

Sublease Agreement

THIS AGREEMENT made as of the 25th of October, 2017;

BETWEEN:

THE CORPORATION OF THE TOWN OF MINTO
(the "Tenant")

-and-

Kathleen Barry
(the "Subtenant")

WHEREAS by a lease agreement made on March 24, 2014, (the "Lease"), the Landlord, 2323004 Ontario Inc., has leased to the Tenant the commercial premises known as 1 Elora Street North, Unit #3, Harriston, Ontario (the "Premises") for a term of two years commencing on March 1st, 2017 and continuing until February 28, 2019;

AND WHEREAS the paragraph 26 of the Lease permits the Tenant to sublet individual offices for the purpose of growing or facilitating new or existing businesses;

AND WHEREAS the Tenant, along with the Minto Chamber of Commerce, have developed a creative industry business incubator called LaunchIt Minto;

AND WHEREAS the Subtenant has requested to sublease office space from the Tenant as a participant in the LaunchIt Minto initiative;

AND WHEREAS the Tenant has agreed to grant a Sublease on the terms set out in this Agreement;

NOW THEREFORE IN CONSIDERATION of the mutual covenants and agreements hereinafter contained, and other good and valuable consideration (the receipt and sufficiency is hereby acknowledged), the parties covenant and agree each with the other as follows:

- 1. Subletting of Premises.** The Tenant hereby subleases the Unit to the Subtenant for a term of six (6) months, commencing on November 1, 2017 and continuing to May 31, 2018, subject to the faithful compliance with the terms and conditions of this Agreement.
- 2. Early Termination.** Notwithstanding clause 1 above, either party may terminate this Agreement at any time by giving ninety (90) days written notice to the other party. The Subtenant shall pay all amounts owing pursuant to the terms of this Agreement up to the date of termination and any additional amount required to be paid by the Tenant to a third party pursuant to an agreement the Tenant entered into with the express written consent of Subtenant, due to and as a direct consequence of the termination of this Agreement.

Sublet Amount. The Subtenant shall pay to the Tenant the sum of \$1,300, plus H.S.T., per six (6)

months as base rent for the Unit and its proportionate share of Additional Rent in accordance with the terms of this Agreement and as defined in the Lease. The Rent shall be payable as follows:

Month 1: \$100 + HST

Month 2: \$150 + HST

Month 3: \$200 + HST

Month 4: \$250 + HST

Month 5: \$300 + HST

Month 6: \$300 + HST

in advance on the first day of each month of the term of this Agreement. The Additional Rent shall be payable together with each monthly installment of base rent.

3. **Overdue Account.** The Subtenant shall pay to the Tenant interest of two percent (2%) per month on overdue accounts, in addition to any other remedy the Tenant may have at law.
4. **Covenant of Subtenant.** The Subtenant covenants with the Tenant to pay rent and shall perform and observe all the covenants on the part of the Tenant in the Lease other than the covenant to pay rent thereunder and other than the covenant relating to the Premises other than the Unit. In the event of default, the Tenant shall have all of the rights afforded the Landlord under the Lease regarding remedies for default. The Subtenant further covenants to keep the Tenant indemnified against all actions, expenses, claims and demands in respect of such covenants.
5. **Deposit.** The Tenant acknowledges receipt from the Subtenant of the sum of \$400.00, plus H.S.T. as a deposit to be held by the Tenant and credited towards first and last month's rent pursuant to this Agreement. The monies deposited with the Tenant shall bear no interest.
6. **Facility and Furniture.** The Tenant shall provide to the Subtenant access to the following common facilities and equipment in the Unit, subject to certain limitations:
 - (a) front entrance;
 - (b) boardroom;
 - (c) private meeting room;
 - (d) shared kitchen; and;
 - (e) projector and screen, or SMART T.V. (the "Audiovisual Presentation Equipment").
7. **Additional Rent.** The Tenant shall provide the following additional services to the Subtenant, and the Subtenant shall pay to the Tenant the Additional Rent of \$100.00 plus H.S.T. for same:
 - (a) hydro.

