

Schedule "A" to By-Law Number 2056

The Corporation of the Town of Essex

By-Law Number 2056

Being a by-law to authorize the execution of a lease agreement between the Town of Essex and 2633698 Ontario Ltd. (o/a Vintage Grape) for property to operate two commercial viewing binocular devices in Colchester Park located at 325 Jackson Street, Harrow, Ontario

Whereas the Town is the owner of the property located at 325 Jackson Street, Essex, Ontario which has land for lease;

And Whereas 2633698 Ontario Ltd. (o/a Vintage Grape) is desirous of leasing space to operate commercial viewing binocular devices in Colchester Park located at 325 Jackson Street, Essex, Ontario.

And Whereas the Town is desirous of entering into a Lease Agreement with 2633698 Ontario Ltd. (o/a Vintage Grape) for leasing property to operate commercial viewing binocular devices as noted above.

Now therefore the Council of The Corporation of the Town of Essex hereby enacts as follows:

1. That the Mayor and Clerk are hereby authorized to execute a Lease Agreement between The Corporation of the Town of Essex and 2633698 Ontario Ltd. (o/a Vintage Grape) to lease space to operate commercial viewing binocular devices to be located at 325 Jackson Street, Essex, Ontario, as designated in Appendix "A" to By-Law 2056 a copy of which is attached hereto.

Read a first, second, and third time on August 23, 2021.

This by-law shall come into force and take effect upon the final passing thereof.

Mayor

Clerk

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This Agreement made in duplicate this 23rd day August 2021

In Pursuance of the Short Forms of Lease Act

Between:

The Corporation of the Town of Essex

"Corporation" or "Lessor"

and

2633698 Ontario Ltd. (o/a Vintage Grape)

"Lessee"

Witnesseth:

Whereas the Municipal Act, 2001, S.O. 2001, Chapter 25, provides the Municipality may, for its own purposes, exercise its powers under the culture, park, recreation, and heritage sphere of jurisdiction in the Municipality.

And Whereas Section 11 provides that the Municipality may pass By-Laws respecting matters relating to culture, parks, recreation, and heritage.

And Whereas the Corporation is the owner and Lessor of those certain premises within the land known as Colchester Park located at 325 Jackson Street, Essex, Ontario.

And Whereas the Lessee 2633698 Ontario Ltd. (o/a Vintage Grape) is a duly incorporated Ontario corporation desirous of operating commercial viewing devices within those certain premises within Colchester Park as further defined in this Lease.

And Whereas in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of 2633698 Ontario Ltd. (o/a Vintage Grape) to be paid observed and performed, the said Corporation hereby demises and leases unto the said 2633698 Ontario Ltd. (o/a Vintage Grape) all those lands and/or buildings located in the municipality of Essex and being more specifically described as follows:

Colchester Park – Outdoor space north of the Colchester Beach
accessible ramp which consists of approximately 20 square feet
located at 325 Jackson Street, Colchester

and being composed of the area as shown on Schedule "A" attached hereto (hereinafter called the "premises" or 2633698 Ontario Ltd. (o/a Vintage Grape) Leased Space"), upon the following terms and conditions:

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To have and to hold the premises for a two (2) year term (subject to an option for a further term of two (2) years as herein further described below), to be computed from the 1st day of September 2021, and ending on the 31st day of August 2023.

Yielding and paying therefore rental as follows:

The initial rental amount ("base rate") for the Lease for the initial two (2) year term shall be the annual rate of \$223.00 including applicable HST due and payable on the 1st day of the initial term and continuing annually thereafter for the duration of this lease. If the option to lease for a further term of two years is exercised, then the rental amount thereafter shall be the base rate but with the applicable Consumer Price Index (CPI) to be further incorporated into the base rate annually commencing on the first day of September of each year of this lease.

In the event that any payments required to be made by the Lessee hereunder are not paid when due then interest at the rate of 1.25 percent per monthly from the date when such overdue amounts were due to the date when such overdue amounts are paid shall accrue and due and payable as additional rent pursuant to this lease.

