

THIS LICENCE AGREEMENT MADE _____,

BETWEEN:

THE CITY OF EDMONTON

(the "City")

- and -

NAME OF LICENSEE

(REMOVE THIS SPACE IF ONLY ONE LINE NEEDED)

(the "Licensee")

WHEREAS:

- A. The Municipal Rights-of-Way within the city of Edmonton are owned by, or are under the direction, control and management of the City.
- B. The Licensee has requested that the City grant a licence of occupation to temporarily operate a sidewalk patio and to install a boardwalk on the adjacent roadway within the Municipal Rights-of-Way.
- C. Pursuant to Bylaw 5590 – Traffic Bylaw (the “Traffic Bylaw”), the Licensee is required to obtain a permit from the City to use the Municipal Rights-of-Way.
- D. The City has agreed to grant the said permit via this Agreement to the Licensee on certain terms and conditions.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the sum of One Dollar (\$1.00) paid by the Licensee to the City in accordance with this Agreement, and of other good and valuable consideration, the parties agree as follows:

1.00 DEFINITIONS

1.01 This Agreement generally adopts the definitions used in the Traffic Bylaw. To the extent that any term specifically defined in this Agreement is inconsistent with the definitions used in Traffic Bylaw, the specific definition in this Agreement shall govern.

1.02 For the purposes of construing this Agreement, its recitals, its annexed schedules, and any other document or undertaking delivered in accordance with or in

furtherance of the purposes of this Agreement, unless there is something in the subject matter or content inconsistent therewith, the following definitions shall apply:

- (a) **"Agreement"** and the words **"herein"**, **"hereto"**, **"hereunder"**, and similar expressions mean or refer to this Agreement, the attached schedules, and all amendments hereto.
- (b) **"Boardwalk Sidewalk"** means a platform with a Guard located in the curb lane that accommodates a pedestrian walking path pursuant to Article 2.0.
- (c) **"City tree(s)"** means all trees and shrubs located on City-owned land including, but not limited to, titled City land, parkland, road right of way, and urban services zones;
- (d) **"Emergency"** means an unforeseen situation where immediate action must be taken to preserve the environment, public health, safety, or an essential service of the City;
- (e) **"Guard"** means a protective barrier in place to prevent falls and is typically located on the open side(s) of parklet patio or Boardwalk Sidewalk platforms.
- (f) **"Hazardous Substance"** means any harmful substance including, without limitation, electromagnetic or other radiation, contaminants, pollutants, dangerous substances, dangerous goods and toxic substances, as defined, judicially interpreted or identified in any applicable law (including the common law);
- (g) **"Municipal Rights-of-Way"** or **"MROW"** means the highways, roads, streets, road allowances, lanes, boulevards, alleys, walkways, or other public spaces within the city of Edmonton and owned by or under the direction, control, and management of the City. The MROW shall specifically exclude land for which a Certificate of Title is registered in the Land Titles Office in the name of the City;
- (h) **"Patio Furnishings"** means tables, chairs, umbrellas, plants and planters, string lights, heaters, audio visual equipment and their ancillary components that are installed by the Licensee to activate a patio.
- (i) **"Patio Railing"** means a rail system that delineates space such as decorative rails, stanchions or similar types of barrier systems.
- (j) **"Patio Structures"** means platforms, Patio Railings, Guards or other structures installed by the Licensee pursuant to Article 2.0.
- (k) **"Street Furniture"** means poles, traffic control devices, waste receptacles, benches, bus enclosures, trees, utilities, planters, bicycle racks, newspaper box racks (U-bars), and any other similar property located within the MROW.

2.0 GRANT OF ACCESS

2.01 The City hereby grants to the Licensee a non-exclusive licence to locate, operate and maintain a partial sidewalk patio on the MROW as described and shown marked in red on Schedule "A" (the "Licence Area") which is attached to and forms part of this Agreement for the duration of the Term of this Agreement.

2.02 The Licence Area granted is for a year round patio and the area shown marked in red on Schedule "A" may be used at any time during the Term of this Agreement subject to the provisions of Article 5.0 herein.

or

The Licence Area granted is for a seasonal patio and may only be used from April 1st through to October 31st during each year of the Term of this Agreement. All Patio Structures and Patio Furnishings and equipment therein or thereon the Licence Area must be removed from the MROW by the Licensee from November 1st through to March 30th during each year of the agreement. For further clarity, in no instance shall the Licence Area be used for storage of Patio Structures or Patio Furnishings during the November 1st through to March 30th time period.

