The Corporation of the Town of South Bruce Peninsula

By-Law Number 41-2014

A By-Law to Authorize the Mayor and Clerk to Sign a Lease Agreement with Greg and Tanja Norton for the East Half of the Coal Shed Building, 402 William Street, Suite 1, Locally Known as the Coal Shed Willie Restaurant

Whereas Section 8 of the Municipal Act, 2001, Chapter 25, as amended, provides that Section 8 shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

And whereas Section 9 of the Municipal Act, 2001, Chapter 25, as amended, provides that 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 the Town deems it expedient to enter into a Lease Agreement with Greg and Tanja Norton for the East Half of the Coal Shed Building, 402 William Street, Suite 1, locally known as the Coal Shed Willie Restaurant;

Now therefore the Corporation of the Town of South Bruce Peninsula enacts as follows:

1. That the Mayor and Clerk are hereby authorized to sign a Lease Agreement with Greg and Tanja Norton for the East Half of the Coal Shed Building, 402 William Street, Suite 1, locally known as the Coal Shed Willie Restaurant.

2. That the Lease Agreement referred to herein shall be attached hereto and form part of this by-law.

Read a first and second time this 6th day of May, 2014.

Mayor

Clerk

Read a third time and finally passed this 6th day of May, 2014.

Mayor

Clerk
Commercial Lease Agreement

Between

Greg and Tanja Norton
hereafter referred to as the Tenant

And

Town of South Bruce Peninsula,
hereafter referred to as the Town

Whereas the Town deems it expedient to enter into a commercial lease agreement with Greg and Tanja Norton for the use of the East Half of the Coal Shed Building, 402 William Street, Suite 1, locally known as the Coal Shed Willie Restaurant;

Now Therefore the parties hereto agree as follows:

1. Definitions

1.1. Town means the Corporation of the Town of South Bruce Peninsula.

1.2. Agreement means this agreement and includes any bonds or security, specifications, general conditions, and any other documents referred to in this agreement or attached thereto.

1.3. Tenant or a pronoun in place thereof, means the person or persons who have undertaken to perform and carry out this agreement. Unless the context otherwise requires, the word “Tenant” wherever used herein shall be construed to include the executors, administrators, successors, and assigns of the Tenant, respectively. When there are two or more Tenants bound by the same covenants herein contained, their obligations shall be joint and several.

1.4. Rent means the amount payable by the Tenant to the Town under the terms of this agreement and includes Additional Rent and applicable taxes.

2. Definition Of Contract

2.1. The Tenant shall occupy approximately 1,440 square feet within the East Half of the Coal Shed Building, 402 William Street, Suite 1, “the Premises”, locally known as the Coal Shed Willie Restaurant, for the entire term of this lease.
2.2. The Town leases the Premises to the Tenant:
(a) For the Term set forth in Section 3;
(b) At the Rent set forth in Section 4; and
(c) Subject to the conditions and in accordance with the covenants, obligations and agreements herein.

2.3. The words importing the singular number only shall include the plural, and vice versa, and words importing the masculine gender shall include the feminine gender, and words importing persons shall include firms and corporations and vice versa.

3. Term

3.1. The term of this lease shall be for a five (5) year term, commencing on the date of the execution of this agreement and expiring on May 16, 2019.

3.2. This Lease is subject to renewal as outlined in Section 20.

3.3. If the Tenant remains in possession of the Premises after termination of this Lease and if the Town then accepts rent for the Premises from the Tenant, it is agreed that such over-holding by the Tenant, and acceptance of Rent by the Town, shall create a monthly tenancy only, but the tenancy shall remain subject to all the terms and conditions of this Lease.

4. Rent

4.1.1. The Tenant shall pay the Town, during the Term of this Lease, rent in the sum of $12,420.00 per annum plus applicable taxes, monthly in advance in equal installments of $1,035.00 plus applicable taxes on the first day of each and every month commencing on the first day of the Term.

4.1.2. During any subsequent renewal, as provided in Section 20, the Tenant shall pay the Town, rent to be negotiated by the parties. The amount of rent shall not exceed a 15% increase to the monthly rent paid in the first five (5) year term.

4.2. The Tenant further agrees to pay all other sums required by this Lease to be paid by the Tenant and agree that all amounts payable by the Tenant to the Town, or to any other party pursuant to the provisions of this Lease, shall be deemed to be “Additional Rent”.

