

**THE CORPORATION OF THE TOWN OF AMHERSTBURG**

**BY-LAW NO. 2012-75**

**By-law to enter into a Licence Occupation Agreement between Her Majesty the Queen, in right of Canada and the Corporation of the Town of Amherstburg for the use of lands known as the Fort Malden National Historic Site of Canada**

**WHEREAS** under Section 8 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 9. (1) (a) and (b) of the Municipal Act 2001, S.O., 2001, c. 25, as amended, Section 8 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

**AND WHEREAS** the Council of The Corporation of the Town of Amherstburg deems it expedient to enter into an agreement with Her Majesty the Queen, in right of Canada for the use of lands known as the Fort Malden National Historic Site of Canada;

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

1. That the Council of The Corporation of the Town of Amherstburg agrees to enter into an agreement with Her Majesty the Queen, in right of Canada for the use of lands known as the Fort Malden National Historic Site of Canada for a period of seven days commencing on the 1<sup>st</sup> of August 2012 until the 7<sup>th</sup> day of August 2012;
2. That the said Licence Occupation Agreement is attached hereto as Schedule "A" and forms part of this By-law;
3. That the Mayor and Clerk are hereby authorized to sign and seal said Agreement on behalf of The Corporation of Town of Amherstburg;
4. This By-law shall come into force and take effect immediately upon the final passing thereof.

Read a first, second and third time and finally passed this 13th day of August, 2012

  
WAYNE HURST, MAYOR

  
BRENDA M. PERCY, CLERK

THIS LICENCE OF OCCUPATION made this 30<sup>th</sup> day of July, 2012

BETWEEN: **HER MAJESTY THE QUEEN, in right of Canada,**  
represented herein by the Minister of the Environment for  
the purposes of the Parks Canada Agency, ("Her  
Majesty"),

OF THE FIRST PART,

AND: The Town of Amherstburg, a body corporate,  
incorporated under the laws of the Province of Ontario  
("Licensee"),

OF THE SECOND PART.

**WITNESS** that in consideration of the fees, covenants and agreements herein reserved and contained on the part of the Licensee to be paid, observed, performed and kept, Her Majesty hereby gives permission to the Licensee to use and occupy on a non-exclusive basis for the purpose hereinafter mentioned and subject to the terms and conditions hereinafter contained, all that certain Land situate, lying and being in Fort Malden National Historic Site of Canada, in the Province of Ontario and being composed of all that certain parcel of land as shown on the site plan annexed hereto as Schedule "A", and forming part thereof, ("Land"); for a period of (7 days) commencing on the 1<sup>st</sup> day of August 2012 for the purpose of set up, the event being held from August 3<sup>rd</sup> to August 5<sup>th</sup>, 2012 and complete the take down and vacate the Land by the 7<sup>th</sup> day of August 2012, ("Period").

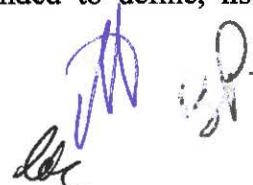
**YIELDING AND PAYING THEREFORE** to Her Majesty at the office of Fort Malden National Historic Site, a fee in the amount of ONE DOLLAR for every Concert Ticket sold for August 4<sup>th</sup>, 2012 (\$1.00) + HST, all hereinafter called the "Licence Fee", within Ninety (90) days following the last day of the Period, the Licensee shall pay the said Licence Fee.

In addition to the payment of the Licence Fee, the Lessee shall pay Her Majesty a Documentation Preparation Fee in the sum of NINETY-EIGHT DOLLARS AND TEN CENTS (\$98.10 includes HST) upon the execution of this Licence.