2.03 Should the City, at its sole discretion, need to perform seasonal road cleaning or maintenance activities in or on the Licence Area, the Licensee may be required to temporarily remove or relocate Patio Structures, Patio Furnishings and any equipment therein or thereon the Licence Area as directed by the City.

2.04 The capacity of the patio must not exceed 60 people.

2.05 No cooking or food/drink preparation may be conducted in the Licence Area.

2.06 No portable toilets or stages may be placed within the Licence Area.

2.07 A fire extinguisher (minimum 2A-10BC) shall be available within 23m (75ft) of any part of the Licence Area at all times.

2.08 The Licensee shall, at all times, ensure that any Patio Structures or Patio Furnishings placed with the Licence Area do not block any building exit or impede the exit path to safety.

2.09 The Licensee shall, at all times, locate a minimum 2.0m walking path on the sidewalk adjacent to the Licence Area as identified on Schedule "A", and shall be prohibited from placing or installing Patio Structures or Patio Furnishings of any sort on or to the 2.0m walking path on the sidewalk. For further clarity, any portion of the sidewalk not included in the Licence Area as identified in Schedule "A" shall not be used for the purposes of locating a partial sidewalk patio, or shall not be obstructed in any way by Patio Structures, Patio Furnishings or patio operations.

2.10 All Patio Structures and Patio Furnishings by the Licensee shall be:

- (a) constructed and supported to not damage any public property;
- (b) temporary, such that all elements, including supports and anchors can be removed within twenty-four (24) hours; and,
- (c) no structure shall be placed in the Licence Area without the prior written approval of the City.

2.11 The Licensee shall not alter any City trees, Patio Structures or installations in the Licence Area without prior written approval from the City.

2.12 All patio areas must be suitably defined by a patio perimeter treatment in accordance with the following requirements:

- (a) patio perimeter treatments on a sidewalk may be in the form of a Patio Railing or a Guard; and,
- (b) any gates in the Patio Railing or Guard must not swing into the pedestrian clear path, the adjacent road space or parking lane; and,
- (c) any Patio Railings or Guards must not be affixed to any building facade; and,
- (d) any Guards must be constructed in accordance with the Specifications outlined in Schedule "B".

2.13 There shall be no excavation or alteration of any curbs, sidewalks, roads, streets, alleys, landscaping or boulevards by the Licensee without the prior written consent of the City except that any Patio Railing, Guard, or platform can be affixed on the MROW using the following specifications:

- (a) Affixture to asphalt may only be with butyl pads or similar adhesive systems.
- (b) Affixture to concrete may only use a 9.52mm (3/8") stainless steel drop-in anchor with a minimum spacing of 95.25mm (3¾") and a minimum distance from any edge of the concrete of 114.30mm (4½"). When the anchor is removed a 9.52mm (3/8") stainless steel flat head socket cap must be inserted in any remaining anchors and the anchor must be countersunk so that the socket cap is flush with the sidewalk.
- (c) No affixture to paving stone surfaces is permitted except where the City has approved the affixture in writing.
- (d) Affixture must not endanger any underground utilities.

2.14 The Licensee may place planters, umbrellas, string lights, and vertical posts within the Licence Area such that they are placed and maintained in accordance with the specifications outlined in Schedule "B" and in accordance with Clause 2.17 where applicable.

2.15 The Licensee shall not use any solid-, gel-, or liquid-fuel fire features or heaters that are not freestanding and have fuel service connected to a building. The Licensee may use freestanding heaters within the Licence Area such that they are placed and maintained in accordance with the specifications outlined in Schedule “B” and Clause 2.17 where applicable.

2.16 The Licensee shall not use any audio-visual equipment in the Licence Area unless the Licensee has submitted a noise mitigation plan to the City, and the City has provided written approval of the audio-visual equipment and the noise mitigation plan. All approved audio-visual equipment must be placed and operated in accordance with the specifications outlined in Schedule “B” and Clause 2.17 where applicable.

2.17 Power for any Patio Furnishings located in the Licence Area shall only come from the main electrical panel or a metered power source that the Licensee is responsible for. City-owned power receptacles cannot be used under any circumstances and no connections to underground utility lines are allowed. All power must be operated in accordance with the specifications outlined in Schedule “B”.

