

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2009- 11

Being a By-law Authorizing the execution of a Lease Agreement between the Corporation of the Town of Amherstburg and Ranta Marina Boaters Association

WHEREAS The Town of Amherstburg considers it desirable to lease the municipally owned premises know as K. Walter Ranta Marina facility, in the Town of Amherstburg, in the County of Essex and Province of Ontario, excluding the municipal park adjacent thereto, together with all furnishings and equipment relating thereto, which furnishings and equipment shall include the computer, pump out cart, riding lawnmower, golf cart, push mower and markers;

AND WHEREAS the Town and Ranta Marina Boaters Association wish to enter into an Agreement for a period of one (1) Year to set out the terms and conditions upon which the premises may be rented;

AND WHEREAS the specifics of such Lease Agreement have been negotiated and are set out in the Lease Agreement attached to and forming part of this bylaw;

NOW THEREFORE THE CORPORATION OF THE TOWN

OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:

- 1) An Agreement between the Municipality and Ranta Marina Boaters Association is attached hereto and is hereby approved and the Mayor and Clerk are hereby authorized to execute the Agreement on behalf of the municipality.
- 2) This By-law shall come into force and take effect immediately upon the final passing thereof.



MAYOR WAYNE HURST



CAO/CLERK PAMELA MALOTT

1st Reading – February 9th, 2009

2nd Reading – February 9th, 2009

3rd Reading – February 9th, 2009

THIS INDENTURE

Made as of the 13th day of February, 2009

In Pursuance of the Short Forms of Leases Act

B E T W E E N:

THE CORPORATION OF THE TOWN OF AMHERSTBURG

Hereinafter called the "Lessor"
OF THE FIRST PART

-and-

RANTA MARINA ASSOCIATION

Hereinafter called the "Lessee"
OF THE SECOND PART

WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Lessee, to be paid, observed and performed, the said Lessor has demised and leased and by these presents doth demise and lease unto the Lessee:

ALL THOSE CERTAIN PREMISES known and described municipally the K. Walter Ranta Marina facility, in the Town of Amherstburg, in the County of Essex and Province of Ontario, excluding the municipal park adjacent thereto, together with all furnishings and equipment relating thereto, which furnishings and equipment shall include the computer, pump out cart, riding lawnmower, golf cart, push mower and markers (hereinafter called the "Demised Premises");

TO HAVE AND TO HOLD the said Demised Premises for a term of six and one-half (6.5) months from the 15th day of April, 2009 and from thenceforth ensuing and to be fully completed and ended on the 31st day of October, 2009 (hereinafter called the "Term");

YIELDING AND PAYING THEREFORE during the term hereby granted, unto the Lessor, the rent hereinafter reserved, payable at par at Amherstburg Ontario.

ARTICLE 1

Net Lease

Section 1.01 Intent

The Lessee acknowledges and agrees that it is intended that this Lease shall be a completely carefree net lease for the Lessor, except as expressly hereinafter set out, that the Lessor shall not be responsible during the Term of this Lease for any costs, charges, expenses and outlays of any nature whatsoever arising from or relating to the Demised Premises, or the contents thereof, and the Lessee shall pay all charges, impositions, costs and expenses of ever nature and kind relating to the Demised Premises except as expressly hereinafter set out, and the Lessee covenants with the Lessor accordingly.

Notwithstanding the foregoing, unless specifically provided for elsewhere in this Lease, the Lessee shall not be required to contribute to capital costs or expenditures, administrative or management fees, costs resulting from defects to the Demised Premises, costs due to defaults by the Lessor, principal and interest payments, nor leasing costs.

ARTICLE II

Rent

Section 2.01 Covenant to Pay

The Lessee covenants to pay rent and additional rent as herein provided.