#### ARTICLE 1.00 DEFINITIONS

1.01 In this Licence of Occupation:

- (a) "Applicable Environmental Law" means:
  - (i) all applicable statutes and regulations, and all by-laws, declarations, directives, plans, approvals, requirements, guidelines, standards and orders made pursuant thereto by any competent authority concerned with environmental assessment, protection or remediation, health, chemical use, safety or sanitation; and
  - (ii) the applicable common law;
- (b) "Bankruptcy and Insolvency Act" means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;
- (c) "Companies Creditors Arrangement Act" means *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36;
- (d) "Contaminant" means:
  - (i) any pollutant or toxic, dangerous or hazardous substance or material as defined, listed, prohibited, controlled, or regulated by Applicable Environmental Law or any other formulation intended to define, list,



prohibit, control, regulate or classify substances by reason of deleterious or harmful or potentially deleterious or potentially harmful properties such as ignitability, corrosivity, reactivity, radioactivity, or toxicity; or

- (ii) any substance that when released in to the natural environment causes or is likely to cause harm, adverse impact, damage or degradation to, or impairment of, or the use of the environment, risk to or an adverse effect on human safety or health, injure or materially discomfort any person, or the normal conduct of business;
- (e) "Event" means the Licensee's event "Roots to Boots 1812 Amherstburg" to be held August 3<sup>rd</sup> – 5<sup>th</sup>, 2012, during the period;

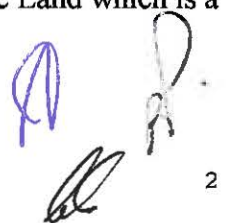
Nothing in the foregoing will be construed as affecting or derogating from the covenant as to limitation and restriction of permitted use hereafter set out.

- (g) "Director" means Director, Ontario Service Centre, Parks Canada Agency or any person authorized to act in that behalf;
  - (h) "Licence" means this Licence of Occupation;
  - (i) "Minister" means the Minister of the Environment or such Minister designated by the Governor in Council as the Minister for the purposes of the *Parks Canada Agency Act*, or any person authorized to act in that behalf;
  - (j) "Parks Canada Agency" means the Parks Canada Agency, a body corporate established under section 3 of the *Parks Canada Agency Act*, S.C. 1998, c.31;
  - (k) "Site" means Fort Malden National Historic Site of Canada
  - (l) "Manager, National Historic Sites", means the National Historic Site Manager for Southwestern Ontario Field Unit, or any person authorized to act in that behalf.
- 1.02 Any reference in this Licence to a statute, regulation, by-law, declaration, directive, policy, approval, requirement, standard or order means the statute, regulation, by-law, declaration, directive, policy, approval, requirement, standard or order now in force, as it may be amended, revised, consolidated or substituted from time to time.

#### **THE PARTIES COVENANT AND AGREE AS FOLLOWS:**

##### **ARTICLE 2.00 USE OF LAND**

- 2.01 (a) The Licensee acknowledges and agrees that it is a condition upon which this Licence is granted that the Land shall be used only for the purpose of providing the event, together with the right to offer musical entertainment and in accordance with applicable Site plans and guidelines;
- (b) The Licensee shall obtain all permits, licences and authorizations required under all applicable federal statutes and regulations; and
- (c) The Licensee shall comply with, and the terms of this Licence shall be subject to, the provisions of all applicable federal statutes and regulations.
- (d) The Licensee covenants and agrees to comply with all of the terms and conditions contained in Schedule "B" titled "Operational Requirements" annexed hereto and forming part hereof.
- 2.02 The Licensee shall not create or permit or suffer any act or thing on the Land which is a nuisance.



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- 2.03 The Licensee shall not cause, permit or allow the commission of any waste on or in the Land.
- 2.04 The Licensee shall observe fire and safety precautions and shall comply fully with the instructions of the Manager, National Historic Sites in relation thereto.