2.18 Any Patio Structure or Patio Furnishings associated with the sidewalk patio cannot be attached to any Street Furniture or City tree without the written consent of the City, which consent may not be unreasonably withheld.

2.19 All costs and expenses of installation, placement, maintenance or repair of the partial sidewalk patio, the Licence Area or any portion or Patio Structure or Patio Furnishings therein or thereon shall be borne by the Licensee except as otherwise agreed to in writing by the City.

2.20 Any traffic control devices for the Licence Area shall be provided and installed by the City, unless the City has provided prior written approval to the Licensee to permit installation of its own traffic control devices. The Licensee shall not move, remove or otherwise disturb the traffic control devices without express written permission from the City.

2.21 The Licensee acknowledges that the traffic control devices are being provided on an ‘as is’ basis. If the Licensee identifies that the traffic control devices require repair, maintenance or reinstallation, the Licensee shall make efforts to inform the City by submitting a request to the City’s 311 service.

2.22 The Licensee shall be responsible for any loss of or damage to City owned trees that fall within the boundary of the Licence Area and that is deemed to be a result of the temporary patio or its operation pursuant to Bylaw 18825 - Public Tree Bylaw.

2.23 The Licensee shall, at all times, meet the requirements identified by the City’s Urban Forester as it relates to City trees. In particular, without limiting the generality of the foregoing, the Licensee shall:

- (a) Maintain a minimum separation distance of 1.0m between any Patio Structures, or Patio Furnishings and the edge of the tree grate of a City tree except where the City's Urban Forester has provided consent for a separation distance that is less than 1.0m as identified on Schedule "A"; and
- (b) Only install Patio Structures or Patio Furnishings in proximity to a City tree with a diameter of less than 14cm at 1.4m above the surface of the tree grate when the City's Urban Forester has provided consent for the installation as identified on Schedule "A".
- (c) Ensure rainwater is not obstructed from reaching the tree's roots, or complete watering obligations as directed by the City's Urban Forester.
- (d) Ensure that physical contact between City trees and patio patrons is limited.

2.24 The City, and all persons authorized by the City, shall have access to the Licence Area at all times and may perform any work or repairs which it deems necessary without any prior notice to the Licensee including, but not limited to, work and repair with respect to utilities, highways and sidewalks.

3.00 TERM

3.01 The Agreement shall commence on **[START DATE of LOO]** and shall terminate on **March 31, 2027** unless otherwise terminated in accordance with the terms of this Agreement.

4.00 PERMITS

4.01 Prior to the installation of any Patio Structures or Patio Furnishings in, on, under or across the Licence Area, and in addition to this Agreement, the Licensee shall provide to the City plans showing the location of the proposed Patios Structures or Patio Furnishings in such detail as required by the City and shall obtain all necessary permits and inspections for such Patio Structures or Patio Furnishings.

4.02 Prior to the commencement of any installation, maintenance or removal of any Patio Structures or Patio Furnishings within Licence Area, the Licensee shall obtain an On-Street Construction and Maintenance Permit ("OSCAM Permit") as necessary, from the City and provide to the City plans showing the location of the proposed installation in such detail as required by the City. The Licensee must meet all conditions of the OSCAM Permit, and without limiting the generality of the foregoing, conditions in relation to traffic safety as described in the OSCAM Permit.

4.03 This Agreement does not constitute a development permit, building permit and/or safety codes permit and does not derogate from the Licensee's responsibility to obtain all necessary permits for any work or installation in the License Area or on the Licensee's private land. See Schedule "C" for a non-exhaustive list of some common

examples when a permit may need to be obtained, notwithstanding it is the Licensee's sole responsibility to obtain all necessary permits.

5.00 MAINTENANCE AND REPAIR

5.01 The Licensee shall, at all times, at its sole cost and expense, maintain the Licence Area, and all Patio Structures, Patio Furnishings and equipment therein or thereon in a safe, clean and sanitary condition and in good and substantial repair, including any damage resulting from vandalism or theft. In particular, without limiting the generality of the foregoing, the Licensee shall:

- (a) Provide contact information to support management of citizen inquiries related to the patio's maintenance and repair;
- (b) Keep the Licence Area and all Patio Structures, Patio Furnishings, and equipment therein or thereon clear of any projections creating a danger or potential danger to the public;
- (c) Ensure that the Licence Area, Patio Structures, Patio Furnishings, and sidewalks adjacent to the patio area are clear of any ice, pooling water, leaves, and debris in accordance with the Community Standards Bylaw.