4.3.1. The Town and the Tenant agree that it is their mutual intention that this Lease shall be a net lease for the Town and that the Town shall not, during the Term of this Lease, be required to make payments in respect to the Premises other than charges specifically set out in this Agreement.
4.3.2. It is the intention of the parties that the Tenant promises to pay the following expenses related to the Premises as Additional Rent:

(a) Business taxes and licences;

(b) Utilities (including but not limited to gas, electricity, water, heat, air conditioning);

(c) Services supplied to the Premises, provided that this does not in any way oblige the Town to provide any services, unless otherwise agreed in this Lease;

(d) Maintenance;

(e) Insurance premiums; and

(f) Sales tax and commercial property taxes, as may be assessed by MPAC on commercial activity occurring within a Municipally-owned facility;

4.3.3. If any of the foregoing charges are invoiced directly to the Tenant, the Tenant shall pay same as and when they become due and shall produce proof of payment to the Town immediately, if requested to do so, but the Tenant may contest or appeal any such charges at the Tenant's own expense.

4.3.4. The Tenant hereby agrees to indemnify and protect the Town from any liability accruing to the Town in respect of the expenses payable by the Tenant as provided herein.

4.3.5. If the Tenant fails to make any of the payments required by this Lease, then the Town may make such payments and charge to the Tenant as Additional Rent the amounts paid by the Town.

4.3.6. If such charges are not paid by the Tenant on demand, the Town 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.

4.4. Payment shall be in Canadian dollars. Said rent shall be paid in monthly installments in advance on the first day of each month. Tenant agrees to pay the rent at Town Hall, 315 George Street, Wiarton ON N0H 2T0, or at such other place as Town may from time to time request.

4.5. All Rent in arrears and all sums paid by the Town for expenses incurred which should have been paid by the Tenant shall bear interest from the date payment was due, or made, or expense incurred at a rate per annum
equal to twenty-four (24) percent, or two (2) percent per month, and the agreement may be terminated at the discretion of the Town.

4.6.1. The Tenant acknowledges and agrees that the payments of Rent and Additional Rent provided for in this Lease shall be made without deduction for any reason whatsoever unless expressly allowed by the terms of this Lease or agreed to by the Town in writing.

4.6.2. No partial payment by the Tenant which is accepted by the Town shall be considered as other than a partial payment on account of Rent owing and shall not prejudice the Town’s right to recover any Rent owing.

5. Assignment And Subletting

5.1. The Tenant shall not assign or sublet the premises or any part thereof or any benefit or interest therein or thereunder without the written consent of the Town.

5.2. The consent of the Town to any assignment or subletting shall not operate as a waiver of the necessity for consent to any subsequent assignment or subletting.

5.3. Any consent granted by the Town shall be conditional upon the assignee, sub-lessee or occupant executing a written agreement directly with the Town, agreeing to be bound by all the terms of this Lease as if the assignee, sub-lessee or occupant had originally executed this Lease as Tenant.

5.4.1. If the party originally entering into this Lease as Tenant, or any party who subsequently becomes the Tenant by way of assignment or sublease or otherwise as provided for in this Lease, is a corporation, then the Tenant shall not be entitled to deal with its authorized or issued capital or that of an affiliated company in any way that results in a change in the effective voting control of the Tenant unless the Town first consents in writing to the proposed change.

5.4.2. If any change is made in the control of the Tenant corporation without the written consent of the Town, then the Town shall be entitled to treat the Tenant as being in default and to exercise the remedies stipulated in Section 19.2 of this Lease and any other remedies available in law.

5.4.3. The Tenant agrees to make available to the Town or his authorized representatives the corporate books and records of the Tenant for inspection at reasonable times.
6. **Use**

6.1. During the Term of this Lease, the Premises shall not be used for any purpose other than a restaurant, food booth, and outdoor patio area, without the express consent of the Town given in writing.

6.2. The Tenant shall not do or permit to be done at the Premises anything which may:

(a) Constitute a nuisance;

(b) Cause damage to the Premises;

(c) Cause injury or annoyance to occupants of neighbouring premises;

(d) Make void or voidable any insurance upon the Premises; or

(e) Constitute a breach of any by-law, statute, order or regulation of any municipal, provincial or other competent authority relating to the Premises.

