

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2012 - 06

**By-law to enter into a Lease Agreement
between Fort Malden Golden Age Club &
the Corporation of the Town of Amherstburg**

WHEREAS the Corporation of the Town of Amherstburg is the owner of United Communities Credit Union Complex, municipally known as 3295 Meloche Road, Amherstburg, Ontario;

AND WHEREAS the Fort Malden Golden Age Club wishes to utilize the Community Room and Kitchen area to provide club functions and events to seniors of the Amherstburg community;

AND WHEREAS the Council or the Corporation of the Town of Amherstburg deems it expedient to enter into a Lease Agreement with the Fort Malden Golden Age Club regarding a lease for the use of the Community Room and Kitchen area within the United Communities Credit Union Complex, municipally known as 3295 Meloche Road, Amherstburg, Ontario;

AND WHEREAS the specifics of such Agreement have been negotiated and are set out in the Agreement attached to and forming Schedule A to this By-law;


NOW THEREFORE the Council of the Corporation of the Town of Amherstburg hereby enacts as follows:

1. That the Mayor and Clerk be authorized to enter into the Lease Agreement between the Fort Malden Golden Age Club & the Corporation of the Town of Amherstburg for the use of the Community Room and Kitchen area within the United Communities Credit Union Complex, municipally known as 3295 Meloche Road, Amherstburg, Ontario, said Lease is attached hereto and forming part of this By-law;
2. That this By-law shall come into full force and effect upon the final passing thereof.

Read a first and second time, and finally passed this 9th day of January, 2012.



MAYOR - WAYNE HURST



CLERK - BRENDA M. PERCY

THIS LEASE made in duplicate this 10th day of January, 2012

BETWEEN:

THE CORPORATION OF THE TOWN OF AMHERSTBURG
A municipal corporation under the laws of the Province of Ontario

hereinafter called the **LESSOR**

OF THE FIRST PART;

-and-

FORT MALDEN GOLDEN AGE CLUB
A non profit corporation incorporated under the laws of the
Province of Ontario

hereinafter called the **LESSEE**

OF THE SECOND PART;

WHEREAS the Lessor is the owner of the lands and premises more particularly described as the Community Room and Kitchen area within the United Communities Credit Union Complex, municipally known as 3295 Meloche Road, Amherstburg, Ontario (the Property);

AND WHEREAS the Lessee is desirous of leasing the premises to provide club functions and events to seniors of the Amherstburg community and the Lessor has consented to lease same to the Lessee upon the terms and conditions hereinafter contained.

NOW THIS INDENTURE WITNESSETH that in consideration of the premises herein contained and other good and valuable consideration, the receipt, adequacy and sufficiency of which are respectively acknowledged and confirmed by each of the Parties, hereto, the parties hereto mutually covenant, promise, agree, warrant and undertake as follows:

ARTICLE I

GRANT AND TERM

1.01 DEMISED PREMISES

- (a) In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Lessor doth demise and lease unto the Lessee the above described Premises.

1.02 TERM

- (a) The Lessee shall have and hold the Demised Premises, for and during the term of Five (5) years (the Term) with said Term to commence on the 1st day of May, 2011 and to be fully completed on the 30th day of April, 2016.

ARTICLE II

RENT

2.01 RENT

The Lessee covenants with the Lessor to pay rent unto the Lessor as follows:

- (a) Cost of use of the Community Room and Kitchen area will be by donation of the Lessee to the Lessor every year based on the financial statements of the Lessee. The Lessee will provide a copy of the financial statements each year to the Lessor, on or before March 31st of the following year.

2.02 **ADDITIONAL RENT / ADDITIONAL CHARGES**

The Lessee covenants to pay for half the cost of the blinds and installation for the Community Room.

2.03 **PLACE OF PAYMENT**

All payments to be made by the Lessee under or in respect of this Lease shall be made to the Lessor at 271 Sandwich Street South, Amherstburg, Ontario or to such agent or agents of the Lessor or at such other place as the Lessor shall hereafter from time to time direct in writing to the Lessee.

ARTICLE III

TAXES

3.01 **BUSINESS AND PERSONAL PROPERTY TAX**

The Land has been designated as a municipal capital facility in accordance with Section 110(6) of the Municipal Act, 2001.