Failure to comply with this provision shall be considered a fundamental breach of this Agreement.

5.02 Where Clause 2.02 herein identifies that the Licensee is operating a year round patio, in addition to the requirements outlined in Clause 5.01, the Licensee shall complete the following winter maintenance and repair obligations:

- (a) Regularly maintain and clear snow from the minimum 2.0m walking path to ensure safe passage for residents throughout the winter;
- (b) Regularly clear snow and falling snow/ice from rooftops/awnings from the Licence Area, Patio Structures, Patio Furnishings and sidewalks adjacent to the Licence Area;
- (c) Ensure that no snow is stacked, piled or stored within the Licence Area or on any Patio Structures or Patio Furnishings therein or thereon;
- (d) Where snow from the Licence Area is stacked or stored on private property it must not obstruct the 2m walking path or affect sightlines at intersections or vehicle access points in any way;
- (e) Slip-resistant treatments must be applied and maintained on any platforms accommodating a parklet patio or Boardwalk Sidewalk;

Failure to comply with this provision shall be considered a fundamental breach of this Agreement.

5.03 If damage to the MROW occurs in connection with the Licensee's occupation or use of the MROW or the occupation or use of the MROW by its contractors, the

Licensee shall repair the MROW to the satisfaction of the City. In the event that the Licensee fails to repair the MROW, the City may, at its option, repair the MROW at the cost and expense of the Licensee.

5.04 In addition to any other obligations pursuant to this Article 5.00, the Licensee shall maintain the Licence Area in accordance with the City of Edmonton's Community Standards Bylaw (C 14600).

6.00 HAZARDOUS SUBSTANCES

6.01 Notwithstanding any other provision contained in this Agreement, it is expressly understood and agreed to by the Licensee that there are no agreements, conditions, warranties or representations relating to the MROW. The Licensee further agrees that the City does not give any warranty as to the quality, condition or sufficiency of the MROW for any use or purpose, or as to the presence or absence of Hazardous Substances on or under the MROW and the MROW is used by the Licensee at its own risk with all faults and imperfections whatsoever and on a strictly "as is, where is" basis.

6.02 The Licensee must immediately report any escape, discharge, leak, spill or release of any Hazardous Substance or the presence of a Hazardous Substance that the Licensee may discharge, leak, spill, release or discover while carrying out work within the MROW to all of the following:

- (a) the City;
- (b) Edmonton Fire Rescue Services at 311, or 911 in an emergency;
- (c) Alberta Environment and Sustainable Resource Development; and
- (d) any other regulatory authority with jurisdiction.

7.00 ENVIRONMENTAL LIABILITY

7.01 The City is not responsible, either directly or indirectly, for any damage to the natural environment or property, including any nuisance, trespass, negligence, or injury to any person, howsoever caused, arising from the presence, deposit, escape, discharge, leak, spill or release of any Hazardous Substance in connection with the Licensee's occupation or use of the MROW, unless such damage was caused directly or indirectly by the negligence or wilful misconduct of the City or those for which it is responsible in law.

7.02 The Licensee agrees to assume all environmental liabilities, claims, fines, penalties, obligations, costs or expenses whatsoever relating to its use of the MROW, including, without limitation, any liability for the clean-up, removal or remediation of any Hazardous Substance on or under the MROW that result from:

- (a) the occupation, operations or activities of the Licensee, its contractors, agents or employees or by any person with the express or implied consent

of the Licensee within the MROW; or

- (b) any installation brought or placed within the MROW by the Licensee, its contractors, agents or employees or by any person with the express or implied consent of the Licensee;

unless such damage was caused directly or indirectly in whole or in part by the negligence or wilful misconduct on the part of the City or those for which it is responsible in law.