7. **Insurance**

7.1. During the Term of this Lease, and any renewal thereof, the Town shall maintain with respect to the Premises, insurance coverage insuring against:

(a) Loss or damage by fire, lightning, storm and other perils that may cause damage to the Premises or the property of the Town in which the Premises are located, as are commonly provided for as extended perils coverage or as may be reasonably required and obtained by the Town and shall provide coverage on a replacement cost basis in an amount sufficient to cover the cost of all signs and leasehold improvements;

(b) Liability for bodily injury or death or property damage sustained by third parties up to such limits as the Town in his sole discretion deems advisable; and

(c) Rental income protection insurance with respect to fire and other perils to the extent of one year's Rent payable under this Lease, but such insurance, and any payment of the proceeds thereof to the Town, shall not relieve the Tenant of its obligations to continue to pay rent during any period of rebuilding, replacement, repairing or restoration of the Premises except as provided in Section 11.
7.2. The Tenant covenants to keep the Town indemnified against all claims and demands whatsoever by any person, whether in respect of damage to person or property, arising out of or occasioned by the maintenance, use or occupancy of the Premises or the subletting or assignment of same or any part thereof. And the Tenant further covenants to indemnify the Town with respect to any encumbrance on or damage to the Premises occasioned by or arising from the act, default, or negligence of the Tenant, its officers, agents, servants, employees, contractors, customers, invitees or licensees, and the Tenant agrees that the foregoing indemnity shall survive the termination of this Lease notwithstanding any provisions of this Lease to the contrary.

7.3. The Tenant shall carry insurance in his own name to provide coverage with respect to the risk of business interruption to an extent sufficient to allow the Tenant to meet his ongoing obligations to the Town and to protect the Tenant against loss of revenues.

7.4. The Tenant shall carry insurance in his own name insuring against the risk of damage to the Tenant's property within the Premises caused by fire or other perils and the policy shall provide for coverage on a replacement cost basis to protect the Tenant's stock-in-trade, equipment, Trade Fixtures, decorations and improvements.

7.5.1. The Tenant shall carry public liability (minimum of $3,000,000.00 per occurrence) and property damage insurance in which policy the Town shall be a named insured and the policy shall include a cross-liability endorsement.

7.5.2. The Tenant shall provide the Town with a copy of the policy.

7.6. Security of the premises is completely and solely the responsibility of the Tenant. The Town will not be held liable due to theft or vandalism of the Premises.

8. Indemnification By Tenant

8.1. The Tenant hereby agrees that he will indemnify, defend and hold harmless, the Town from any and all claims, demands, suits, causes of action, losses, damages, expenses and/or any and all litigation arising out of occurrences, in or at the premises or as occasioned or suffered by the Tenant or any of his employees, agents, invitees, occupants, or other persons in attendance in or at the premises, including for any damages awarded for such claims, demands, causes of action, losses, damages and expenses or for costs or attorney's fees, due to the error, act or omission of the Tenant.
8.2. The Tenant shall be held as fully responsible to the Town for the acts and omissions of persons directly or indirectly employed by it.

9. Maintenance Of Premises

9.1. The Tenant is responsible to keep the premises in good condition throughout the term of the lease and shall be responsible for the costs of repair of damage to the premises caused by the willful or negligent conduct of the Tenant or employees of the Tenant.

9.2. The Tenant agrees to promptly make all needed repairs and all necessary replacements as would a prudent owner, but the Tenant shall not be liable to effect repairs attributable to reasonable wear and tear, or to damage caused by fire, lightning, and storm, structural, plumbing or other damages originating outside the Premises.

9.3.1. The Tenant shall permit the Town, or a person authorized by the Town, to enter the Premises to examine the condition thereof and view the state of repair at reasonable times.

9.3.2. If upon such examination, repairs are found to be necessary, written notice of the repairs required shall be given to the Tenant by or on behalf of the Town and the Tenant shall make the necessary repairs within the time specified in the notice.

9.3.3. If the Tenant refuses or neglects to keep the Premises in good repair, the Town may, but shall not be obliged to, make any necessary repairs, and shall be permitted to enter the Premises, by himself or his servants or agents, for the purpose of effecting the repairs, without being liable to the Tenant for any loss, damage, or inconvenience to the Tenant in connection with the Town's entry and repairs, and

9.3.4. If the Town makes repairs, the Tenant shall pay the cost of them immediately as Additional Rent.

9.4. Upon the expiry of the Term of other determination of the Lease, the Tenant agrees peaceably to surrender the Premises, including any alterations or additions made thereto, to the Town in a state of good repair, reasonable wear and tear and damage by fire, lightning, and storm only excepted.