ARTICLE IV

USE WASTE, NUISANCE, GOVERNMENTAL REGULATIONS

4.01 **CONDUCT OF BUSINESS**

- (a) The Lessee shall not, without the prior written consent of the Lessor, which may be arbitrarily refused and/or withheld, utilize the Demised Premises at any time for any other purpose than that of The Fort Malden Golden Age Club, and further shall not sublease the premises or allow use by any other group. For greater certainty, should the Lessee wish to utilize the Demised for any purpose other than the Fort Malden Golden Age Club, the Lessee shall first obtain the written consent of the Lessor, which may be arbitrarily refused or withheld.
- (b) The Lessee shall conduct their business in the Demised Premises and occupy the Demised Premises in an up-to-date and reputable manner, shall keep the Demised Premises in a clean and tidy condition, shall not bring thereon any machinery, equipment, article or thing that might damage the same, shall not overload the floors, and shall not permit ashes, waste or objectionable material to accumulate on or near the Demises Premises.

4.02 **WASTE OR NUISANCE**

The Lessee shall not use or permit the Demised Premises to be used or occupied for any unlawful purpose, or commit or suffer to be committed any waste upon the Demised Premises, or do or permit to be done anything that doing or omission of which shall be result in a nuisance or which may disturb the quiet enjoyment of any neighbouring properties, tenant or tenements.

ARTICLE V

UTILITIES

5.01 UTILITY CHARGES

Utilities included in the monthly rental lease.

ARTICLE VI

RENOVATION, MAINTENANCE, REPLACEMENT AND REPAIRS

6.01 MAINTENANCE, REPLACEMENT AND REPAIRS

- (a) The Lessor shall, at the Lessor's expense and save as set out herein, maintain and keep the Property and every part thereof in good, substantial repair and condition, both interior and exterior, and shall promptly make all needed repairs of a quality and kind at least equal to the original including, without being limited to, the drains, pipes, electrical wiring, heating and air-conditioning, plant and equipment and all other machinery, facilities and equipment belonging to and used in connection with the Property, unless such repairs result from damage caused by the Lessee and/or the Lessees members.

6.02 SURRENDER OR DEMISED PREMISES AT END OF TERM

Upon the expiry of this Lease, the Lessee shall surrender the Demised Premises to the Lessor in the same condition in which they were delivered to the Lessee at the commencement of the Term hereof, subject to alternations to the Demised Premises permitted by this Lease Agreement, reasonable wear and tear, and damage by fire, lightning, tempest, structural defects, riot, mob violence, civil commotion, earthquake, structural, latent or inherent defect, or by reason of any explosion, accident or agency not the result of some negligent act or omission by the Lessee or the Lessee members only excepted.

ARTICLE VII

ACCESS BY LESSOR

7.01 RIGHT OF ENTRY

The Lessor and the Lessors agents shall have the right to enter the Demised Premises at all reasonable times to inspect the same, and in the event an inspection reveals any maintenance work or repairs are necessary and required by this Lease to be done by the Lessee, the Lessor shall give the Lessee notice in writing and thereupon the Lessee shall, within a reasonable time after receipt thereof, do such maintenance work or make the necessary repairs or replacements in a good and workmanlike manner. If the Lessee shall fail to do so, the Lessor and its contractors, agents or workmen shall be allowed to take all material into and upon the Demised Premises and do such repairs or replacements. The Lessor shall not be liable for any inconvenience, disturbance, or other damage resulting therefrom.

7.02 NOTIFICATION OF USE

The Lessor will notify the Lessee twenty-one (21) days in advance should the Community Room be booked for another function. It is understood by the Lessee that bookings can take place with shorter periods of notice. For any instances of cancellation to the Lessee to utilize the room, the Lessor will relocate the Lessee to the upper level Community Room at the United Communities Credit Union Complex, or any other unoccupied space that may be available within the Property and can accommodate the needs of the Lessee.

ARTICLE VIII

INSURANCE AND INDEMNITY

8.01 FIRE INSURANCE AND OTHER RISKS

The Lessor shall keep all buildings, improvements, equipment, fixtures, motors, machinery and equipment in or upon the Property (other than the Lessees fixtures and equipment) insured against loss or damage by fire and such other perils which similar properties are usually insured against in the Province of Ontario by prudent owner including, without being limited to, fire, lightning, windstorm, hail, explosion, riot, civil commotion, damage from aircraft and vehicles and smoke damage in an amount equal to the full insurance value thereof.