8.00 EMERGENCY

8.01 In an Emergency or situation of necessity, or the activities of the Licensee on the MROW which constitutes a danger or potential danger of bodily injury or substantial damage to property, the Licensee shall use its best efforts to provide telephone notice to the City prior to commencing any emergency repair. If advance notice cannot be provided by the Licensee, the Licensee shall provide notice to the City as soon as reasonably possible thereafter. The Licensee shall forthwith take all steps or cause all steps to be taken, at its sole cost and expense, to handle the Emergency in as timely a manner as possible and shall restrict the use of the MROW by the City as minimally as possible in the circumstances.

8.02 Notwithstanding the provisions of Clause 8.01 herein, in the event of an Emergency, the City may take any measures deemed necessary to alleviate the Emergency as the City shall determine, and the Licensee shall reimburse the City for all expenses thereby incurred as a result of the operations of the Licensee, or the failure of the Licensee to comply with Clause 8.01 herein.

9.00 INDEMNIFICATION

9.01 The City will not be responsible in any way for any injury to any person or any loss or damage to any property however caused, belonging to the Licensee or to employees, agents, invitees or licensees of the Licensee while such person or property is in or about the Licence Area. In no event shall the City be liable to the Licensee for any indirect or consequential damage howsoever and whensoever caused, including, without limiting the generality of the foregoing, loss of profits or revenue, whether or not they would otherwise be considered indirect or consequential loss.

9.02 The Licensee shall:

- (a) be liable to the City for, and
- (b) indemnify and save harmless the City, its servants, agents and employees from and against; any and all losses, liabilities, claims, suits, actions, demands, expenses, damages and costs (and without limiting the generality of the foregoing, including solicitor and client costs) which may be brought or made against the City or which the City may pay or incur

and which arise out of or in connection with:

- i. any of the rights, licences or privileges granted to the Licensee pursuant to this Agreement;
- ii. any breach, violation or non-performance of any covenant, condition or agreement in this Agreement to be fulfilled, kept, observed or performed by the Licensee;
- iii. any damage to any property or injury to a person or persons, including death resulting at any time therefrom, occasioned by the use of the Licence Area by the Licensee, its servants, agents, employees licensees, or invitees;
- iv. any damage to any property or injury to a person or persons, including death resulting at any time therefrom, arising from the escape, discharge or release of any gaseous, liquid, or solid hazardous substances including, but not limited to, petroleum products and byproducts, industrial wastes, contaminants, pollutants, dangerous substances, and toxic substances, as defined in or pursuant to any law, ordinance, rule, regulation, bylaw or code, whether federal, provincial or municipal, occasioned by the use of the Licence Area by the Licensee, its servants, agents, employees or licensees;

excepting such losses, liabilities, claims, suits, actions, demands, expenses, damages and costs arising from the sole negligence of the City, its servants, agents or employees.

9.03 This Article 9.00 Indemnification shall survive the termination of this Agreement.

10.00 INSURANCE

10.01 Throughout the Term of this Agreement, the Licensee shall maintain in full force and effect the following insurance coverage:

- (a) General Liability insurance in an amount not less than Two Million (\$2,000,000.00) Dollars per occurrence for personal injury and/or property damage. This policy shall be endorsed to include the following:
 - i. Contractual Liability (including this Agreement);
 - ii. Products and Completed Operations;
 - iii. Tenant Legal Liability;
 - iv. Host Liquor Liability;
 - v. The City shall be added as an additional insured.
- (b) Property insurance for the full value of the Licensee's stock, equipment and improvements as applicable.

10.02 The insurance coverage policies in this Article 10.00 must be endorsed to provide the City with thirty (30) days prior written notice of cancellation or material change, and shall be in a form acceptable to the City. Evidence of such policies shall be submitted to the City on the Certificate of Insurance form provided to the Licensee and will be duly completed by the Licensee's broker and/or insurer. The Licensee's broker shall promptly supply certified copies of such endorsements if requested by the City.

10.03 As an alternative to submitting the Certificate of Insurance, the Licensee or the Licensee's broker may provide a certified copy of the aforementioned policies. Such policies shall be properly endorsed and in a form acceptable to the City. Evidence of renewal of coverage, shall be provided to the City prior to expiry in a form acceptable to the City.

10.04 Upon request by the City, the Licensee shall provide additional insurance if this is deemed necessary due to changing conditions.

10.05 The Licensee shall be responsible for the payment of all deductibles and uninsured losses. The types and amounts of insurance shall not limit the Licensee's obligations under this Agreement.