2633698 Ontario Ltd. (o/a Vintage Grape) covenants and/or warrants to the Corporation as follows:

1. To pay the rent when due and payable,
2. To pay all costs associated with the reasonable operation of the leased premises.
3. Lessee, except as herein otherwise specifically provided, shall, at Lessee's expense, repair, maintain and keep the Demised Premises and every part or portion thereof, in good, substantial repair and condition.
4. As a condition precedent to commencement of lease, 2633698 Ontario Ltd. (o/a Vintage Grape) to pay all costs to install the units to the satisfaction of the Town.
5. Not to assign or sublet the premises without the consent of the Corporation, such consent not to be arbitrarily or unreasonably withheld and 2633698 Ontario Ltd. (o/a Vintage Grape) shall pay the Corporation's reasonable expenses incurred thereby,
6. Not to carry on upon the premises any activities that may be deemed a nuisance or unlawful or by which the insurance on the premises will be increased, and further not to carry on any other business or activities other than the normal operations approved within this lease without the consent of the Corporation, such consent not to be arbitrarily or unreasonably withheld.
7. To leave the premises in good repair, reasonable wear and tear and damage by fire lightning and tempest only excepted,

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8. To maintain the premises including the exterior areas located at 325 Jackson Street, Colchester including all common areas, in good condition and free from litter.
9. That it has inspected the Premises and conducted such examinations and tests as it deems desirable. The 2633698 Ontario Ltd. (o/a Vintage Grape) acknowledges that the Lessor does not warrant or represent the condition of the Premises to the Lessee, and 2633698 Ontario Ltd. (o/a Vintage Grape) accepts the Demised Premises in its present condition.
10. That, except as herein otherwise specifically provided, 2633698 Ontario Ltd. (o/a Vintage Grape) assumes the entire responsibility for the condition, operation, maintenance and management of the Premises and Lessor shall have no responsibility whatsoever for same or for damage to the Lessee's property/contents located in and upon the Premises under any circumstances whatsoever.
11. That it shall throughout the term of this lease, at its own expense, keep in force for the benefit of the Corporation and 2633698 Ontario Ltd. (o/a Vintage Grape), comprehensive general liability insurance in respect of injury to or death of one or more persons or property damage with limits of not less than Two Million Dollars (\$2,000,000) per occurrence covering the leased premises described herein. The Corporation of the Town of Essex shall be named as an additional insured in the policy of insurance and the policy shall contain a cross liability and separation clause. Such policy of insurance shall not be changed, cancelled, or allowed to lapse without providing the Corporation with thirty (30) days' notice in writing. 2633698 Ontario Ltd. (o/a Vintage Grape) will provide a Certificate of Insurance for such comprehensive liability insurance upon entering into this Lease Agreement,
12. That it shall throughout the term of this lease, at its own expense, keep in force insurance against loss or damage by fire on any equipment, inventory and supplies owned by 2633698 Ontario Ltd. (o/a Vintage Grape) and maintained on site,
13. That it will indemnify Lessor and save Lessor harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, or Lessee's agents, contractors, employees, servants, licensees, invitees or the Lessor.
14. That it shall not make any alterations, additions or improvements to the leased premises at its own expense without first submitting the plans and specifications (including materials to be used) thereof to the Corporation and without first obtaining

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approval in writing of the Corporation, such approval may not be unreasonably withheld. 2633698 Ontario Ltd. (o/a Vintage Grape) shall further covenant be responsible for any applicable fees and all applicable inspections and the costs thereof, including but not limited to, those of the Town of Essex Fire and Building Departments.

The Corporation covenants with 2633698 Ontario Ltd. (o/a Vintage Grape)

1. To provide 2633698 Ontario Ltd. (o/a Vintage Grape) with quiet enjoyment of the premises, and

Provided that 2633698 Ontario Ltd. (o/a Vintage Grape) is not in breach of the terms of this Agreement, 2633698 Ontario Ltd. (o/a Vintage Grape) may remove its fixtures, at the termination or end of this Agreement, provided such removal may be, and is done without injury to the premises.

Provided that in the event of damage to the premises by fire, lightning or tempest, rent shall cease until the premises are rebuilt.

Provided that, where the premises become vacant or inactive (other than in the normal course of business) and so remain for a period of thirty (30) days, it shall be presumed that 2633698 Ontario Ltd. (o/a Vintage Grape) has abandoned the premises and the Corporation may take immediate possession of the premises.

Proviso for re-entry by the Corporation on non-payment of rent or non-performance of covenants, provided that such re-entry shall, at all times, be in accordance with the provisions of The Commercial Tenancies Act.

