

MUNICIPALITY OF CASSELMAN

BY-LAW NO. 2019-XXX

BEING a by-law to authorize the Mayor and the Clerk to sign a partnership agreement with
“Le Groupe de services communautaires Kawabunga”

WHEREAS *under Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended*, the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable it to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

AND WHEREAS *under Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended*, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS *under Section 11 (1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended*, a lower-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in *subsection (4)*;

AND WHEREAS the Municipality of Casselman wishes to enter into a partnership agreement with
“Le Groupe de services communautaires Kawabunga” ;

THEREFORE, the Council of the Municipality of Casselman enacts as follows:

That the Mayor and Clerk are hereby authorized to execute the Partnership Agreement hereto attached and forming part of this by-law.

READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL THIS 24TH DAY OF SEPTEMBER, 2019.

Daniel Lafleur, Mayor

Sébastien Dion, Clerk

Commercial Lease Agreement

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This Commercial Lease Agreement is made this 1st day of October 2020.

BETWEEN:

MUNICIPALITY OF CASSELMAN

(hereinafter the "Landlord")

AND:

GROUP KAWABUNGA

(hereinafter the "Tenant")

The Landlord makes available for lease a portion of the Building, designated as the Premises and described as follows:

Building:

the lands and building municipally known as 750 Principale Street, Casselman, Ontario (the "Building") legally described as Plan H. O. Wood 1885, Lots 13, 14 and 15 on the east side of Nation street; Lots 13, 14 and 15 on the west side of Casselman Street, Municipality of Casselman (PIN 69022-0211)

Premises:

344 square feet of office space (identified as 5B, 5C and 5D on Schedule 'A' attached) (the "Premises")

Common Area:

Hallways, dining hall and washrooms in the Building (as shown highlighted in green at Schedule 'B' attached) (the "Common Area")

The Landlord hereby agrees to rent the Premises to the Tenant and the Tenant hereby agrees to rent the Premises from the Landlord.

1. TERM:

The renewal of this Lease shall begin on October 1st, 2019 and end on September 30th, 2020 for a total period of twelve (12) months (the "Term").

The Tenant shall have the right to extend the Lease for one period of twelve (12) months (the "Extension Term"). If the Lease is extended, it shall bear the same terms, conditions and provisions contained in this Lease, save and except for Rent which the parties will negotiate in good faith.

Notwithstanding the foregoing, the Landlord reserves its right not to extend the Term of the Lease regardless of the Tenant exercising its option to extend the Lease. The Landlord must provide the Tenant with written notice of same, within fifteen (15) days of receipt by the Landlord of the Tenant's notice to extend the Lease.

2. RENT:

For the Term, the Tenant agrees to pay the Landlord three hundred and forty-four dollars and zero cents (\$344.00) per month plus H.S.T. (hereinafter "Rent") as rent payable on the first (1st) day of each month, for the space identified in Schedule 'A' attached. The use of the Common Area space identified in Schedule 'B' is included in the Rent. Tenant is responsible to clean their own area.

If Rent due is not paid on or before the fifteenth (15th) day of the month, the Tenant agrees to pay to the Landlord a late charge of fifty dollars (\$50.00) plus an additional late charge of twenty dollars (\$20.00) per day until the Rent is paid in full.

3. ANNUAL ADJUSTMENTS:

Rent is subject to annual increases in the Consumer Price Index (CPI) as established by Statistics Canada for All Items-Ontario. The annual CPI adjustment will be added to the Annual Price on a cumulative basis as of October 1st, 2020.

4. GROSS LEASE

The Landlord and the Tenant agree that it is their mutual intention that the Lease shall be a gross lease agreement in favour of the Tenant and the full extent of the Tenant's obligations to make payments to the Landlord in respect of the Premises are limited to the payment of Rent pursuant to Section 2, unless otherwise specifically noted in this Lease.

The Tenant shall not, unless otherwise specifically noted in this Lease, be responsible for making any other payment in relation to the Premises. Without limiting the generality of the foregoing, the Tenant shall not be required to contribute to the operation, maintenance and management of the Building, including without limitation real property taxes, costs of the Landlord's insurance, utilities, or any other expenses, costs, payments or outgoings incurred in respect of the Building or Premises.