Section 2.02 Rent

The rent payable hereunder shall be equal to twenty per cent (20%) of the gross revenue from the Seasonal Sale of Boat Wells and twenty per cent (20%) of the gross revenue from all sales of boat ramp privileges, whether seasonal, daily or occasional. For these purposes,

“Seasonal Sale of Boat Wells” shall be those boat well sales for a period or duration of more than one month in respect of a single customer or boat, provided that should the same customer or boat purchase a boat well for a period or duration equal to or less than one month, but then renew or purchase additional periods so that the period or duration through all such combined purchases during the term of this lease exceed one month, all such sales in respect of that customer or boat shall be deemed to constitute a “Seasonal Sale of Boat Wells”.

Section 2.03 Payment of Rent

The rent reserved hereunder shall be due and payable monthly, on the following basis: By the 15th day of each and every month during the term hereof the Lessee shall provide to the Lessor a report detailing the Seasonal Sale of Boat Wells and all sales of boat ramp privileges made in the previous calendar month, and the gross revenue received there from, together with the payment of twenty per cent (20%) of such revenue as rent. With respect to the commencement of the term hereof, the Lessee shall account for all pre-sales with respect to the Seasonal Sale of Boat Wells, and the sale of boat ramp privileges, and the Lessee shall remit to the Lessor twenty per cent (20%) of all of the gross revenue collected by the Lessor from such pre-sales together with the remittance due on the 15th day of May, 2009. Upon expiration or termination of this Lease, the Lessee shall provide to the Lessor a final report detailing the Seasonal Sale of Boat Wells and all sales of boat ramp privileges made during the entire term of this Lease and a summary of all other sales of boat wells (i.e. transient sales, in respect of which no rent is payable hereunder), together with the payment of any remaining rent owing in accordance herewith, by the 15th day of the calendar month following the month in which this Lease expires or is terminated.

Section 2.04 Lessee’s Books and Records

For the purpose of ascertaining the amount payable as rent hereunder, the Lessee agrees to prepare and keep for a period of not less than two years following the end of this Lease books and records, the contents of which shall adhere to sound accounting practice and show daily receipts from all sales and other transactions on or in respect of the Demised Premises. In particular, the Lessee shall maintain all pertinent sales records, which sales records shall include customers’ name, boat well assigned, and rate or amount of sale.

Section 2.05 Right to Examine Books

Acceptance by the Lessor of payments of rent hereunder shall be without prejudice to the Lessor’s right to examine the Lessee’s books and records of its gross revenues in order to verify the amount of rent due hereunder, and the Lessee shall make its books and records available to the Lessor for such inspections at all reasonable times during the term of this Lease and for a period of twelve (12) months thereafter, and shall produce such books and records for inspection by the Lessor or its authorized representatives upon five (5) days’ written notice to produce the same.

Section 2.06 Right to Audit

At its option, the Lessor may cause, at any reasonable time, on five (5) days’ prior written notice to the Lessee at any time during the Term of this Lease and at any time within twelve (12) months thereafter, a complete audit to be made of the Lessee’s entire business affairs and records relating to the Demised Premises for any period within the Term hereof. If such audit discloses a liability for rent to the extent of three per cent (3%) or more in excess of the rent computed and paid by the Lessee to that point in time, the Lessee shall promptly pay to the Lessor the cost of such audit as Additional Rent, in addition to the deficiency, which deficiency shall be payable in any event, together with interest thereon as provided herein.

Section 2.07 Additional Rent

Any and all sums of money or charges required to be paid by the Lessee under this Lease shall be deemed and paid as additional rent, whether or not the same be designated “additional rent” hereunder, or whether or not the same be paid to the Lessor or otherwise, and all such sums shall be payable in lawful money of Canada without any deduction, set-off or abatement whatsoever. Any additional rent provided for in this Lease, unless otherwise provided herein, shall become due with the next installment of rent.

Section 2.08 Goods and Services Tax

The Parties acknowledge and agree that, in the event the Lessor is a registrant for the Purposes of the federal goods and services tax (GST) pursuant to the provisions of the Excise Tax

Act of Canada, for so long as GST is applicable to the supply of the premises hereunder, the Lessee shall pay to the Lessor the applicable GST in addition to the rent.