### **ARTICLE 3.00 ACCEPTANCE AND EXCEPTIONS**

- 3.01 The Licensee covenants and agrees that:
- (a) it has inspected the Land and any Crown improvements therein or has caused it to be inspected on the Licensee's behalf;
  - (b) it has entered into this Licence on reliance of that inspection and not on reliance of any representation, whether oral, written or implied, by whomsoever made;
  - (c) it will accept the Land in the condition existing on the date of this License on an "as is" basis, notwithstanding the existence of any Contaminant, known or unknown, on, in or under the Land;
  - (d) it has satisfied itself of everything and of every condition affecting the Land and any Crown improvements therein including the environmental condition of same;
  - (e) no representation, warranty or inducement has been given by Her Majesty or any of Her officers, servants, agents and contractors and relied upon by the Licensee respecting the condition of the Land and any Crown improvements therein.
- 3.02 This Licence operates solely as a licence and does not transfer any exclusive possessory right or interest to the Licensee.
- 3.03 The Licensee acknowledges and agrees that Her Majesty may issue other licences of occupation with respect to the Land, or any portion thereof, or use the Land for site purposes.
- 3.04 The Licensee shall permit Her Majesty, Her officers, servants, agents, contractors, franchisees and the public at large to pass freely at all times over the Land.
- 3.05 Where the Land or any part thereof is required by Her Majesty for the purpose of administration of the Site or for any other public purpose, Her Majesty, Her officers, servants, agents, contractors and franchisees may enter and use the whole or any part of the Land, on the expiration of such notice as the Minister may deem expedient.

### **ARTICLE 4.00 TAXES AND OTHER CHARGES**

- 4.01 The Licensee covenants and agrees to pay, in addition to the Licence Fee, all applicable taxes, rates, duties, assessments, levies, fees or other impositions whatsoever charged upon the Land in relation to the Licensee's use of the Land or upon the Licensee in respect thereof.

### **ARTICLE 5.00 ENVIRONMENTAL PROTECTION**

- 5.01 The Licensee covenants and agrees that all activities on the Land shall be conducted in compliance with Applicable Environmental Law, or in accordance with generally accepted environmental practices if there is no Applicable Environmental Law.
- 5.02 The Licensee covenants and agrees that:
- (a) any required environmental assessments relating to its physical works and activities on the Land shall be conducted in accordance with the *Canadian Environmental Assessment Act*, S.C. 1992, c. 37, or any successor or similar



legislation and regulations made thereunder, and all applicable federal policies and procedures; and

- (b) it shall implement and comply with any specifications, mitigative measures and environmental protection measures as set forth in an environmental assessment referred to in (a) and such specifications, mitigative measures and environmental protection measures shall become covenants which form part of this Licence.

5.03 The Licensee covenants and agrees to ensure that no Contaminant shall be used, emitted, discharged, stored or disposed of as a result of its use of the Land except in strict compliance with Applicable Environmental Law, or in accordance with generally accepted environmental practices if there is no Applicable Environmental Law. The Licensee shall implement and comply with any specifications, mitigative measures and environmental protection measures as required by the Minister regarding the use, emission, discharge, storage or disposal of any Contaminant and such specifications, mitigative measures and environmental protection measures shall become covenants which form part of this Licence.

5.04 The Licensee covenants and agrees to provide the Minister with written notice of any anticipated or actual adverse environmental impacts attributable to its use of the Land immediately upon discovery by the Licensee, and if the Minister considers remedial action to be necessary, the Licensee hereby agrees to undertake remedial action immediately using the appropriate technology, design or repair to the satisfaction of the Minister and pay the costs of such remedial action. Furthermore, the Licensee agrees that all such remedial action shall be undertaken in accordance with Applicable Environmental Law, or in accordance with generally accepted environmental practices if there is no Applicable Environmental Law and in a manner so as to minimize any impact on the Land and elsewhere.

5.05 The Licensee covenants and agrees that should the Licensee fail to take any mitigative measures required by the Minister as set forth in Articles 5.02 and 5.03, fail to commence and diligently complete the remedial action required in Article 5.04, the Minister may, upon written notice to the Licensee, carry out the specifications, complete the required mitigative measures or remedial action and charge the costs thereof, including reasonable costs for administration, to the Licensee, and such costs shall constitute a debt due and owing to Her Majesty and shall be payable upon demand.