5. EARLY TERMINATION:

Upon thirty (30) clear days of written notice to the Landlord, the Tenant may terminate the Lease in accordance with either of the following:

- (a) There is a shortfall of funding for the operation of the Tenant's programs and the Tenant provides the Landlord with written confirmation, from its source of funding, that the Tenant's operations are no longer being funded; or
- (b) the working environment conditions on the Premises no longer meet the required municipal and governmental requirements and the Tenant provides the Landlord with written confirmation from the municipal or governmental entity demonstrating same.

6. PROHIBITED USES:

The Tenant shall not use the Premises for storing, manufacturing or selling any explosives, flammables or other inherently dangerous substance, chemical, device or item.

7. SUBLET AND ASSIGNMENT:

The Tenant shall not, without the prior written consent of the Landlord, which consent shall not be unreasonably withheld, assign this Lease, nor sublet all, or any part of the Premises, including without limitation assigning this Lease to a business with which the Tenant may merge or consolidate, to any subsidiary of the Tenant, to any corporation under common control with the Tenant, or to a purchaser of substantially all of the Tenant's assets; provided that the Landlord can refuse to provide its consent if : a) the proposed assignee or sub-tenant is a school board or educational institute and the Premises will be used for primary, secondary or post-secondary education or as a pre-school daycare ; or b) if the use contemplated by the proposed assignee or sub-tenant is not compatible with the uses of the other tenants in the Building as determined by the Landlord, acting reasonably.

8. REPAIRS AND MAINTENANCE:

The Tenant shall make all necessary repairs to the Premises at the Tenant's expense during the Term of this Lease, save and except for repairs which are of a capital nature. This includes repairing all defects and faults due to damage or wear and tear caused by the Tenant on any part of the Premises.

9. ALTERATIONS:

The Tenant shall have the right to redecorate, remodel, make additions, improvements and replacements (collectively, the "Alterations") to any or all parts of the Premises during the Term, provided that such Alterations shall neither impair the structural soundness or diminish the value of the Premises. No alteration, structural, additions..., are to be made to the Premises without the Landlord's prior consent, which consent shall not be unreasonably withheld.

The Landlord will provide the Tenant with any existing studies in the Landlord's possession as of the date of this Lease, regarding the conditions of the Premises and the building, including but not limited to structural, mechanical and environmental studies.

10. SIGNS:

The Tenant shall have the right to install and replace signs, on the Premises at the Tenant's own expense, provided that the Tenant first obtains the Landlord's prior consent, which consent shall not be unreasonably withheld. The Tenant will be responsible for the removal of all such signs upon the termination of this Lease and for the repairs and all damages resulting from the removal of any such signs.

11. RIGHT TO ENTER PREMISES:

The Landlord shall have the right to enter the Premises, at reasonable hours and on twenty-four (24) hours' notice to the Tenant, to inspect the Premises, provided that the Landlord does not unreasonably impair the Tenant's business on the Premises.

12. PARKING:

During the Term, the Tenant shall have the non-exclusive use of ten (10) parking spaces (the "Parking Spaces"), to be used in common with the Landlord, other tenants of the Building, their guests and invitees. The Tenant shall have the right to use the Parking Spaces, paved areas and sidewalks on the Premises, subject to the reasonable rules and regulations as prescribed from time to time by the Landlord.

The Landlord reserves the right to designate the Parking Spaces for the Tenant and the Tenant's agents and employees.

The Tenant shall provide the Landlord with a list of all license plate numbers for all cars in the Parking Spaces belonging to the Tenant, or the Tenant's agents and employees.

13. UTILITIES:

The Landlord shall pay all utility charges for electricity, water, and gas. The Landlord shall also be responsible for the cost of all office cleaning. All sanitation, waste disposal, telephone and other services to be used by the Tenant on the Premises shall be the responsibility of the Tenant, at its own cost and expense.

14. PROPERTY TAXES:

The Landlord shall pay all general real estate taxes and installments or special assessments coming due on the Premises during the Term. The Landlord shall also be responsible for the cost of all property taxes for the Building.

15. INSURANCE:

The Landlord shall maintain fire and extended insurance coverage on the Premises and Building. The Tenant shall be responsible for maintaining fire and extended insurance coverage on all of the Tenant's personal property within the Premises.

The Tenant shall not be responsible for damage to the Premises caused by fire or any other casualty for which the Landlord is indemnified under any policy of insurance, unless the damage was caused by the negligence of the Tenant or the Tenant's agents, employees or invitees, in which case the Landlord's insurer may pursue its subrogated rights.