Section 2.09 Past Rent Due and Additional Rent

If the Lessee shall fail to pay, when the same is due and payable, any rent or additional rent, such unpaid amounts shall bear interest from the due date thereof to the date of payment at the rate of one percent (1%) per month (12% per annum, calculated and compounded monthly).

ARTICLE III

Taxes

Section 3.01 Taxes Payable by Lessor

The Lessor shall pay and discharge on or before the due date thereof, all taxes, rates, duties, special assessments and levies, assessments and other charges that may be levied, rated, charged or assessed against or in respect of the real property and all improvements, equipment and facilities on or in the Leased Premises or any part or parts thereof, whether any such assessments are charged by any municipal, parliamentary, school or other body during the Term. The Lessee shall not be required to pay or contribute to any such taxes.

ARTICLE IV

Utilities – Heating, Ventilating and Air-Conditioning

Section 4.01 Utility Charges

The Lessee shall pay all utilities in respect of the Demised Premises, and the Lessee shall indemnify and save the Lessor harmless from all charges, costs and expenses associated therewith. Prior to taking possession of the Demised Premises the Lessee shall cause all utility accounts to be placed in the name of the Lessee, and shall be responsible for any deposits that may be required by the utility suppliers in connection therewith.

Section 4.02 Heating, Ventilating and Air-Conditioning

The Lessee shall maintain the heating, ventilating and air-conditioning systems servicing the premises. The Lessee shall bear all repair or replacement costs to the heating, ventilating and air-conditioning systems throughout the term of this Lease.

ARTICLE V

Insurance and Indemnity

Section 5.01 Lessee's Insurance

The Lessee shall during the entire Term hereof, at its sole cost and expense, take out and keep in full force and effect, in the names of the Lessee, the Lessor and the Lessor's mortgagees, the following:

- a) Property insurance which shall include coverage on property of every description and kind owned by the Lessee or for which the Lessee is responsible or legally liable pursuant to the terms of this Lease or which is installed by or on behalf of the Lessee, including, without limitation, stock-in-trade, furniture, fittings, plate glass, installations and equipment in an amount at least equal to the full insurable value thereof calculated on a replacement cost basis without deduction for depreciation and without co-insurance requirements. The perils insured against shall include fire, theft and such additional perils as are normally insured against in the circumstances by prudent Lessees, and as any mortgagee having a security interest in the premises may reasonably require, or as the Lessor may, from time to time demand. In the event that a dispute arises as to the sum which represents full replacement cost, the decision of Lessor shall be conclusive.

Property insurance shall also include such insurance as is usual and customary, or as the Lessor may from time to time demand with respect to the stock-in-trade, furniture, fittings and furnishings of the Lessee and such as will reimburse the Lessee for loss of such property attributable to all perils commonly insurable; and the Lessee undertakes that, in the event of loss, the proceeds from such insurance will be utilized for the purpose of continuing the business of the Lessee in the Leased Premises.

- b) Public liability insurance applying to all operations of the Lessee which shall include bodily injury liability, personal injury liability, products liability, contractual liability, contingent liability, non-owned automobile liability and Lessee's legal liability with respect to the occupancy by the Lessee of the Demised Premises. Such policies shall be written on a comprehensive basis with limits of not less than \$5,000,000.00, and with a cross liability clause.
- c) Any other form or forms of insurance as the Lessee or the Lessor or the Lessor's mortgages may reasonably require from time to time for amounts and for perils against which a prudent Lessee would protect itself in similar circumstances.

Section 5.02 Proof of Insurance

Prior to taking possession of the Demised Premises the Lessee shall provide the Lessor a certificate or certificates from the Lessee's insurance agent or broker detailing the insurance coverage's that are in place, and the Lessee shall not be permitted to take possession of the Demised Premises until such policies as are required hereunder are in effect. The Lessee shall further provide to the Lessor certificates from the Lessee's insurance agent or broker that such policies as are required hereunder remain in full force and effect from time to time at the request of the Lessor.