8. Limitations.

- (a) **Common Equipment.** The Subtenant shall have access to the Audiovisual Presentation Equipment (the "Common Equipment") on a first come, first serve basis, subject to certain usage limitations on time, length and frequency of use. The Common Equipment shall not be removed from the Premises without the prior written permission of the Tenant.
- (b) **Reservation.** The Subtenant shall submit a prior written request to the Administrative Support Staff, defined below, for use of the boardroom, private meeting room, and Audiovisual Presentation Equipment. The Subtenant acknowledges and agrees any reservation is on a first come, first served basis.

9. Administrative Support. The Subtenant shall have access to common administrative services provided by Tenant staff (the "Administrative Support Staff"), who shall use reasonable efforts to provide the following services:

- (a) walk-in reception for visitors of the Subtenant;
- (b) assistance with photocopying, faxing, mail and courier deliveries;
- (c) coordination of Common Equipment;
- (d) coordination of use of boardroom and private meeting room;
- (e) coordination of facility maintenance and upkeep; and,
- (f) receive and store documents, packages and communications addressed to or delivered for the Subtenant, including but not limited to envelopes, files and packages.

10. Internet Usage.

- (a) The Tenant shall provide to the Subtenant wifi internet access, subject to normal internet availability interruptions.
- (b) The Tenant may monitor the bandwidth usage of the wifi internet. In the event the Subtenant exceeds the acceptable level of bandwidth usage, as determined by the Tenant, the Tenant may charge an administrative fee for the wifi internet access. The Tenant shall provide written notice to the Subtenant when the Subtenant is approaching the chargeable level of bandwidth usage.
- (c) Wifi internet security shall be the sole responsibility of the Subtenant. The Subtenant acknowledges and agrees the Tenant shall not be responsible for providing wifi internet security to the Subtenant.

11. Default. The Tenant may terminate this Agreement by written notice to take effect immediately upon the delivery thereof to the Subtenant, where:

- (a) the Subtenant fails to make any payment provided for herein and such payment remains in arrears and unpaid for a period of twenty (20) days beyond the date that a written notice is delivered by the Tenant indicating that payment is due;
 - (b) the Subtenant assigns or purports to assign this Agreement or any of the right under this Agreement without the prior written consent of Tenant;
 - (c) the Subtenant commits or permits a breach of any of its covenants, representations, warranties or other obligations under this Agreement and the Subtenant has failed to remedy the breach within thirty (30) days after delivery by the Tenant written notice requiring the breach to be remedied; or,
 - (d) the Subtenant becomes insolvent, or has a receiving order made against it, or makes an assignment for the benefit of creditors, or an order is made or a resolution is passed for the winding up of the Subtenant, or the Subtenant takes the benefit of any statute for the time being in force relating to bankrupt or insolvent debtors.
12. Any notice required to be given by this Agreement shall be in writing and delivered personally or by regular mail to the other party at the following addresses:

to the Town at:

LaunchIt Minto
1 Elora Street North, Unit #4
Harriston, ON N0G 1Z0
Attention: Business Development Coordinator

to Kathleen Barry at:

*Kit Kat Photography
16 Barnett St.
Listowel, ON N4W 3V9*

Notice shall be deemed to have been delivered on the date of personal delivery or five business days after sending notice by regular mail.

13. Indemnification and Insurance.

- (a) The Subtenant hereby indemnifies and holds harmless the Tenant and its directors, officers, employees, members and agents from and against any and all claims, actions, suits, proceedings, losses, damages, liabilities, costs, fees or expenses, joint or several (including without limitation reasonable legal fees) arising or resulting from or in connection with any occurrence in, on or at the Premises, or in any way from or out of the occupancy or use by the Subtenants of the Premises, or any part thereof, or due to or arising out of any breach by the Subtenant of this Agreement.
- (b) The Subtenant shall, at its sole cost and expense, take out and maintain in full force and effect, at all times throughout the Term, the following insurance:
 - (i) "All Risks" insurance on property of every description and kind owned by the Tenant, or for which the Tenant is legally liable, or which is installed by or on behalf of the Tenant, within the Premises including, without limitation, stock-

in-trade, furniture, equipment, trade fixtures and leasehold improvements, in an amount not less than the full replacement cost thereof from time to time;