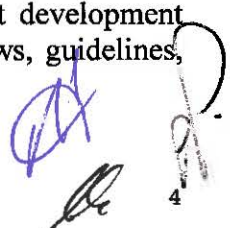
#### **ARTICLE 6.00 DUTY TO MAINTAIN AND RIGHT OF INSPECTION**

6.01 The Licensee covenants and agrees that in relation to the Licensee's use of the Land:

- (a) it shall maintain or cause to be maintained the Land in a good state of maintenance and repair. If the Licensee fails to commence and diligently proceed to make such repairs or remedy such condition after receiving thirty (30) days notice in writing from the Manager, National Historic Sites, may enter the Land, make the said repairs, or remedy such condition, and charge the costs thereof to the Licensee and such costs, including reasonable costs for administration, shall constitute a debt due and owing to Her Majesty and shall be payable upon demand; and
- (b) the Manager, National Historic Sites or his agents shall be entitled to enter and inspect the Land at all reasonable times, including normal business hours, for the purpose of inspecting and ascertaining the condition or state of repair thereof, or verifying that the covenants and other provisions of this Licence are being complied with.

#### **ARTICLE 7.00 SUBMISSION OF PLANS AND SPECIFICATIONS**

7.01 (a) The Licensee shall submit plans and specifications for any construction, additions and alterations to the Land for the approval of the Manager, National Historic Sites, in accordance with but not limited to the current development review process, Site management plans, community plans, by-laws, guidelines,



approvals, requirements, standards, orders, directives, zoning and such other regulations that are applicable to the Land and such other requirements specified by the Manager, National Historic Sites.

- (b) Upon approval by the Manager, National Historic Sites of the plans and specifications mentioned in (a), the Licensee shall obtain all necessary permits, licences and approvals and shall within one (1) year of the date of the issuance of all necessary permits, licences and approvals or such longer period of time as the Manager, National Historic Sites may deem warranted, complete the construction, additions and alterations to the Land including the remedying of any deficiencies.

7.02 With respect to any development pursuant to Articles 7.01, the Licensee shall, at the request of the Manager, National Historic Sites, obtain a performance bond and labour and material payment bond or other form of security, in a form and such amounts to be determined by the Manager, National Historic Sites. Such security shall remain in full force and effect for such reasonable period of time as the Manager, National Historic Sites may deem warranted.

#### **ARTICLE 8.00 ALIENATION**

8.01 The Licensee shall not, at law or otherwise, assign, transfer, sublicense or otherwise alienate this Licence or any of the rights hereunder.

8.02 A transfer or issuance of the shares of a corporate licensee which would have the result of transferring effective control of the corporate licensee, or any other change in the corporate structure of the corporate licensee which would have the same result, shall be deemed to be an assignment contemplated by Article 8.01 and shall be deemed a violation of Article 8.01.

8.02.1 The Licensee or a legal representative of the Licensee shall provide to the Manager, National Historic Sites, within thirty (30) days from the date of issuance, an original, a duplicate original or a certified true copy of any of the following documents relating to the Licensee such as:

- (a) evidence of change of name;
- (b) evidence of amalgamation or dissolution in the case of a corporate licensee, and
- (c) any court orders affecting the Land.

#### **ARTICLE 9.00 LIABILITY AND INDEMNITY**

9.01 The Licensee shall not have any claim or demand against Her Majesty or any of Her servants, agents and all those for whom Her Majesty is responsible at law, for detriment, damage, accident or injury of any nature whatsoever or howsoever caused to the Land or to any person or property thereon, except in the case of the negligence of Her Majesty, Her servants, agents and all those for whom Her Majesty is responsible at law.