8.02 INDEMNIFICATION OF LESSOR

The Lessee hereby indemnifies and saves harmless the Lessor from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damages to property arising from or out of any occurrence in, upon or at the Property or any part thereof occasioned wholly or in part by any act or omission of the Lessee and/or the Lessees members. In case the Lessor shall be made a party to any litigation commenced by or against the Lessee, then the Lessee shall indemnify and hold the Lessor harmless and shall pay all costs, expenses and reasonable counsel fees incurred by the Lessor in connection with such litigation. The Lessee shall also pay all costs, expenses and reasonable counsel fees that may be incurred or paid by the Lessor in enforcing the covenants and agreements in this Lease.

ARTICLE IX

DAMAGE AND DESTRUCTION

9.01 TOTAL AND PARTIAL DESTRUCTION OF THE DEMISED PREMISES

- (a) Subject to Section 9.04 hereof, if the Demised Premises and/or the building on the property are damaged or destroyed, in whole or in part, by fire or other peril, then the following provisions shall apply:
 - (i) if the damage or destruction renders the Demised Premises unfit for use and occupancy and impossible to repair or rebuild using reasonable diligence within 120 days from the date on which such damage or destruction took place (the Event), then the Term shall cease from the date of such Event, and the Lessee shall immediately surrender and give possession of the Demised Premises to the Lessor and rent shall abate from the time of such event;
 - (ii) if the Demised Premises can, with reasonable diligence, be repaired and rendered fit for use and occupancy within 120 days from the Event, but the damage or destruction rendered the Demised Premises wholly unfit for use or occupancy, the rent reserved hereunder shall not accrue after the Event or while the repairs to such damage or destruction are being carried out. Upon completion of such repairs, the Lessees obligation to pay rent shall resume immediately; and
 - (iii) if the Demised Premises can, with reasonable diligence, be repaired and rendered fit for use and occupancy within 120 days from the Event, and the damage or destruction rendered the Demised premises partially fit for use or occupancy, then, until the repairs to such damage or destruction have been completed, the Lessee shall continue in possession of the Demised Premises and the rent shall abate proportionately.
- (c) Apart from the provisions of Paragraph 9.01(a) hereof, the Lessee shall not be entitled to claim against the Lessor for any damages, general or special, caused by

such damage or destruction of the Demises Premises unless said damage or destructions results from the negligence and/or act of omission by the Lessor or any of the Lessors members.

9.02 **TERMINATION OF LEASE**

Notwithstanding Section 9.01 hereof, if during the Term of this Lease the Demised Premises and/or the building on the Property are totally or partially damaged or destroyed such that, in accordance with Section 9.01 hereof, this Lease is terminate, all proceeds from the said insurance on the Property shall belong absolutely to the Lessor and the Lessee shall forthwith execute all releases as may be necessary in respect of the insurance monies.

ARTICLE X

ADDITIONAL, ALTERNATIONS, FIXTURES

10.02 **FIXTURES**

- (a) The Lessee shall request the Lessor to deliver or install in the Demised Premises any equipment, fixtures, stock or other material to be used by the Lessee in the operation of its business.

ARTICLE XI

ASSIGNMENT AND SUBLETTING

11.01 **CONSENT OF LESSOR**

- (a) The Lessee will not assign the Lease or sublet the whole or any part of the Demised Premises.

ARTICLE 1X11

OVERHOLDING

12.01 **OVERHOLDING**

If upon the termination of this Lease or any renewal hereof for any reason whatsoever, the Lessor permits the Lessee to remain in possession of the Demised Premises and accepts rent in respect thereto, a tenancy from year to year shall not be created by implication of law, but the Lessee shall be deemed to be a monthly tenant only subject in all respects to the provisions of this Lease.

ARTICLE XIII

TERMINATION

13.01 **TERMINATION**

The Lease herein contained shall be terminated at the option of the Lessor on the happening of any of the following events:

- (a) the insolvency or dissolution of the Lessee;
- (b) the breach by the Lessee of any of the covenants herein contained; provided that such

breach has not been corrected within 7 days after written notice has been given by the Lessor to the Lessee specifying such breach, or the correction of such breach has not been commenced within 7 days after written notice has been given by the Lessor to the Lessee specifying such breach where the correction of such breach cannot reasonably be completed within 7 days;

- (c) by mutual agreement of the Parties hereto under a memorandum in writing signed by both the Lessor and the Lessee; or
- (d) in the event of expropriation by any expropriating authority other than the municipality or other involuntary forfeiture of the demised Premises.