Section 5.03 Cancellation of Fire Insurance

If any insurance policy upon the Demised Premises or any part thereof shall be cancelled or shall be threatened by the insurer to be cancelled, or the coverage there under reduced in any way by the insurer by reason of the use and occupation of the Demised Premises or any part thereof by the Lessee or by an assignee or sub-tenant of the Lessee, or by anyone permitted by the Lessee to be upon the Demised Premises, and if the Lessee fails to remedy the condition giving rise to cancellation, threatened cancellation, or reduction of coverage within forty-eight (48) hours after notice thereof by the Lessor, the Lessor may, at its option, either (i) re-enter the Demised Premises forthwith by leaving upon the Demised Premises a notice in writing of its intention so to do and thereupon the provision of Article IX shall apply, or (ii) enter upon the Demised Premises and remedy the condition giving rise to such cancellation, threatened cancellation or reduction, and the Lessee shall forthwith pay the cost thereof to the Lessor, which cost may be collected by the Lessor as additional rent hereunder and the Lessor shall not be liable for any damage or injury caused to any property of the Lessee or of others located on the Demised Premises as a result of any such re-entry, provided the Lessor has acted reasonably in the circumstances.

Section 5.04 Lessor's Insurance

The Lessor may carry such insurance for the account and benefit of the Lessor, as the Lessor from time to time deems useful, expedient or beneficial including, without limiting the generality of the foregoing, public liability, property damage, loss of rental income and other casualties and risks. No insurable interest is conferred upon the Lessee under policies carried by the Lessor. The Lessor shall in no way be accountable to the Lessee regarding the use of any insurance proceeds arising from any claim, and the Lessor shall not be obliged to apply such proceeds to the repair or restoration of that which was insured. Where the Lessee may desire to receive indemnity by way of insurance for any property, work or thing whatsoever, the Lessee shall insure the same for its own account and shall not look to the Lessor for reimbursement or recovery in the event of loss or damage from any cause, whether or not the Lessor has insured same and recovered therefrom.

ARTICLE VI

Use of Premises

Section 6.01 Use

The Lessee shall use the Demised Premises only for the purposes of a marina, and only in compliance with all the municipal by-laws governing the use of the Demised Premises as may be applicable thereto. No boat repairs and no storage of boats out of water shall be permitted on or about the Demised Premises. The Lessee shall ensure that use of the boat ramp is available at all times to emergency personnel such as police, fire department, paramedic/ambulance and the like without charge for the launching and retrieval of boats in the exercise of their duties and responsibilities. The Lessee shall further permit and ensure that the parking lot is available to the public without charge for those utilizing the municipal park adjacent to the Demised Premises.

Section 6.02 Conduct of Business

In the conduct of the Lessee's business pursuant to the terms of this Lease, the Lessee shall:

- a) Not perform any acts or carry on practices which may be a nuisance or menace to the Lessor; and
- b) Not commit or suffer or permit to be committed any waste upon the Demised Premises or any nuisance or other thing which may unreasonably disturb, interfere with or annoy any person within five hundred feet (500') of the boundaries of the Demised Premises.

Any business conduct or practice promulgated, carried on or maintained by the Lessee, whether through advertising or selling procedures or otherwise, which may harm or tend to harm the business or reputation of the Lessor or reflect or tend to reflect unfavorably on the Demised Premises the Lessor, or which might tend to confuse, mislead, deceive or be fraudulent to the public, shall be immediately discontinued by the Lessee at the request of the Lessor.

Section 6.03 Compliance with all Laws

The Lessee shall comply promptly with and conform to the requirements of all applicable statutes, laws, by-laws, regulations, ordinances and orders in force at any time during the term of this Lease and any renewals and affecting the condition, equipment, maintenance use or occupation of the Demised Premises and with every applicable regulation, order and requirement of the Canadian Fire Underwriters' Association, Insurance Advisory Organization or any body having similar functions, or of any liability or fire insurance company by which the Lessor and the Lessee, or either of them, may be insured at any time during the Term. If the Lessee defaults under any provision of this Section, the Lessor may perform the Lessee's obligation and the Lessee will pay all costs and expenses incurred, in demand, as additional rent.

