

PARKING AGREEMENT

105 Rainbow Blvd., Niagara Falls, NY 14303

THIS AGREEMENT, made and entered into this 16th day of July, 2020, between the **City Of Niagara Falls, New York** (hereinafter "CITY"), a municipal corporation organized and existing pursuant to the laws of New York State, with offices located at 745 Main Street, Niagara Falls, NY 14302 and **Niagara Club, LLC**, d/b/a Spot Coffee Niagara Falls (hereinafter, "NIAGARA CLUB") a limited liability company organized and existing pursuant to the laws of the State of New York, with offices at 1625 Buffalo Avenue, Suite 2D, Niagara Falls, New York 14303.

WITNESSETH:

WHEREAS, NIAGARA CLUB operates a retail establishment in a building located at 24 Buffalo Avenue, Niagara Falls, New York 14301, to be used as Spot Coffee; and

WHEREAS, NIAGARA CLUB is in need of parking spaces for Spot Coffee staff and for patrons to its retail establishment; and

WHEREAS, CITY owns a municipal parking lot directly across the street from the NIAGARA CLUB building; and

WHEREAS, NIAGARA CLUB wishes to utilize ten (10) parking spaces in this CITY owned municipal parking lot for use by the Spot Coffee staff and patrons to its retail establishment and the CITY wishes to make said ten (10) spaces available to NIAGARA CLUB, on a temporary basis, pursuant to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. **USE OF PARKING AREA.** CITY hereby agrees to allow the NIAGARA CLUB to utilize ten (10) unreserved parking spaces in its municipal lot situated on the real property located at 105 Rainbow Blvd., Niagara Falls, New York 14303, SBL# 159.13-1-1 in the City of Niagara Falls, New York (the "Premises"). The location of the said ten (10) parking spaces shall be determined by the City Director of Public Works (hereinafter, "Director"), and may be utilized by Spot Coffee staff and patrons to its retail establishment. NIAGARA CLUB may install signage identifying the area

available for parking spaces for use by Spot Coffee staff and patrons to its retail establishment. The cost to install such signage shall be borne solely by the NIAGARA CLUB.

2. **TERM OF AGREEMENT.** The term (hereinafter, "Term") of this agreement shall commence on the 16th day of July, 2020 (hereinafter, "Effective Date") and shall expire on the 31st day of July, 2021, unless earlier terminated as provided herein.
3. **CONSIDERATION FOR USE.** NIAGARA CLUB agrees to pay the CITY the sum of FORTY AND 00/100 DOLLARS (\$40.00) per month for each of the ten (10) parking spaces available for use by the NIAGARA CLUB as provided herein. This equals the sum of \$400.00 per month to be paid by the NIAGARA CLUB to the CITY for the use of such parking spaces; said payments shall commence on the 1st day of August, 2020, and are due on the first day of each and every month thereafter up to and including July 1, 2021. This sum shall be paid on or in advance of the first day of each month commencing August 1, 2020 by making payment to the Niagara Falls City Controller at 745 Main Street, Niagara Falls, New York 14302. Such monthly amount shall be paid in United States funds. The initial payment, due on or in advance of August 1, 2020, shall also include an additional pro-rated payment for the period of July 16 through July 31, 2020, in the amount of \$200.00, bringing the total due for said initial payment to \$600.00. In the event any payment due the City is not received by the City on or before the 5th day of the month when due, a late penalty of 10% of the amount due is due and payable to the City.
4. **SIGNAGE.** In the event that any signage is to be installed by the NIAGARA CLUB at the Premises identifying the parking spaces available, any such signage shall be the sole cost and expense of the NIAGARA CLUB. Any such signage must be in conformity with any and all Federal, State, City and other local laws and regulations. The design, verbiage and location of any such signage must first be approved by the Director, which approval will not be unreasonably withheld
5. **HOURS OF USE.** The NIAGARA CLUB shall have unrestricted use to the ten (10) parking spaces on the Premises except during City sponsored events which require the utilization of all parking spaces on the Premises to be accessible to the public. It is further understood and agreed that any of the ten (10) parking spaces may be utilized by those individuals attending meetings at the NIAGARA CLUB provided parking spaces are available for use.

6. **MAINTENANCE BY THE CITY.** CITY is responsible for all day to day maintenance and upkeep of the Premises including, but not limited to, snow plowing, patching, striping, etc.
7. **ASSIGNMENT & SUBLETTING.** NIAGARA CLUB shall not assign this Agreement nor sublet its rights for the use of any parking spaces on the Premises in whole or in part without the prior written consent of the City.
8. **INDEMNIFICATION.** To the maximum extent allowable by New York State law NIAGARA CLUB shall defend, indemnify and hold harmless CITY, its directors, officers, employees and agents, from any and all claims, actions, suits, costs and expenses (including reasonable attorney fees) arising from the NIAGARA CLUB's use of the premises for the purposes outlined in this Agreement, except for those claims or actions arising as a result of negligence or willful misconduct on the part of the CITY.
9. **INSURANCE.** For the duration of this Agreement, NIAGARA CLUB shall, at its sole expense, maintain insurance against claims for injuries or damages to property which may arise from, or in connection with, NIAGARA CLUB's use of the parking spaces on the Premises. Such insurance coverage shall be provided to the City no later than July 17, 2020 and shall be in form and in amounts satisfactory to the City's Corporation Counsel.
10. **TERMINATION.** This Agreement may be terminated by either party upon 30 days written notice delivered to the other party at the address for such party as set forth in Paragraph 11 herein. CITY may terminate this Agreement on 5 days written notice to the NIAGARA CLUB in the event of a breach of a material term of this Agreement which has not been cured by the NIAGARA CLUB after having been given 5 days written notice of the breach.
11. **NOTICES.** Notices given under the terms of this Lease must be in writing and shall be deemed properly served if such notice is hand delivered or mailed by certified mail, return receipt requested, or sent by an established overnight commercial courier for delivery on the next business day with delivery charges prepaid, addressed to the other party at the following address, or such other address as either party may, from time to time, designate in writing:

CITY OF NIAGARA FALLS, NY
745 Main Street
Niagara Falls, NY 14302-0069
Attn: Robert Restaino and

NIAGARA CLUB, LLC
1625 Buffalo Avenue, Suite 2D
Niagara Falls, NY 14303
Attn: Nirel Patel

Christopher Mazur

Notice mailed in accordance with the provisions hereof shall be deemed to have been given as to the date of hand delivery or the third business day following the date of such mailing, whichever is earlier.

12. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Any legal actions, claims or demands shall be handled in a court of competent jurisdiction within the County of Niagara.
13. **SEVERABILITY OF PROVISIONS.** If one or more clauses of this Agreement is found to be unenforceable, illegal, or contrary to public policy, the Agreement will remain in full force and effect except for the clauses that are unenforceable, illegal or contrary to public policy.
14. **ENTIRE AGREEMENT.** This Agreement constitutes the complete and final Agreement of the parties, replaces and supersedes all oral and/or written proposals and Agreements heretofore made on the subject matter, and may be modified only by a writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set there hands the day and year first above written.

CITY OF NIAGARA FALLS, NY

NIAGARA CLUB, LLC

By: _____
Robert M. Restaino, Mayor

By: _____
Nirel Patel

ATTEST: _____
CITY CLERK