10.06 The Licensee hereby acknowledges that breach of any requirement under this Article 10.00 Insurance, will be considered a fundamental breach of this Agreement, and the City may exercise any and all remedies available in the event of default by the Licensee.

11.00 TERMINATION

11.01 Either party shall have the right to terminate this Agreement at any time and for any reason by giving **fourteen (14) days** prior written notice to the other party, and the City will not be liable to the Licensee for any damage or loss as a consequence of such termination.

11.02 Upon termination of this Agreement for any reason:

- (a) the Licensee shall remove all Patio Structures, Patio Furnishings and any other structures or equipment whatsoever (the "Improvements") from the Licence Area and shall restore, at its sole cost and expense, the Licence Area to the same condition in which it existed prior to the placement of the sidewalk patio on the Licence Area. In the event that the Licensee fails to remove the Improvements, the City may at its option, cause the same to be done and recover the cost from the Licensee; and
- (b) the Licensee agrees that the insurance policy referred to in Article 10 Insurance shall remain in full force and effect until the Improvements are removed and the MROW is restored to the satisfaction of the City.

11.03 In the event that the Licensee fails to fulfill any of its obligations under Article 2.05, 2.11, 4.01, 5.01, 5.02, 10.00, the City shall have the right to terminate this Agreement immediately without any notice to the Licensee.

11.04 This clause shall survive the termination of this Agreement.

12.00 FAILURE TO PERFORM

12.01 If the Licensee defaults in the performance of any of its obligations under this Agreement, the City may give the Licensee written notice of such default whereupon the Licensee shall have seven (7) business days to rectify the default or commence rectification to the satisfaction of the City, failing which the City may remedy the default and charge the cost thereof to the Licensee and take any other remedies permitted by law.

13.00 COMPLIANCE WITH LAWS

13.01 The Licensee shall procure and maintain at the cost and expense of the Licensee, such corporate registrations, licences, permits or approvals, from federal, provincial, municipal or other government authorities as may be necessary to enable the Licensee to conduct its business or carry out its activities in accordance with this Agreement. The Licensee shall operate its business and shall carry on and conduct all activities pursuant to this Agreement in compliance with all federal, provincial and municipal laws, ordinances, rules, regulations, bylaws and codes.

14.00 NOTICE

14.01 Any notices under this Agreement given to the parties hereunder shall be conclusively deemed to be sufficiently given if personally delivered, sent by prepaid registered mail addressed as follows, or delivered by email addressed as follows:

(a) to the City at:

Manager, Regulated Road Use
Parks and Road Services
City Operations, City of Edmonton
16th Floor, Edmonton Tower, 10111 - 104 Avenue
Edmonton, Alberta T5J 0J4
Email: vibrantstreets@edmonton.ca

(b) to the Licensee at:

[Licensee Name]
[Licensee Address]
[Licensee Address]
Attention: _____
Email: [Licensee Contact Email]

14.02 Any notice made by mail will be deemed to have been given or served on the fifth (5th) day after it is deposited in any post office in Canada. Any notice given by personal delivery, or email will be deemed to have been given on the first (1st) day following the day it is sent or delivered. A party may change its address for service at any time by notice in writing to the other party.

14.03 Any inquiries related to day to day operations and maintenance of the patio or City Operations work in or around the Licence Area can be directed to the:

a) City at: Vibrant Streets Coordinator
email: vibrantstreets@edmonton.ca
phone: 311

b) Licensee at: [Licensee operational contact Name]
email: [Licensee contact email]
phone: [Licensee contact phone number]

14.04 In the case of Emergency or situation of necessity occurring outside of regular City business hours the Licensee may contact the Roadways Call Centre by phone at 780-496-1720.

15.00 GENERAL

15.01 Nothing herein shall be construed as in any way constituting this a partnership among or a joint venture by the parties hereto, or be construed to evidence the intention of the parties to constitute such a relationship. Neither party shall hold itself out contrary to the terms of this clause by advertising or otherwise, nor become liable or bound by any representation, act or omission whatsoever of the other party contrary to the provisions of this clause.

15.02 No rights granted hereunder shall create or vest in the Licensee any ownership or property rights in the MROW nor create an interest in land, and the Licensee shall not register its interest in this Agreement as such.