Provided 2633698 Ontario Ltd. (o/a Vintage Grape) has not been in default during the term of this Lease and it is mutually agreeable between the Corporation and 2633698 Ontario Ltd. (o/a Vintage Grape), 2633698 Ontario Ltd. (o/a Vintage Grape) shall have and is hereby granted, an option to extend the term of this Lease for an additional 2 year period upon providing such notice is in writing to the Corporation 90 days prior to the end of this Lease term, with such renewal to begin upon the expiration of the term of this Lease. If the option to lease for a further term of two years is exercised, then the rental amount thereafter shall be the base rate but with the applicable Core Consumer Price Index (CPI) as of April of the current year plus Harmonized Sales Tax (HST) to be further incorporated into and added to the base rate annually commencing on the first day of September of each annual renewal of this Lease.

Provided that, if at the end of the Term of the lease or any renewal thereof, whether by effluxion of time or any other reason, the Lessor permits Lessee to remain in possession of the Premises and accepts rent in respect thereto, a tenancy from year to year shall not be created

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by implication of law but the Lessee shall be deemed to be a monthly Lessee only subject in all respects to the provisions of this Lease.

Provided that the Corporation shall have the right to cancel this Lease Agreement at any time during the term of the Agreement for reason of any default by Lessee under this lease such default being a failure to pay rent when due or a failure to perform its covenants or any other of its obligations under this lease and such default has not been remedied within 5 days written notice of such default.

Provided further that the Corporation shall have the right to cancel this Lease Agreement at any time during the term of the Agreement as a result of declaring the premises surplus or determining another use for the premises, upon providing notice in writing to 2633698 Ontario Ltd. (o/a Vintage Grape) of at least ninety (90) days.

It is hereby declared and agreed that the expressions "Corporation" and "2633698 Ontario Ltd. (o/a Vintage Grape)" wherever used in this Indenture, shall, when the context allows, include, be binding on and enure to the benefit of not only the parties hereto, but also their respective executors, administrators, and assigns.

And it is further agreed between the parties hereto that wherever the singular and masculine are used throughout this Lease they shall be construed as if the plural or feminine had been used, where the context or the party or parties hereto so require, and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered had been made.

Lessor and Lessee acknowledge and agree that each has joined in and contributed to the drafting of this Lease and as a result there shall be no presumption in construing the provisions of this Lease favoring or burdening either Lessor or Lessee based upon draftsmanship or similar rule of construction. Lessor and Lessee further acknowledge and agree that each have had the opportunity to consult and obtain independent legal and professional advice in conjunction with this lease and its obligations thereto.

This Lease may be executed in any number of separate counterparts, each of which, when executed and delivered, shall be an original, but such counterparts shall together constitute one and the same document. Delivery of an executed counterpart of this Lease with a facsimile signature shall have the same binding effect as delivery of an executed original.

The following addresses are provided for the Corporation and the 2633698 Ontario Ltd. (o/a Vintage Grape) for purposes of providing notice:

Corporation: The Corporation of the Town of Essex
33 Talbot Street South, Essex, Ontario, N8M 1A8
Telephone: 519-776-7336

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Organization Name: 2633698 Ontario Ltd. (o/a Vintage Grape).
135 Dunn Road
Harrow, Ontario, N0R 1G0
Attention: Brian McGinty
Telephone: 519-796-5282
Email: brianmcginty535@hotmail.com

In Witness Whereof the said parties hereto have duly executed this Agreement.

Signed, Sealed and Delivered in the presence of:

2633698 Ontario Ltd. (o/a Vintage Grape)

Witness as to signature of

Authorized Signing Officer

Signed, Sealed and Delivered in the presence of:

The Corporation of the Town of Essex

Witness as to signature of

Mayor, Larry Snively

Witness as to signature of

Clerk, Robert Auger

We have authority to bind the Corporation

Receipt of Lease Agreement:

I hereby acknowledge receiving a duplicate original copy of the herein Lease Agreement.

2633698 Ontario Ltd. (o/a Vintage Grape)

Date of Signature

Authorized Signing Officer

Date of Signature

Authorized Signing Officer

Schedule 'A' – 2633698 Ontario Ltd. (o/a Vintage Grape) Leased Space