ARTICLE VII

Damage or Destruction

Section 7.01 Destruction of Demised Premises

Provided that if during the Term herein or any renewal thereof the Demised Premises shall be destroyed or damaged by fire or the elements then the following provisions shall apply:

- a) If the Demised Premises shall be so badly injured as to be unfit for occupancy, and as to be incapable of being repaired with reasonable diligence within one hundred and twenty (120) days from the happening of such injury, then the term hereby granted shall cease and be at an end to all intents and purposes from the date of such damage or destruction, and the Lessee shall immediately surrender the same, and yield up possession of the Demised Premises to the Lessor and the rent from the time of such surrender shall be apportioned.
- b) If the Demised Premises shall be capable, with reasonable diligence, of being repaired and rendered fit for occupancy within one hundred and twenty (120) days from the happening of such injury as aforesaid, but if the damage is such as to render the Demised Premises wholly unfit for occupancy, then the rent hereby reserved and additional rent shall not run or accrue after such injury, or while the process of repair is going on, and the Lessor shall repair the same with all reasonable speed, and the rent and additional rent shall recommence immediately after such repairs shall be completed.
- c) If the Demised Premises shall be repaired within one hundred and twenty (120) days as aforesaid, and if the damage is such that the Demised Premises are capable of being partially used, then until such damage shall have been repaired, the rent and additional rent shall abate in the proportion that the part of the Demised Premises rendered unfit for occupancy bears to the whole of the Demised Premises while the process of repair is going on, and the Lessor shall repair the same with all reasonable speed, and the full rent and additional rent shall recommence immediately after such repairs shall be completed.

There shall be no abatement from or reduction of the rent due hereunder, nor shall the Lessee be entitled to damages, losses, costs or disbursements from the Lessor during the term hereby created, caused by or on account of fire (except as above), water, sprinkler systems, partial or

temporary failure or stoppage of heat, light, plumbing service in or to the Demised Premises or building, whether due to acts of God, strikes, accidents, the making of alterations, repairs, renewals, improvements, structural changes to the Demised Premises or buildings or the equipment or systems supplying the said services, or from any cause whatsoever, provided that the said failure or stoppage be remedied within a reasonable time.

ARTICLE VIII

Assignment of Subletting

Section 8/01 Consent Required

The Lessee will not assign this Lease in whole or in part, nor sublet all or any part of the Demised Premises, or mortgage or encumber this Lease or the Demised Premises or any part thereof, nor suffer or permit the occupation of all or any part thereof by others, without the prior written consent of the Lessor in each instance, which consent may, notwithstanding any laws or regulations to the contrary, be unreasonably or arbitrarily withheld. The consent by the Lessor to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law. If this Lease by assigned, or if the Demised Premises or any part thereof be underlet or occupied by anybody other than the Lessee, the Lessor may collect rent from the assignee, under tenant or occupant, and apply the net amount collected to the rent herein reserved, but no such assignment, under letting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, under-tenant or Occupant as tenant, or a release of the Lessee from the further performance by the Lessee of covenants on the part of the Lessee herein contained. Notwithstanding any assignment or sublease, the Lessee shall remain fully liable on this Lease and shall remain fully liable on this Lease and shall not be released from performing any of the terms, covenants and conditions of this Lease. Any assignment of this Lease if consented to by the Lessor shall be prepared by the Lessor or its solicitors, and any and all legal costs with respect thereto shall be borne by the Lessee. Any consent granted by the Lessor shall be subject to the Lessee causing any such assignee, sub lessee or occupant to execute an indenture and covenant directly with the Lessor agreeing to be bound by all of the terms contained in this Lease, as if such assignee, sub lessee or occupant had originally executed this Lease as Lessee.

Section 8.03 Assignment by Lessor

In the event of the sale or lease by the Lessor of the Demised Premises or any part or parts thereof, or the assignment by the Lessor of this Lease or any interest of the Lessor hereunder, and to the extent that such purchaser or assignee has assumed the covenants and obligations of the Lessor hereunder, the Lessor shall, without further written agreement, be freed and relieved of liability upon such covenants and obligations.