9.5. The Tenant shall immediately give written notice to the Town of any substantial damage that occurs to the Premises from any cause.

9.6.1. Notwithstanding major storm events, the Town will provide snow removal of the south parking lot, adjacent to the ball diamond. The timing of the snow removal will be included as part of the Town’s existing schedule.
9.6.2. Notwithstanding major storm events, the Town will provide snow removal of the walkway/patio area on the north-east side of the Premises, which will be kept open by the Town using the sidewalk plow and will be included as part of the Town’s existing sidewalk snow clearing schedule. No snow clearing will be effected outside of the Town’s existing sidewalk snow clearing schedule.

9.6.3. The Tenant will be responsible for removing the snow and ice from the entrance of the Premises, as well as applying de-icing material(s) on the entrance and walkway/patio area.

9.7. The furnace located within the Premises is owned by the Town and any required repairs or maintenance of the unit will be arranged by and paid for by the Town.

10. Improvements

10.1. If the Tenant, during the Term of this Lease or any renewal of it, desires to make any improvements, alterations, or additions to the Premises, including but not limited to: erecting partitions, attaching equipment, and installing necessary furnishings or additional equipment of the Tenant’s business, the Tenant may do so at his own expense, at any time and from time to time, if the following conditions are met:

(a) Before undertaking any alteration or addition the Tenant shall submit to the Town a plan showing the proposed alterations or additions and the Tenant shall not proceed to make any alteration or addition unless the Town has approved the plan, and the Town shall not unreasonably or arbitrarily withhold his approval. Items included in the plan which are regarded by the Tenant as “Trade Fixtures” shall be designated as such on the plan.

(b) Any and all alterations or additions to the Premises made by the Tenant must comply with all applicable building code standards, relevant legislation and by-laws of the municipality in which the Premises are located, and the tenant is responsible to obtain all necessary permits for alterations approved by the Town.

10.2. The Tenant shall be responsible for and pay the cost of any alterations, additions, installations or improvements that any governing authority, municipal, provincial or otherwise, may require to be made in, on or to the Premises.

10.3. No sign, advertisement or notice shall be inscribed, painted or affixed by the Tenant, or any other person on the Tenant’s behalf, on any part of the
outside of the building in which the Premises are located unless the sign, advertisement or notice has been approved in every respect by the Town.

10.4. All further alterations and additions to the Premises made by or on behalf of the Tenant, other than the Tenant's Trade Fixtures, shall immediately become the property of the Town without compensation to the Tenant unless otherwise agreed between the Town and Tenant.

10.5. The Tenant agrees, at his own expense and by whatever means may be necessary, immediately to obtain the release or discharge of any encumbrance that may be registered against the Town's property in connection with any additions or alterations to the Premises made by the Tenant or in connection with any other activity of the Tenant.

10.6. If the Tenant has complied with his obligations according to the provisions of this Lease, the Tenant may remove his Trade Fixtures at the end of the Term or other termination of this Lease and the Tenant covenants that he will make good and repair or replace as necessary any damage caused to the Premises by the removal of the Tenant's Trade Fixtures.

10.7.1. Other than as provided in Section 10.6 above, the Tenant shall not, during the Term of this Lease or anytime thereafter, remove from the Premises any Trade Fixtures or other goods and chattels of the Tenant except in the following circumstances:

(a) The removal is in the ordinary course of business;

(b) The Trade Fixture has become unnecessary for the Tenant's business or is being replaced by a new or similar Trade Fixture; or

(c) The Town has consented in writing to the removal;

10.7.2. In any case, the Tenant shall make good any damage caused to the Premises by the installation or removal of any Trade Fixtures, equipment, partitions, furnishings and any other objects whatsoever brought onto the Premises by the Tenant.

10.8. The Tenant shall, at his own expense, if requested by the Town, remove any or all additions or improvements made by the Tenant to the Premises during the Term and shall repair all damage caused by the installation or the removal or both.

10.9. The Tenant shall not bring onto the Premises or any part of the Premises any machinery, equipment or any other thing that might in the opinion of the Town, by reason of its weight, size or use, damage the Premises or overload the floors of the Premises, and if the Premises are damaged or
overloaded the Tenant shall restore the Premises immediately or pay to the Town the cost of restoring the Premises.