9.02 The Licensee shall at all times indemnify and save harmless Her Majesty or any of Her servants, agents and all those for whom Her Majesty is responsible at law, from and against all claims, demands, losses, costs, damages, actions, suits or proceedings by whomsoever made, brought or prosecuted in any manner based upon, arising out of, related to, occasioned by or attributable to:

- (a) the Licensee's use of the Land or the use of the Land by all those for whom the Licensee is responsible at law;
- (b) the existence of any Contaminant in, on or under the Land, as a result of the Licensee's use of the Land, or the use of the Land by all those for whom the Licensee is responsible at law;



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- (c) the remediation of any Contaminant referred to in (b) or (c); or
- (d) any action taken or things done or maintained by virtue thereof, or the exercise in any manner of rights or fulfillment of any obligations arising hereunder.

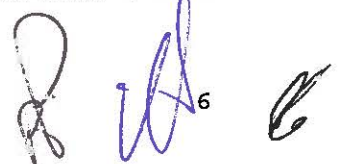
## ARTICLE 10.00 INSURANCE

10.01 The Licensee covenants and agrees that:

- (a) during the Period, it shall, at its sole expense, obtain and maintain commercial general liability insurance in such amounts and on such terms as a prudent operator should maintain. Such insurance will provide that Her Majesty is named as an additional insured and shall include coverage for bodily injury, including death, to any person, as well as the loss of or damage to any property, to the extent that liability for these things is connected with the Licensee's use of the Land. Furthermore, the Licensee shall increase the amount of such insurance and obtain such additional coverage as the Manager, National Historic Sites may from time to time require, based on the prevailing limits and coverages for the type of Land use described in Article 2.01 (a);
- (b) the insurance referred to in (a) shall:
  - (i) be issued by an insurance company or companies which would be satisfactory to the Manager, National Historic Sites and shall provide for a minimum of thirty (30) days notice in writing by such company or companies to the Licensee and to Her Majesty of cancellation or amendment of such insurance;
  - (ii) shall contain a waiver of any subrogation rights the Licensee's insurers may have against Her Majesty and against those for whom Her Majesty is responsible at law except in the case of negligence of Her Majesty, Her servants and agents and all those for whom Her Majesty is responsible at law;
  - (iii) provide for cross liability, that is to say, that the insurance shall indemnify each named insured and each additional insured in the same manner as though separate policies were issued in respect of any action brought against any of the insureds by any other insured;
  - (iv) protect the Licensee and Her Majesty, as additional insured, from loss or damage to any of Her Majesty's property that is covered by this Licence, and to any of the Licensee's property that would become the property of Her Majesty according to the provisions of this Licence on its expiration or termination. Such insurance shall provide that any proceeds payable under it will be made payable in favour of Her Majesty and the Licensee jointly;
  - (v) on the anniversary date for each year during the Period, it shall provide the Manager, National Historic Sites with Certificates of Insurance or affidavits from the insurance company or companies confirming that the insurance referred to herein is in full force and effect; and
- (c) it shall not do or omit to do or allow anything to be done or omitted to be done on the Land which will in any way impair or invalidate such insurance referred to herein.

## ARTICLE 11.00 REMOVAL OF IMPROVEMENTS

11.01 Upon expiration or termination of this Licence, the Licensee shall sever and remove all Structures from the Land. If the Licensee fails to remove all Structures immediately upon the expiration or termination of this Licence, the Manager, National Historic Sites



may remove the Structures and charge the costs thereof, including reasonable costs for administration, to the Licensee and such costs shall constitute a debt due and owing to Her Majesty and shall be payable upon demand.

- 11.02 Subsequent to the removal of all Structures in accordance with this Article, the Licensee shall rehabilitate the Land in accordance with instructions from the Manager, National Historic Sites. If the Licensee fails to comply with this Article then the Manager, National Historic Sites may rehabilitate the Land and charge the costs thereof, including reasonable costs for administration, to the Licensee, and such costs shall constitute a debt due and owing to Her Majesty and shall be payable upon demand.