15.03 All contracts, whether of employment or otherwise, entered into by the Licensee with respect to this Agreement shall be made by the Licensee as principal and not as agent of the City and the City shall have no liability thereon.

15.04 This Agreement is the entire agreement between the parties with regard to the matters dealt with in it, and there are no understandings or agreements, representations, warranties, conditions or collateral terms, verbal or otherwise, existing between the parties except as expressly set out in this Agreement. The consideration stated herein is the sole consideration and inducement for the execution of this Agreement.

15.05 Should any provision of this Agreement be void, voidable or unenforceable for any reason whatsoever, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall remain in force and be binding as though the said provision had not been included.

15.06 This Agreement shall be construed and governed by the laws of the Province of Alberta.

15.07 All references shall be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female person, or a corporation or partnership. All reference to clause numbers shall be clauses within this Agreement.

15.08 The reference to any legislation in this Agreement shall be deemed to include all amendments thereto and all regulations thereunder and all statutes, including all amendments thereto and regulations thereunder, that may be substituted for that legislation.

15.09 The failure of a party to insist upon the strict performance of any covenant, term or condition hereof, or to enforce any rights hereunder shall not be construed as a waiver of such party's rights or remedies hereunder and the same shall continue to be in full force and effect. A waiver of any default hereunder shall not operate as a waiver of any subsequent default.

15.10 This Agreement shall not be modified or amended except by instrument in writing signed by both parties hereto.

15.11 The rights granted to the Licensee under this Agreement constitute a licence only and shall not under any circumstances constitute a lease or other interest in land.

15.12 If two (2) or more persons are liable under the terms of this Agreement to the City, their obligations shall be both joint and several.

15.13 This Agreement will not be assigned by the Licensee without first having received written consent from the City which consent may not be unreasonably withheld.

15.14 At all times, and for the purposes of the Occupational Health and Safety Act, SA 2020, c O-2.2 (the " OH&S Act "), the Licensee shall direct the Work on Municipal Rights-Of-Way. Further, the Licensee shall be the "prime contractor", as defined in the

OH&S Act, in respect of the Work performed by or on behalf of the Licensee on the Municipal Rights-Of-Way and accept all responsibilities of the prime contractor as outlined in the OH&S Act, except that the Licensee may, on notice to the City, engage a contractor to perform Work and cause such contractor to agree to act as the prime contractor, provided that the Licensee shall not be relieved of its obligations under this Clause 15.14.

15.15 Use of the word “will,” “shall” or “must” in this Agreement creates a mandatory obligation.

15.16 The insertion of headings is for convenience of reference only and shall not be construed so as to affect the interpretation or construction of this Agreement.

15.17 Notwithstanding any other provision contained in this Agreement, it is expressly understood and agreed between the Licensee and the City that the City, in entering into this Agreement, is not doing so in its capacity as a regulatory, statutory or approving body pursuant to any law of the Province of Alberta and nothing in this Agreement will constitute the granting by the City of any approval or permit as may be required pursuant to the Municipal Government Act, R.S.A. 2000 c. M-26, the Highways Development and Protection Act, S.A. 2008 c. H-8.5 and any amendments thereto, and any other legislation in force in the Province of Alberta. The City, as far as it can legally do so, will only be bound to comply with and carry out the terms and conditions stated in this Agreement, and nothing in this Agreement restricts the City, its municipal council, its officers, servants or agents in the full exercise of any and all powers and duties vested in them in their respective capacities as a municipal government, as a municipal council and as the officers, servants and agents of a municipal government.

15.18 This Agreement may be executed by electronic signature and in any number of counterparts and may be delivered by portable document format (“pdf”) and each original, or PDF copy, when executed and delivered will be deemed to be an original and all of which taken together construe one instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

Signed for the City:

CITY OF EDMONTON

Per: _____

As represented by Didier Hutchison,
Manager, Regulated Road Use, Parks and Road Services

Approved as to Content: _____

Parks and Roads Services,

Name of Agreement Holder

Per: _____

**I hereby certify that I have the authority to
bind the corporation**

Name (Print): _____

Title: _____

Schedule “A”

Licence Area for the Term

Insert Schedule “A”

Schedule “B”

Pursuant to Clauses 2.12, 2.14, 2.15, 2.16, 2.17 of this agreement, the following outlines all requirements associated with Patio Furnishings installed by the Licensee in the Licence Area in support of locating and maintaining a sidewalk or parklet patio.