11. Damage to the Premises

11.1. If the Premises or the building in which the Premises are located, are damaged or destroyed, in whole or in part, by fire or other peril, then the following provisions shall apply:

(a) If the damage or destruction renders the Premises unfit for occupancy and impossible to repair or rebuild using reasonable diligence within 120 clear days from the happening of such damage or destruction, then the Term hereby granted shall cease from the date the damage or destruction occurred, and the Tenant shall immediately surrender the remainder of the Term and give possession of the Premises to the Town, and the Rent from the time of the surrender shall abate;

(b) If the Premises can with reasonable diligence be repaired and rendered fit for occupancy within 120 days from the happening of the damage or destruction, but the damage renders the Premises wholly unfit for occupancy, then the rent hereby reserved shall not accrue after the day that such damage occurred, or while the process of repair is going on, and the Town shall repair the Premises with all reasonable speed, and the Tenant's obligation to pay Rent shall resume immediately after the necessary repairs have been completed;

(c) If the leased Premises can be repaired within 120 days as aforesaid, but the damage is such that the leased Premises are capable of being partially used, then until such damage has been repaired, the Tenant shall continue in possession and the Rent shall abate proportionately.

11.2. Any question as to the degree of damage or destruction or the period of time required to repair or rebuild shall be determined by an architect retained by the Town.

11.3. Apart from the provisions of Section 11.1, there shall be no abatement from or reduction of the Rent payable by the Tenant, nor shall the Tenant be entitled to claim against the Town for any damages, general or special, caused by fire, water, sprinkler systems, partial or temporary failure or stoppage of services or utilities which the Town is obliged to provide according to this Lease, from any cause whatsoever.

12. Waste And Nuisance

12.1. The Tenant hereby covenants and agrees not to commit waste on or at the premises or allow it to be committed nor permit maintenance of a
nuisance or any other noxious matter which may interfere with or affect the premises.

13. Compliance With Laws

13.1. The Tenant shall at all times during the term of this agreement comply with all local, provincial and federal laws, building, fire and sanitation regulations and codes as they affect the Tenant's enjoyment of the premises.

13.2. The Tenant shall comply with rules and regulations pursuant to the Accessibility for Ontarians with Disabilities Act, as may be amended from time to time.

14. Compliance with Environmental Laws

14.1. In this section, the following terms have the following meanings:

(a) “Environmental Laws” means any law, by-law, order, ordinance, ruling, regulation, certificate, approval, consent or directive of any applicable federal, provincial or municipal government, a governmental department, agency or regulatory authority or any court of competent jurisdiction:

(i) Relating to pollution or the protection of human health or the environment (including workplace health and safety);

(ii) Dealing with filings, registrations, emissions, discharges, spills, releases or threatened releases of Hazardous Substances or materials containing Hazardous Substances;

and/or

(iii) Regulating the import, storage, distribution, labeling, sale, use, handling, transport or disposal of a Hazardous Substance.

(b) “Hazardous Substance” means any substance capable of posing a risk or damage to health, safety, property or the environment including, without limitation, any contaminant, pollutant, dangerous or potentially dangerous substance, noxious substance, toxic substance, hazardous waste, flammable or explosive material, radioactive material, and any other substance or material now or hereafter declared, defined or deemed to be regulated or controlled under any Environmental Law.

14.2. Without limiting any other obligation of the Tenant in this Lease, the Tenant covenants and agrees that it shall, at its sole cost and expense,
observe and otherwise comply with, and cause its sub-lessees, invitees and all other occupants of the Premises to observe and comply with all Environmental Laws. Without limiting the generality of the foregoing, the Tenant covenants and agrees that:

(a) He shall not cause or permit any Hazardous Substance to be brought into, stored, kept or used in or about the Premises or any part thereof, other than any Hazardous Substance that is used in the ordinary course of the permitted use being carried on at the Premises and which is stored, kept and used in strict compliance with all Environmental Laws pertaining thereto;

(b) He shall not permit any emissions, discharges or releases of Hazardous Substances or materials containing Hazardous Substances from the Premises, other than where such occurs in the ordinary course of the permitted use being carried on at the Premises in strict compliance with all Environmental Laws pertaining thereto;

(c) He shall not construct or install any additional underground fuel storage tanks on the Premises, provided that nothing in this provision shall preclude the Tenant from being able to replace any existing underground storage tanks; and

(d) On the expiration or earlier termination of this Lease, he shall cause any material amounts of each and every Hazardous Substance which is then located on the Premises and has been brought on to the Premises by the Tenant, its sub-lessees or invitees, to be removed from the Premises in compliance with all Environmental Laws pertaining thereto.

