, and repair thereof, to the extent that the Lessee is responsible under this Lease Agreement for such care, maintenance and repair;
- (p) At all times during its use of the Subject Lands and Trailer Park the Lessee shall comply with all of the Municipality's applicable by-laws, rules, policies and guidelines in addition to any applicable Provincial or Federal laws, regulations, policies, guidelines and directives that in any manner relate to or affect the Subject Lands and/or Trailer Park and the use of the Subject Lands and/or Trailer Park by the Lessee for the purposes set out in this Lease Agreement;
- (q) The Lessee shall not assign this Lease Agreement or sublet the Subject Lands and/or Trailer Park without obtaining the prior written consent of the Municipality and such consent may be arbitrarily withheld by the Municipality;
- (r) The Municipality covenants with the Lessee for quite enjoyment; and
- (s) All of the provisions of this Lease are to be construed as covenants and agreements as though words importing such covenants and agreements were used in each separate paragraph hereof, and all such provisions shall be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns.

FURTHER ASSURANCES

- 46. Each of the Parties hereto shall from time to time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to implement and carry out the true intent and meaning of this Lease Agreement.

NOTICE TO MUNICIPALITY

- 47. Any notice, delivery or payment to the Municipality hereunder shall be delivered personally, or by registered mail or email to the Municipality as set out below:

1475 Concession 5
Kincardine, Ontario N2Z 2X6
Attention: xxx
Tel:
Email:

and any such notice, delivery or payment so delivered or sent shall be deemed to have been well and sufficiently given or made and received upon delivery of the same during regular business hours between 9 a.m. and 5 p.m. any notice received after 5:00 p.m. shall be deemed to have been received on the next business day.

NOTICE TO THE LESSEE

48. Any notice, delivery or payment to the Lessee hereunder shall be delivered personally, or by registered mail or email addressed to the Lessee:

XXXX

any such notice, delivery or payment so delivered or sent shall be deemed to have been well and sufficiently given or made and received upon delivery of the same during regular business hours between 9 a.m. and 5 p.m. any notice received after 5:00 p.m. shall be deemed to have been received on the next business day.

CHANGE OF ADDRESS

49. Either of the parties hereto may change its address for the purpose of this Agreement by giving the other party hereto written notice of such change of address in writing.

REGISTRATION

50. The Parties agree that this Lease shall be registered by the Municipality on title to the Subject Lands.

ARBITRATION

51. Any and all disputes arising between the Parties hereunder shall be referred to the arbitration of three arbitrators, one to be nominated by the Lessee, one to be nominated by the Municipality, and the third to be appointed by the two so nominated before the reference is proceeded with and the decision of any two of the arbitrators shall be binding. A submission made under this Article shall be deemed to be a submission to arbitration within the provisions of the *Arbitration Act, 1991* (Ontario). The arbitrator(s) shall be instructed that time is of the essence in proceeding with the determination of any dispute and, in any event, the arbitration award must be rendered with sixty (60) days of the submission of such dispute to arbitration, or such other period as the parties may agree.

EXECUTION

52. This Agreements may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument and may be delivered by facsimile or other electronic communication.

One signature page to follow.

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

LISA STACEY

**THE CORPORATION OF THE MUNICIPALITY OF
KINCARDINE**

Per:

Mayor

I/We have the authority to bind the Corporation

Per:

Clerk

I/We have the authority to bind the Corporation