#### **ARTICLE 12.00 CONDITION OF THE LAND UPON EXPIRATION OR TERMINATION**

- 12.01 In relation to the Licensee's use of the Land, the Licensee covenants and agrees that upon the expiration or termination of this Licence, the Licensee shall at its own cost:

- (a) clean up any Contaminant in, on or under the Land resulting from the Licensee's use of the Land, or the use of the Land by all those for whom the Licensee is responsible at law, in accordance with Applicable Environmental Law, or in accordance with generally accepted environmental practices if there is no Applicable Environmental Law;
- (b) clean up any Contaminant in, on or under the Land that has migrated from the Land as a result of the Licensee's use of the Land, or the use of the Land by all those for whom the Licensee is responsible at law, in accordance with Applicable Environmental Law, or in accordance with generally accepted environmental practices if there is no Applicable Environmental Law;
- (c) leave the Land free from all garbage and debris; and
- (d) restore the Land to a good state of maintenance and repair,

all to the satisfaction of the Manager, National Historic Sites in their sole discretion.

- 12.02 If the Licensee fails to comply with the provisions of Article 12.01, the Minister may, upon written notice to the Licensee, complete the obligations of the Licensee and charge the costs thereof, including reasonable costs for administration, to the Licensee and such costs shall constitute a debt due and owing to Her Majesty and shall be payable upon demand.

#### **ARTICLE 13.00 OFFICIAL LANGUAGES**

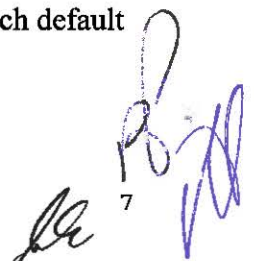
- 13.01 The Licensee shall endeavour to provide services to the public in both official languages of Canada and to ensure that signs, notices and printed materials used for the purpose of informing the public are written in both official languages, and the Licensee will upon the request of the Manager, National Historic Sites obtain approval prior to their being displayed or distributed.

#### **ARTICLE 14.00 DEFAULT AND TERMINATION**

- 14.01 In respect to this Licence in the event that:

- (a) any portion of the licence fee hereby reserved is unpaid for more than thirty (30) days after becoming due, whether formally demanded or not;
- (b) the Licensee fails to continuously, regularly, duly and punctually perform, observe or keep any of the other covenants and provisions herein contained,

the Minister may, by notice in writing, require the Licensee to remedy any such default within such period of time as the Minister may deem warranted.





If in such case, the Licensee does not remedy such default within the time prescribed, it will be lawful for the Minister, in the Minister's sole discretion, without notice to the Licensee, to declare the Period ended and this Licence terminated and thereupon, these presents and everything herein contained and will absolutely cease, terminate and be void without re-entry or any other act or any suit or legal proceedings to be brought or taken, provided Her Majesty will nevertheless be entitled to recover from the Licensee the licence fee then accrued or accruing.

14.02 Notwithstanding anything herein contained, if the Licensee should at any time during the Period hereof:

- (a) make an assignment for the benefit of creditors pursuant to *the Bankruptcy and Insolvency Act*;
- (b) be adjudged bankrupt pursuant to the *Bankruptcy and Insolvency Act* provided that such order shall have remained in force for no less than thirty (30) days and shall not have been stayed;
- (c) file any petition or institute any proceedings under the *Bankruptcy and Insolvency Act*, *Companies Creditors Arrangement Act*, or similar legislation affecting the rights of creditors generally;
- (d) be subject to the appointment of a receiver or trustee who is not discharged within sixty (60) days from the date of such appointment; or
- (e) abandons the Land, or demonstrate an intention to abandon the Land, as stipulated in Article 2.01 (a),

it will be lawful for the Minister, in the Minister's sole discretion, without notice to the Licensee, to declare the Period ended and this Licence terminated and thereupon, these presents and everything herein contained and will absolutely cease, terminate and be void without re-entry or any other act or any suit or legal proceedings to be brought or taken, provided Her Majesty will nevertheless be entitled to recover from the Licensee the annual licence fee then accrued or accruing.