ARTICLE IX

Default

Section 9.01 Right to Re-Enter

Proviso for re-entry by the Lessor or non-payment of rent or non-performance of covenants.

In the event of any failure of the Lessee to pay any rental or other sums due hereunder on the day of dates appointed for the payment thereof (provided the Lessor shall give five (5) days' written notice to the Lessee of any such failure) or in the event of any failure of the Lessee to perform any other of the terms, conditions or covenants of this Lease to be observed or performed by the Lessee (provided the Lessor shall have first given the Lessee ten (10) days' written notice of any such failure to perform, and the Lessee shall, within such period of ten (10) days, have failed to commence diligently and thereafter proceeded diligently to cure any such failure to perform), or if the Lessee or any agent of the Lessee shall falsify any report required to be furnished to the Lessor pursuant to the terms of this Lease, or if the Lessee or any person occupying the Demised Premises or any part thereof or any licensee, concessionaire or franchisee operating business in the Leased premises shall become bankrupt or insolvent or take the benefit of any act now or hereafter in force for bankrupt or insolvent debtors or file any proposal or make any assignment for the benefit of creditors or if a receiver is appointed for all of or a portion of the Lessee's property or any such occupant's, Licensee's, concessionaire's or franchisee's property or if any order is made for the winding-up of the Lessee or if the Lessee makes a sale in bulk or if the Lessee abandons or attempts to abandon the Demised Premises or to sell or dispose

of the goods and chattels of the Lessee or to remove them from the Demised Premises so that there would not in the event of such sale or disposal be sufficient goods on the Demised Premises subject to distress to satisfy all rentals due or accruing hereunder, or if the Lessee shall suffer this Lease or any of its assets to be taken under any writ of execution, or if re-entry is permitted under any other terms of this Lease, then the Lessor besides any other rights or remedies it may have pursuant to this Lease or by law, shall have to the extent permitted by law the immediate right of re-entry and may remove all persons and property from the Demised Premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of the Lessee, all without service of notice or resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby, provided the Lessor has acted reasonably in the circumstances.

ARTICLE X

Repair, Maintenance and Improvement

Section 10.01 Repair

The Lessee covenants with the Lessor to maintain the Demised Premises in a good state of repair, reasonable wear and tear excepted, and an ordinary state of cleanliness, and shall forthwith notify the Lessor of any state of disrepair or damage done to the Demised Premises. Notwithstanding the foregoing, the Lessee shall not be responsible for any damage or state of disrepair existing at the commencement of this Lease, including the four pilings that are leaning at slips 15-16 and 19-20.

Section 10.02 Parking Area, Drive and Sidewalks

The Lessee shall be entirely responsible for the maintenance of the parking area, drive and sidewalks servicing the Demised Premises, all at the Lessee's own expense.

Section 10.03 Lawns and Shrubbery

The Lessee shall be responsible for the maintenance of the lawns and shrubberies on the Demised Premises at the Lessee's own expense.

Section 10.04 Refuse

The Lessee shall place all refuse in secure metal or plastic containers designed for the purpose. In the event that a private contractor is required for refuse collection or that a separate charge is made therefore by the municipality, the Lessee shall be responsible for the entire cost thereof.

Section 10.05 Renovations

All renovations to the Demised Premises to be made by the Lessee shall be made only with the written consent of the Lessor, which consent shall not be unreasonably withheld having regard to the use for which the Lessee intends to put the Demised Premises. Prior to commencing any work, the Lessee shall provide all architect and/or engineering plans to the Lessor for its approval, and shall provide the Lessor with copies of all permits for such work, and all such work shall be completed in accordance with all relevant building codes. The Lessee acknowledges that any major exterior changes to the buildings located on the Demised Premises may only be made with the prior written consent of the Lessor, which consent may be unreasonably withheld. All improvements and renovations made to the Demised Premises and building, plumbing, electrical, lighting and ventilating fixtures placed on the Demised Premises upon the expiration of the Term of this Lease and any renewals. The Lessee shall indemnify and save the Lessor harmless from all claims and causes of action arising from such renovations and improvements, including construction liens.