ARTICLE XIV

QUIET ENJOYMENT

14.01 QUIET ENJOYMENT

The Lessor covenants with the Lessee that, upon the Lessee duly paying the rent hereby reserved together with all additional charges herein secured, and duly keeping, observing and performing the covenants, agreement and conditions herein on the Lessee's part to be kept, observed and performed, the Lessee shall and may peaceably possess and enjoy the Demised Premises for the Term hereby granted without hindrance, interruption or disturbance from the Lessor.

ARTICLE XV

MISCELLANEOUS

15.01 NOTICES

- (a) Any notice to be given by one Party to this Agreement to the other Party to this Agreement shall be sufficiently given if made in writing and addressed to the other party by means of Telex, Telegraph or Facsimile or by prepaid registered mail. In the event such notice shall be given by Telex, Telegraph or Facsimile, it shall be deemed to have been received on the next day following the transmission of such notice, and in the event that such notice shall be given by registered mail, it shall be deemed to have been received upon the Third (3rd) day next following the date of deposit of such notice in a government post office.

- (b) In the case of notice being given to the Lessor, such notice shall be sent to the following address:

The Corporation of the Town of Amherstburg
271 Sandwich St., South,
Amherstburg, Ontario N9V 2A5

- (c) In the case of notice being given to the Lessee, such notice shall be sent to the following address:

Fort Malden Golden Age Club
3295 Meloche Road
Amherstburg, Ontario N9V 3N8

15.02 GENERAL PROVISIONS

- (a) Any waiver by the Lessor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or

any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by the Lessor shall not be deemed to be a waiver of any preceding breach by the Lessee of any term, covenant or condition of this lease, other than the failure of Lessee to pay the particular rent so accepted, regardless of the Lessors knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by the Lessor unless such waiver be in writing and signed by the Lessor.

- (b) In the event that either the Lessor or the Lessee are delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labour troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the Party delayed in performing the work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section shall not operate to excuse the Lessee from prompt payment of rent, additional charges or any other charges or payments required by the terms of this Lease.
- (c) The Lessee shall not register this Lease in this form but if the Lessee desires to register notice of this Lease, then the parties hereto shall contemporaneously with the execution hereof, execute a short form Notice of Lease solely for the purpose of registration.
- (d) If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Lease shall be valid and unenforceable to the fullest extent permitted by law.
- (e) Save as aforesaid; this Lease shall be interpreted in accordance with the laws of the province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.
- (f) 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.
- (g) Unless the context otherwise requires, the word Lessor and the word Lessee wherever used herein shall be construed to include and shall mean the executors, administrators, heirs, permitted successors and/or assigns of the said Lessor and Lessee respectively.
- (h) The Parties hereto agree for themselves, and their executors, administrators, heirs, permitted successors and/or assigns, to execute any instrument which may be necessary or proper to carry out the purposes and intent of this Lease. For greater certainty, his Lease Agreement shall be binding upon the Parties as well as their executors, heirs, permitted successors and/or assigns.
- (i) The division of this Lease Agreement into sections, subsections, etc. and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation hereof.
- (j) Any schedules and other documents attached to this Lease are integral part of this Lease Agreement and are incorporated into this Lease by reference.
- (k) This agreement may be executed in several counterparts, each of which when so


executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and shall be effective as of the date set out above.


- (1) This Lease Agreement constitutes the entire agreement among the Parties and except as herein state and in the instruments and documents referred or to be delivered pursuant hereto, contains all of the representations and warranties of the respective Parties. There are no oral representations or warranties among the Parties of any kind. This Lease Agreement may not be amended or modified in any respect except by written instrument signed by all Parties.

IN WITNESS WHEREOF the parties hereto have executed these presents, in the case of the Lessor, by the hands of its proper officers duly authorized in that behalf, as of the date set out above.


SIGNED, SEALED AND DELIVERED
In the presence of

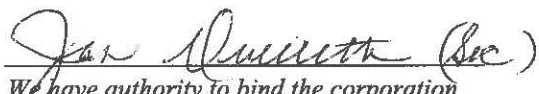
) **THE CORPORATION OF THE TOWN OF**
) **AMHERSTBURG**

)
) Per: 
) Wayne Hurst, Mayor

)
) Per: 
) Brenda M. Percy, Clerk

) **FORT MALDEN GOLDEN AGE CLUB**

)
) Per:  Pres-

)
) Per:  (Sec.)
) *We have authority to bind the corporation*