14.03 Termination of this Licence pursuant to any of the provisions herein shall be wholly without prejudice to the right of Her Majesty to recover arrears of the annual licence fee or any other right of action by Her Majesty in respect of any antecedent breach of covenant or other provision herein contained, and the rights shall survive the termination of this Licence, whether by act of the parties or by operation of law.

#### **ARTICLE 15.00 DISPUTES**

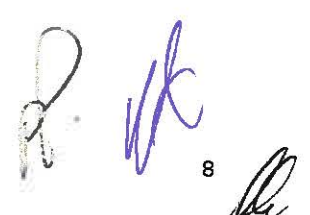
15.01 Any question or dispute that arises between the Parties hereto over any of the covenants terms, obligations and other provisions of this Licence or the interpretation thereof, shall be referred to a court of competent jurisdiction for determination.

#### **ARTICLE 16.00 MISCELLANEOUS**

16.01 Any notice, request or other communication required by or affecting this Licence may be served upon the parties hereto by sending it by mail, facsimile or other electronic message which provide a hard copy, postage or charges prepaid addressed to:

- (a) in the case of Her Majesty;

Minister of the Environment  
c/o Fort Malden National Historic Site of Canada  
P.O. Box 38  
Amherstburg, ON N9V 2Z2



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and

(b) in the case of the Licensee;

the Licensee's last known address, or to the Land itself, or by leaving it at that address, or by personally serving it upon the party referred to therein.

Any notice addressed by mail to Her Majesty or to the Licensee pursuant to this Article will be deemed to have been effectively given on the seventh (7th) business day following the date of mailing. Such addresses may be changed from time to time by either party giving notice as provided herein. In the event of any disruption of postal service, notices will be personally served upon the parties hereto.

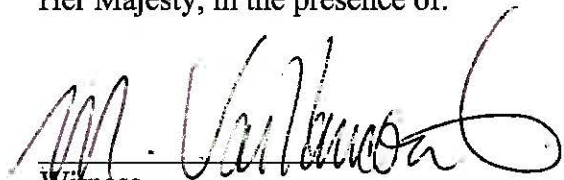
- 16.02 A waiver, condonation, forgiveness or forbearance by either party hereto of the strict performance by the other of any covenant or provision of this License shall be in writing and shall not of itself constitute a waiver of any subsequent breach of that covenant or provision or any other covenant or provision thereof. The failure of Her Majesty to require the fulfilment of any obligation of the Licensee, or to exercise any rights herein contained shall not constitute a waiver or acquiescence or surrender of those obligations or rights.
- 16.03 If for any reason any covenant or provision contained in this Licence, or the application thereof to any party, is to any extent held or rendered invalid, unenforceable or illegal, then such covenant or provision shall be deemed to be independent of the remainder of this Licence and to be severable and divisible from this Licence. The invalidity, unenforceability or illegality shall not affect, impair or invalidate the remainder of this Licence or any part thereof. The intention of Her Majesty and the Licensee is that this Licence would have been executed without reference to any portion which may, for any reason and extent, be declared or held invalid, unenforceable or illegal. In the event that any covenant or condition is so determined, the Minister may, in the Minister's sole discretion, replace the covenant or condition with a new covenant or condition which would reflect the intention of the parties in the original covenant or condition.
- 16.04 The parties hereto specifically covenant and agree that no partnership, joint venture or any agency relationship is created or intended to be created between Her Majesty and the Licensee pursuant to this Licence. The only relationship is that of licensor and licensee.
- 16.05 The Licensee hereby confirms that it has not, nor has any person on its behalf, given, promised or offered to any official or employee of Her Majesty for or with the view to obtaining this Licence, any bribe, gift or other inducement and that it has not, nor has any person on its behalf, employed any person to solicit or secure this Licence upon any agreement for a commission, percentage, brokerage or contingent fee.
- 16.06 Whenever the provisions of this Licence, unless the text expressly states otherwise, require an approval of or consent to any action, request, document or plan by a party or require any party to be satisfied as to any of the foregoing, a party shall not arbitrarily or unreasonably withhold, delay or exercise such approval or consent. It shall be considered reasonable that in addition to anything set forth in this Licence, Her Majesty, the Minister and the Manager, National Historic Sites may consider applicable statutes and regulations thereunder, government policies, Site management plans, and site community plans, as well as anything that may be necessary for the preservation, control or management of the Site or for the safety of the public. Furthermore, nothing herein shall limit any discretion of Her Majesty, the Minister or the Manager, National Historic Sites which discretion is set forth under any applicable statutes and regulations thereunder. In addition, the Licensee acknowledges and agrees that it shall be considered reasonable for Her Majesty, the Minister and the Manager, National Historic Sites to take the time for appropriate internal consultation as well as consultation with third parties as may be necessary for the granting of such approval or consent.
- 16.07 Time is of the essence of this Licence and all of the provisions hereof.