A. Guard Specifications

- i. Guard height must be no lower than 1.07m (42”) and no higher than 1.22m (48”).
- ii. Spaces between horizontal or vertical elements of the Guard must be less than 10.2cm (4”) or greater than 20.3cm (8”)

B. Planter Specifications

- i. Planters and any associated plant material must be no taller than 1.2m
- ii. Planters must be of a size that is movable by one person.
- iii. Planters can be hung on a Patio Railing but cannot be a substitute for the Patio Railing or Guard.
- iv. No planters or plant material can block any street signs or pedestrian clear path or vehicle travel lane.
- v. Planters must not be attached to any traffic control devices, streetlight poles, street furniture, boulevard trees, or above ground utility infrastructure.

C. Umbrella Specifications

- i. Umbrellas must be at least 2.13m (7’) above the walking surface of the sidewalk when open.
- ii. The edge of the umbrella must not extend beyond the boundary of the Licence Area or on to or in to the 2.0m pedestrian clear path.

D. String Light Specifications

- i. String lights must be placed high enough to ensure that people can move freely beneath them:
 - a. where anchored to a building or vertical post they must be attached at least 2.44m (8’) above the walking surface; and
 - b. no part of the string lighting may hang less than 2.13m (7’) above the walking surface.
- ii. No flashing lights or colors that mimic traffic signals can be used.
- iii. Lights must not be projected upwards or directed towards any adjacent properties.
- iv. Minimum clearance from overhead power lines must be provided:
 - a. 1m from electrical service lines; and,
 - b. 3m from high voltage power lines.

E. Vertical Post Specifications

Vertical posts must be:

- i. No larger than a 4" x 4" wooden post;
- ii. At least 2.44m (8') high to provide for string light vertical clearance requirements;
- iii. Securely fastened to the patio platform or Patio Railing, not floating in a precast block; and
- iv. spaced a minimum of 2.44m (8') apart; except for rectangular patios less than 4.9m (16') long, they may have a maximum of 2 vertical posts, one placed at each end of the patio area.

F. Heater Specifications

Heaters may be electric or propane patio heaters that meet the following requirements:

- i. Must be ULC- or CSA-certified freestanding units only;
- ii. Installed and operated per the manufacturer's directions;
- iii. Located at least 3m (~10') away from any City tree branches;
- iv. Stored off the road right-of-way when not in use.
- v. Any propane tanks used cannot exceed 20lb capacity.

G. Power Specifications

Power for any audio-visual, string lighting or heating equipment must meet the following requirements:

- i. Any electrical cords used cannot lie on the ground; if strung overhead no part of the cord may hang below 2.11m (7') above the walking surface.
- ii. Tamper-resistant materials must be used.
- iii. Any new service connection or power outlet installation/modification requires an Electrical Permit.

Schedule “C”

Pursuant to Article 4.00 of this agreement, the following non-exhaustive list outlines some examples of circumstances that would require a separate permit to be applied for and obtained from the City:

Circumstance Type	Permit	Department Contact
Prior to the commencement of installation, maintenance or removal of a patio in the curb lane or any other patio installation that requires temporarily blocking roadways, sidewalks or boulevards in accordance with the OSCAM permit decision making matrix .	OSCAM Permit	Traffic Operations, Parks and Roads Services, City Operations Contact: edmonton.ca/oscam roaduse.permit@edmonton.ca
Prior to the commencement of any new development on private property.	Development Permit	Development & Zoning Services, Development Services, Urban Planning and Economy Contact Changes to Existing Buildings and Sites City of Edmonton developmentpermits@edmonton.ca
Prior to the commencement of placement of any structure, such as a pergola, structure with overhead elements, or any temporary installation or enclosure requiring Safety Codes Permits or Inspections. Also prior to installation or alteration of any electrical, gas or water/drainage services.	Building Permit and other related Safety Codes Permits	Safety Code Permits & Inspection, Development Services, Urban Planning and Economy Contact: buildingsafetycodes@edmonton.ca
Prior to commencement of any work around City trees, attaching to City trees, or tree lighting installations.	Public Tree Permits, or Tree Lighting Permit	Infrastructure Operations, Parks and Roads Services, City Operations Contact: Trees and Urban Forestry City of Edmonton citytrees@edmonton.ca