14.3. The Tenant shall immediately provide the Town with written notice of any order, direction, notice of default or notice of legal action received by the Tenant pursuant to any Environmental Laws and relating to the Premises, the use and occupation of the Premises or the business carried on at the Premises.

15. **Surrender Of Premises**

15.1. Unless otherwise agreed between the parties or unless otherwise provided for by the terms of this agreement, the Tenant hereby covenants and agrees to surrender the premises and all keys at the end of the term arranged for under this agreement, or any extension hereof, and to remove all of the Tenant’s personal property occupying the premises at the end of the term of this agreement, or any extension hereof, so that it is restored to at least the same or similar condition it was in before the Tenant first occupied it. Any and all property not removed from the
premises at the end of the term of this agreement, or any extension hereof, or such other time as mutually agreed upon by both parties, will be considered to have reverted to the status of building improvements belonging to the Town or to have been abandoned as to any and all rights or claims of the Tenant, and will be at Town’s sole right of disposal.

16. Town’s Rights Of Access

16.1. In accordance with all applicable law, the Town retains the right of entry upon the premises to perform such inspections as may be required under this agreement or which may be required from time to time in order to exercise the Town’s rights of ownership to the premises.

17. Disagreement and Arbitration

17.1. In the event of any disagreement between the parties with regard to the provisions of this agreement, the parties hereto will make every effort to come to a mutually agreed upon decision. Where a disagreement cannot be settled between the parties, either party may make application to a judge for the appointment of an arbitrator pursuant to legislation provided that such application has been made in good faith and on reasonable grounds and such application is not used for the purpose of delay by either party.

18. Notice

18.1. Any notice required or permitted to be given by one party to the other pursuant to the terms of this Lease may be given:

To the Town at: 315 George Street, PO Box 310, Wiarton, ON NOH 2T0

To the Tenant at the Premises or at: 569318 Sideroad 6, RR 2, Ravenna, ON NOH 2E0.

18.2. The above addresses may be changed at any time by giving ten (10) days written notice.

18.3. Any notice given by one party to the other in accordance with the provisions of this Lease shall be deemed conclusively to have been received on the date delivered if the notice is served personally or seventy-two (72) hours after mailing if the notice is mailed.

19. Acknowledgement By Tenant

19.1. The Tenant agrees that he will at any time or times during the Term, upon being given at least forty-eight (48) hours prior written notice, execute and deliver to the Town a statement in writing certifying:
(a) That this Lease is unmodified and is in full force and effect (or if modified stating the modifications and confirming that the Lease is in full force and effect as modified);

(b) The amount of Rent being paid;

(c) The dates to which Rent has been paid;

(d) Other charges payable under this Lease which have been paid;

(e) Particulars of any prepayment of Rent or security deposits; and

(f) Particulars of any sub-tenancies.

20. Acts of Default

20.1. An Act of Default has occurred when:

(a) The Tenant has failed to pay Rent for a period of 30 consecutive days, regardless of whether demand for payment has been made or not;

(b) The Tenant has breached his covenants or failed to perform any of his obligations under this Lease, the Town has given notice specifying the nature of the default and the steps required to correct it and the Tenant has failed to correct the default as required by the notice.

(c) The Tenant has:

(i) Become bankrupt or insolvent or made an assignment for the benefit of Creditors;

(ii) Had its property seized or attached in satisfaction of a judgment;

(iii) Had a receiver appointed;

(iv) Committed any act or neglected to do anything with the result that a Construction Lien or other encumbrance is registered against the Town’s property;

(v) Without the consent of the Town, made or entered into an agreement to make a sale of its assets to which the Bulk Sales Act applies; or

(vi) Taken action if the Tenant is a corporation, with a view to winding up, dissolution or liquidation;
(d) Any insurance policy is cancelled or not renewed by reason of the use or occupation of the Premises, or by reason of non-payment of premiums;

(e) The Premises have become vacant or remain unoccupied for a period of thirty (30) consecutive days; or

(f) If the Premises are used by any other person or persons, or for any other purpose than as provided for in this Lease without the written consent of the Town.