- (ii) general liability and property damage insurance, including personal liability, contractual liability, tenants' legal liability, non-owned automobile liability, and owners' and contractors' protective insurance coverage with respect to the Premises, which coverage shall include the business operations conducted by the Subtenant and any other person on the Premises. Such policies shall be written on a comprehensive basis with coverage for any one occurrence or claim of not less than two million dollars (\$2,000,000) or such higher limits as the Tenant may reasonably require from time to time;
 - (iii) business interruption insurance in an amount sufficient to cover the Subtenant's base rent for a period of not less than twelve (12) months; and
 - (iv) such other forms of insurance as may be reasonably required by the Tenant from time to time provided such insurance relates to tenant liability.
- (c) All insurance shall be with insurers and on such terms and conditions as the Tenant reasonably approves, and each such policy shall name the Tenant and the Landlord as an additional insured as its interest may appear, and, in the case of public liability insurance, shall contain a provision for cross-liability or severability of interest as between the Tenant and Subtenant. The Subtenant shall obtain from the insurers under such policies undertakings to notify the Tenant in writing at least thirty (30) days prior to any cancellation thereof. The Subtenant shall furnish to the Tenant, on written request, certificates or certified copies of all such policies. If the Subtenant fails to take out or to keep in force such insurance or to provide a certificate of every policy and evidence of continuation of coverage as herein provided, the Tenant shall have the right to take out such insurance and to pay the premiums thereof, and, in such event, the Subtenant shall pay to the Tenant the amount paid as premium plus fifteen percent (15%), which payment shall be payable on demand.
- (d) In the event of a claim, any deductible or self-insured retention under the insurance shall be the sole responsibility of the Subtenant and that the coverage shall preclude subrogation claims against the Tenant and any other person insured under the policy and be primary insurance in response to claims. Any insurance maintained by the Tenant and any other person insured under the policy shall be considered excess of the Subtenant's insurance and shall not contribute with it. The minimum amount of insurance required herein shall not modify, waive or otherwise alter the Subtenant's obligation to fully indemnify the City.

14. **Limits of Liability.** To the extent allow by applicable law, in no event shall the Tenant, or any of its directors, officers, employees or agents, be liable for: (a) any loss of profits, loss of use of data, interruption of business or for indirect, special, incidental or consequential damages of any kind incurred by the Subtenant; (b) any claim or other proceeding against the Subtenant by a third party; or (c) any representation or warranty made to any third party by the Subtenant. Notwithstanding anything in this Agreement to the contrary, entire

liability to the Subtenant for damages concerning the performance or non-performance by the Tenant relating any way to the subject matter of this Agreement, and regardless of whether such damages are based in contract or tort or otherwise, shall not exceed the aggregate amount of cash consideration received by the Tenant from the Subtenant during the six-month period prior to the presentation of the claim to the Tenant.

15. **Time of the Essence.** Time shall be of the essence of this agreement.
16. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties hereto. There are not and shall not be any verbal statement, representations, warranties, undertakings or agreements between the parties. This agreement may not be amended or modified in any respect except by written instruments signed by all the parties hereto.
17. **Applicable Law.** This Agreement shall be construed and enforced in accordance with (and the rights of the parties shall be governed by), the laws of the Province of Ontario.
18. **Binding Effect.** This Agreement shall endure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal personal representatives, executors, administrators, successors and permitted assigns.

IN WITNESS WHEREOF the parties have executed this agreement on the date first noted above.

WITNESS

Name: Somer Gerber
Date: Nov 1, 2017

Name:
Date:

Kathleen Barry

Name: owner
Title:

Name:
Title:

THE CORPORATION OF THE TOWN OF MINTO

George Bridge, Mayor

Bill White, Clerk

We have authority to bind The Corporation of the Town of Minto