Tenants Legal Liability

The Tenant shall be responsible for obtaining and maintaining Tenants Legal Liability Insurance in an amount equal to the rebuilding cost of the square footage of the Premises. Currently, the replacement cost of the Building is estimated at Two Million Dollars (\$2,000,000.00). Rebuilding costs increase annually, and this adjustment may have to be reflected annually on the Tenant's policy.

Commercial General Liability

The Tenant shall, at their expense, obtain and keep in force during the Term of the Lease, Commercial General Liability Insurance satisfactory to the Landlord and underwritten by an insurer licensed to conduct business in the Province of Ontario. The policy shall provide coverage for bodily injury, property damage and personal injury and shall include but shall not be limited to:

- (a) a limit of liability of not less than One Million Dollars (\$2,000,000.00) per occurrence with an aggregate of not less than Ten Million Dollars (\$10,000,000.00);
- (b) add the Landlord as an additional insured with respect to the operations of the Tenant;
- (c) the policy shall contain a provision for cross liability & severability of interest in respect of the Tenant;
- (d) Non-owned Automobile Coverage with a limit not less than Two Million Dollars (\$2,000,000.00) and shall include contractual non-owned coverage (SEF 96);
- (e) Products and Completed Operations Coverage;
- (f) Broad Form Property Damage;
- (g) Contractual Liability;
- (h) Owners & Contractors Protective;
- (i) Hostile Fire; and
- (j) the policy shall provide thirty (30) days prior notice of cancellation.

16. INDEMNIFICATION & HOLD HARMLESS CLAUSE:

The Tenant shall defend, indemnify and hold harmless the Landlord, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expenses resulting from disruption of services, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the Tenant, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of this Lease except if such damages resulted from the negligence of the Landlord. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Tenant in accordance with this Lease and shall survive the expiration or earlier termination of the Term of this Lease.

The Tenant agrees to defend, indemnify and hold harmless the Landlord from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever arising out of or related to the Tenant's status with the Workplace Safety and Insurance Board (WSIB). This indemnity shall

be in addition to and not in lieu of any proof of WSIB status and compliance to be provided by the Tenant in accordance with this Lease and shall survive the expiration or earlier termination of the Term of this Lease. The indemnities contained in this Article 17 shall survive the termination of the lease.

17. DAMAGE OR DESTRUCTION:

If an act of God or other casualty renders the Premises unusable for the Tenant's purposes, the Tenant shall have the right to terminate this Lease within thirty (30) days of such damage occurring. Rent shall continue to be payable by the Tenant and shall be prorated to the date on which the damage and/or destruction occurred.

18. DEFAULT:

The Tenant will be in default of this Lease if the Tenant:

- (a) fails to pay the Rent, in its entirety and when due on at least two (2) consecutive occasions; or
- (b) fails to fulfill any term or condition of this Lease and such default continues for a period of thirty (30) days after the Landlord has given notice to the Tenant of the Tenant's default under this Lease; or
- (c) fails to continue to cure such default or fails to diligently proceed with rectifying default once the period of thirty (30) days has elapsed; or
- (d) causes a lien to be filed against the Premises and such lien is not discharged or vacated within thirty (30) days of the Landlord providing notice to the Tenant of such registration.

If the Tenant is in default under this Lease, the Landlord shall have the right to terminate this Lease by written notice to the Tenant of such intention, no less than fourteen (14) calendar days prior to the date of termination.

For greater certainty, the Tenant may take longer than thirty (30) days to rectify any default under this Lease provided that the Tenant diligently proceeds with rectifying such default.

19. QUIET ENJOYMENT:

The Landlord agrees that upon the Tenant duly paying the Rent and duly observing and performing the agreements, terms and conditions herein on its part to be observed and performed, the Tenant shall and may peaceably possess and enjoy the Premises for the Term without any hindrance, interruption or disturbance from the Landlord.

IN WITNESS WHEREOF the parties have executed this Lease

Landlord Name: **Municipality of Casselman**

Landlord Signature: _____

Daniel Lafleur
Mayor

I have the authority to bind the corporation.

Landlord Address: 751 St-Jean Street
Casselman, Ontario K0A 1M0

Date : _____

Tenant Name : **Kawabunga**

Tenant Signature: _____

Philippe Lafèche
Tenant

I have the authority to bind the corporation.

Tenant Address: 750 Rue Principale
Casselman, Ontario K0A 1M0

Date: _____

Schedule 'B'