19.2. When an Act of Default on the part of the Tenant has occurred, the current month's rent shall become due and payable immediately and the Town shall have the right to terminate this Lease and to re-enter the Premises and deal with them as he may choose.

19.3.1. If, because an Act of Default has occurred, the Town exercises his right to terminate this Lease and re-enter the Premises prior to the end of the Term, the Tenant shall nevertheless be liable for payment of Rent and all other amounts payable by the Tenant in accordance with the provisions of this Lease until the Town has re-let the Premises or otherwise dealt with the Premises in such manner that the cessation of payments by the Tenant will not result in loss to the Town.

19.3.2. The Tenant agrees to be liable to the Town, until the end of the Term of this Lease for payment of any difference between the amount of Rent hereby agreed to be paid for the Term hereby granted and the Rent any new tenant pays to the Town.

19.4.1. The Tenant covenants that notwithstanding any present or future Act of the Legislature of the Province of Ontario, the personal property of the Tenant during the term of this Lease shall not be exempt from levy by distress for Rent in arrears.

19.4.2. The Tenant acknowledges that it is upon the express understanding that there should be no such exemption that this Lease is entered into, and by executing this Lease the Tenant waives the benefit of any such legislative provisions which might otherwise be available to the Tenant in the absence of this agreement and the Tenant agrees that the Town may plead this covenant as an estoppel against the Tenant if an action is brought to test the Town's right to levy distress against the Tenant's property.

19.5. If, when an Act of Default has occurred, the Town chooses not to terminate the Lease and re-enter the Premises, the Town shall have the right to take any and all necessary steps to rectify and or all Acts of
Default of the Tenant and to charge the costs of such rectification to the Tenant and to recover the costs as Rent.

19.6.1. If, when an Act of Default has occurred, the Town chooses to waive his right to exercise the remedies available to him under this Lease or at law the waiver shall not constitute condonation of the Act of Default, nor shall the waiver be pleaded as an estoppel against the Town to prevent his exercising his remedies with respect to a subsequent Act of Default:

19.6.2. No covenant, term, or condition of this Lease shall be deemed to have been waived by the Town unless the waiver is in writing and signed by the Town.

21. Option to Renew

21.1. Upon sixty (60) days' notice delivered by the Tenant to the Town prior to the end of the term, the Tenant shall have the option to renew this Lease for a further term of five (5) years with all terms of this lease to remain the same, other than the rent payable which shall be negotiated by the parties and save for one further option to renew for a further period of five (5) years only thereafter.

21.2. During any renewal period the Tenant may terminate this lease upon sixty days' notice in writing to the Town.

21.3. During the last two years of the first renewal period and at any time thereafter should the Town wish to change the use of the property or demolish the building the Town may terminate the lease upon sixty days' notice in writing to the Tenant provided the Town proceeds with the change of use or demolition forthwith.

22. Clauses Severable

22.1. The failure of the Town to insist upon the strict performance of any covenant of this agreement shall not waive such covenant and the waiver by the Town of any breach of any covenant of this agreement shall not waive such covenant in respect of any future or other breach.

22.2. It is intended that all provisions of this agreement shall be binding and effective. In the event that any particular provision or provisions or part of a provision is found to be void, voidable or unenforceable for any reason whatsoever, the particular provision or provisions or part of the provision shall be deemed severed from the remainder of the agreement and all other provisions shall remain in full force and effect.
23. Termination

23.1. Violation of any of the terms of this agreement shall render this contract null and void.

23.2. This contract shall remain in effect for the period stated in Subsection 3.1 unless declared null and void as in Subsection 22.1 or 4.5, or renewed as in Section 20.

23.3. No notice of termination shall be accepted by either party unless served one party to the other in written or typed form.

23.4. Where an immediate termination of the agreement occurs, the Tenant will be authorized supervised re-entry to the premises to remove fixtures and such property as is legally and rightfully belonging to the Tenant, subject to applicable law and the written approval of the Town.

23.5. The Tenant shall immediately return all keys for the Premises upon termination of this Agreement.

In Witness of the foregoing covenants, the Town and the Tenant have executed this Lease this day of May, 2014.

Greg and Tanja Norton  
568318 Sideroad 6 RR 2  
Ravenna, ON N0H 2E0

Signing Officer(s)

Greg Norton

Witness

Town of South Bruce Peninsula  
315 George Street, PO Box 310  
Wiarton, ON N0H 2T0

Mayor John Close

Angela Cathrae, Clerk