- 16.08 No implied terms or obligations of any kind on behalf of Her Majesty shall arise from anything in this Licence or any improvements effected by the Licensee, and the express covenants and agreements herein contained and made by Her Majesty are the only covenants and agreements upon which any rights against Her Majesty are to be founded.
- 16.09 No exercise of any specific right or remedy of Her Majesty shall prejudice or preclude Her Majesty from exercising any other right or remedy provided by this Licence or allowed at law or in equity. No right or remedy provided to Her Majesty by this Licence or at law or in equity shall be exclusive or dependent upon any other such right or remedy, and Her Majesty may, from time to time, exercise any one or more such rights or remedies independently or in combination.
- 16.10 The captions and headings throughout this Licence are inserted for convenience of reference only and are not intended to describe, define or limit the scope, extent or intent of this Licence, or any provision thereof.
- 16.11 Every provision herein contained shall ensure to the benefit of and be binding upon Her Majesty, Her heirs, successors and assigns and the Licensee, its heirs, executors, administrators and permitted successors. Where there is more than one Licensee, all covenants and other provisions herein contained shall be construed as being joint and several, and when the context so requires or permits, the singular number shall be read as if the plural were expressed, and the masculine gender as if the feminine or neuter, as the case may be, were expressed.
- 16.12 No representations, warranties or conditions have been made to the Licensee in respect of the Land by Her Majesty, Her servants, and agents.
- 16.13 This Licence constitutes the entire agreement between the Licensee and Her Majesty with respect to the subject matter of this Licence. There are no collateral warranties or agreements.

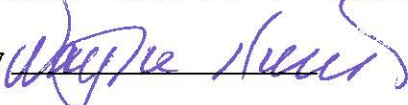
**IN WITNESS WHEREOF,** \_\_\_\_\_, Manager, National Historic Sites,  
Southwestern Ontario Field Unit, Parks Canada Agency, on behalf of Her Majesty.

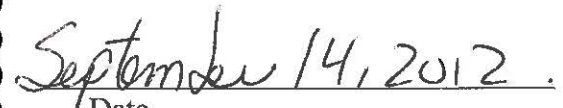
**SIGNED** )  
by the Manager, National Historic Sites )  
Southwestern Ontario Field Unit, )  
Parks Canada Agency, on behalf of )  
Her Majesty, in the presence of: )

  
Witness



  
\_\_\_\_\_  
Manager, National Historic Sites  
Southwestern Ontario Field Unit,  
Parks Canada Agency

**SIGNED ON BEHALF OF THE LICENSEE** )

by   
\_\_\_\_\_  
Mayor, Town of Amherstburg

  
\_\_\_\_\_  
Date

and )

by   
\_\_\_\_\_  
The Town Clerk  
Brenda Permy  
  
\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date