Section 10.06 Signs

The Lessee shall be permitted use of the signs on the Demised Premises and shall be entirely responsible for their maintenance and repair. Any sign or signs that the Lessee desires to affix to the building on the Demised Premises shall require the prior written consent of the Lessor as to the size, location and manner of attachment to the building, which consent shall no be unreasonably withheld but shall have regard to the Lessor's interest in preserving the structural integrity and appearance of the building, both with such sign and after such sign has later been removed. The Lessee shall be responsible for any permits required by the municipality for such signs.

Section 10.07 Restoration of Premises

Upon vacating the Demised Premises, the Lessee shall remove only the chattels thereon belonging to the Lessee, and any signs installed by the Lessee, shall restore the condition of the Demised Premises by repair of any visible sign of the Lessee's equipment and the removal thereof at the Lessee's own expense, reasonable wear and tear excepted.

Section 10.05 Environmental

The Lessee shall not do or permit anything to be done on, around or in relation to the Demised Premises, or keep anything thereon which may in any way increase or cause environmental contamination, adverse environmental effects, or which may be in contravention of the Environmental Protection Act (Ontario) as amended, or any other federal, provincial or municipal legislation, regulation, by-laws, rules or ordinances regarding environmental protection which are currently existing or which are enacted during the currency of this Lease. The Lessee shall not permit to be caused, the escape, discharge, leaching, disposal, maintenance and/or the storage of any contaminants, pollutants, radioactive material, PCB, or other hazardous material on, around, or in relation to the Demised Premises, other than the storage and proper handling and use of those materials and substances reasonably required for the operation of the Lessee's business in accordance with the substances reasonably required for the operation of the Lessee's business in accordance with the permitted uses provides for in this Lease and in strict compliance with all laws and regulations applicable thereto. The Lessee shall be solely and totally responsible for the clean-up and repair of any environmental damage, or adverse effects arising as a result of the breach of covenants herein contained. The Lessee hereby agrees to indemnify, defend and save each of the Lessor and its officers, directors, employees, agents, successors and assigns and any mortgagee harmless from any and all liability, claims, damage, expense, causes of action, suits, judgments, fines, penalties and or payments (including without limitation all solicitor's fees on a solicitor and his own client basis) arising from the Lessee's breach of this covenant, and all payments arising pursuant to this paragraph shall be deemed to be additional rent and recoverable as such. The indemnity referred to herein shall include, but not be limited to claims made by third parties arising out of common law.

The Lessor acknowledges and agrees that the Lessee shall not be liable for any environmental matters affecting the Demised Premises existing prior to the commencement date of the Term or caused by the Lessor, its employees, agents, contractors or any previous tenant and the Lessor agrees to protect and indemnify and save each of the Lessee and its officers, directors, employees, agents, successors and assigns harmless from and against any and all claims, losses, costs, expenses, fines, penalties, payments and or damages (including without limitation all solicitor's fees on a solicitor and his own client basis) relating to, arising out of, resulting from or in any way connected with any such environmental matters.

The Lessee herein covenants to provide immediate notice to the Lessor of any breach of the covenants contained herein. The Lessee acknowledges that the Lessor, or its agents, shall be permitted to enter onto the Demised Premises at any time to inspect the Demised Premises, if it has reason to believe that the Lessee has breached the covenants contained in this Section, at the Lessee's expense.

ARTICLE XI

Miscellaneous

Section 11/01 Overholding – No Tacit Renewal

In the event the Lessee remains in possession of the Demised Premises after the end of the Term hereof with the consent of the Lessor and without execution and delivery of a new lease, there shall be no tacit renewal of this Lease and the Term hereby granted, and the Lessee shall be deemed to be occupying the Demised Premises as a tenant at will, and otherwise, upon the same terms and conditions as are set for the in this Lease, so far as applicable. The Lessee acknowledges that there is no right or option of renewal of this Lease granted hereunder, and that the Lessor is granting this Lease for a single season only.

Section 11.02 Force Majeure

Notwithstanding anything to the contrary in this Lease contained, if either party hereto shall be bona fide delayed or hindered in or prevented from the performance of any term, covenant or act required hereunder by reason of strikes, labour troubles, inability to procure materials or services, failure of power, restrictive governmental laws or regulations, riots,

insurrection, sabotage, rebellion, war, act of God, or other reason whether of a like nature or not, not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such term, covenant or act shall be excused for the period of the delay and the period for performance of any such term, covenant or 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 the prompt payment of rent, additional rent or any other payments required by the terms of this Lease.

Section 11.03 Partial Invalidity

If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to intent, 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 enforceable to the fullest extent permitted by law.

Section 11.04 Compliance with the Planning Act

It is an expressed condition of the within Lease and the Lessor and the Lessee so agree and declare that the provisions of Section 50 of the Planning Act and amendments thereto be complied with if applicable in law.

Section 11.05 Quiet Enjoyment

The Lessor covenants with the Lessee for quiet enjoyment.

Section 11.06 Subrogation and Attornment

The Lessee agrees to subrogate this Lease to the interest of any person or corporation providing financing to the Lessor upon the security of the Demised Premises and shall attorn to such person or corporation upon demand. The Lessee agrees to execute all such further assurances as may reasonably be required to give effect to the foregoing provision.

The Lessor shall, upon request by the Lessee, request a non-disturbance agreement from any mortgagee of the Demised Premises in such form as may be provided by the Lessee, from time to time, at the cost of the Lessee.

Section 11.07 Notice

Any notice required to be given by the Lessor to the Lessee shall be deemed to be sufficiently given if delivered or sent by prepaid registered mail addressed to the Lessee c/o Lynne Matthews at 30 Indiana, Amherstburg, Ontario N9V 3X5 and if mailed, shall be deemed to have been given on the 3rd day after mailing. Any notice to be given by the Lessee to the Lessor shall be deemed to be sufficiently given if delivered or sent by prepaid registered mail addressed to the Lessor at 271 Sandwich Street South, Amherstburg, ON N9V 2A5 and if mailed, shall be deemed to have been given on the 3rd day after mailing. Either Party may change its address for service hereunder by written notice to the other.

Section 11.08 Proper Law

This Lease has been negotiated and approved by the Lessor and the Lessee and, notwithstanding any rule or maxim of law or construction to the contrary, any ambiguity or uncertainty will not be construed against either the Lessor or the Lessee by reason of the authorship of any of the provisions contained in this Lease.

Section 11.09 No Contra Proferentum

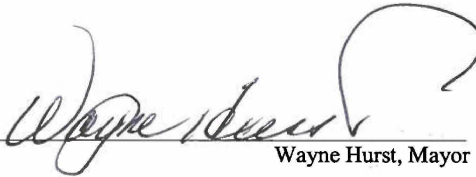
This Lease has been negotiated and approved by the Lessor and the Lessee and, notwithstanding any rule or maxim of law or construction to the contrary, and ambiguity or uncertainty will not be construed against either the Lessor or the Lessee by reason of the authorship of any of the provision contained in this Lease.


Section 11.10 Entire Agreement

This Lease contains the entire agreement between the parties, and supersedes any and all prior agreement, understandings and undertakings of and between the parties with respect to the lease of the Demised Premises. There are no representations, conditions or warranties related to the subject matter hereof, save and except as set out herein.

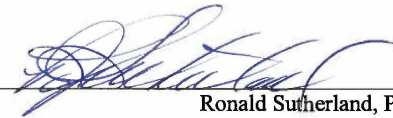
DATED this 13th day of February, 2009

THE CORPORATION OF THE TOWN OF AMHERSTBURG

Per: 
Wayne Hurst, Mayor

Per: 
Pamela Malott, CAO/Clerk
We have authority to bind the Corporation

DATED this 13th day of February, 2009

Per: 
Ronald Sutherland, President
I have authority to bind the Corporation