

# ***LEASE AND MANAGEMENT AGREEMENT***

## ***(DRAFT)***

### ***“Dunnville Boat Club”***

Made in duplicate the \_\_\_\_\_ day of \_\_\_\_\_, 202X.

IN PURSUANCE OF THE SHORT FORMS OF LEASES ACT

between

**THE CORPORATION OF HALDIMAND COUNTY**

(hereinafter called the “Landlord”)

**of the first part**

and

**DUNNVILLE BOAT CLUB.**

(hereinafter called the “Tenant”)

**of the second part.**

**WHEREAS** the Landlord owns Parts 1, 3, 4, 5 and 6 on Reference Plan 18R-2350 (the “Landlord’s Property”) and all buildings and structures situated thereon;

**AND WHEREAS** the Tenant owns Part 2 on Reference Plan 18R-2350 (the “Tenant’s Property”);

**AND WHEREAS** the Tenant wishes to continue to lease from the Landlord, for its private use and the private use of its members, a boat club building that is situated on Part of PIN 38124-0057; legally described as Part Lots 7-8 on Plan 13558; Part 3 on Reference Plan 18R-2350 (the “Boat Club Building”), municipally known as 102 Hydro Street, Dunnville;

**AND WHEREAS** the parties are entering into this Agreement pursuant to which the Tenant will lease from the Landlord Part 3, and the Tenant will manage Part 3, all in accordance with the terms and provisions contained herein;

**NOW THEREFORE FOR VALUE RECEIVED**, and in consideration of the mutual covenants contained herein, the parties hereby agree as follows:

#### **1. DEFINITIONS**

Whenever in this Lease the following words or phrases are used, they shall have the following meanings.

- 1.1 **“Additional Rent”** means all amounts (except Minimum Rent) payable by the Tenant under this Agreement whether to the Landlord or otherwise and whether or not characterized as rent under this Agreement;
- 1.2 **“Agreement” or “Lease”** shall mean this Lease and Management Agreement whether in draft or executed form.
- 1.3 **“Applicable Law”** means any law, municipal or other by-law, rule, statute, regulation, order, judgement, decree, treaty or other requirement having the force of law;
- 1.4 **“Commencement Date”** means May 6, 2026;
- 1.5 **“Harmonized Sales Tax”** means the harmonized sales tax levied pursuant to the Excise Tax Act (Canada), or any similar tax or replacement of such tax, and the term “HST” shall have the same meaning;
- 1.6 **“Lands”** means the Landlord’s Property, except for the part thereof that is leased to the Tenant hereunder;
- 1.7 **“Leased Premises” or “Premises”** means the Boat Club Building and that portion of Part 3 which is leased to the Tenant;
- 1.8 **“Rent”** means all Minimum Rent and Additional Rent payable by the Tenant under this Lease;
- 1.9 **“Stipulated Rate of Interest”** means that rate of interest that, at the time payment of any amount falls due under this Lease, is equal to the prime lending rate charged by a Canadian chartered bank selected by the Landlord to its most credit worthy customers at Toronto;
- 1.10 **“Taxes”** means all real property taxes, rates, duties and assessments (including local improvement taxes) impost charges or levies, whether general or special, that are levied, rated, charged or assessed against the Premises or any part thereof, or against the Landlord by reason of its ownership thereof, from time to time by any lawful taxing authority whether federal, provincial, municipal, school or otherwise, and any taxes payable by the Landlord which are imposed in lieu of, or in addition to, any such real property taxes levied or assessed against the Landlord on account of its ownership of the Premises, or its interest therein;
- 1.11 **“Term”** means the term of this Agreement as set out in Section 4; and
- 1.12 **“Transient Docks”** are docking facilities designed to accommodate boats for use for day-use or over-night use for recreational boaters that are non-members of the Dunnville Boat Club.

**2. PURPOSE OF LEASE AND MANAGEMENT AGREEMENT**

- 2.1 The Premises shall not be used for any purpose other than the purpose of a boat club building and the purposes specifically set out herein. The Tenant shall occupy the Premises throughout the Term and operate its business on the Premises continuously, actively and diligently in a first-class and reputable manner. The Tenant shall not use the Premises in any way or manner reasonably objectionable to the Landlord or which, in the reasonable opinion of the Landlord, causes a nuisance to the Landlord or any adjoining or neighbouring properties, and the Tenant shall ensure that its operation of its business on the Premises complies with all Applicable Law and the provisions contained in this Agreement.
- 2.2 The Tenant agrees to provide to the public access to the Transient Docks and the boat ramp, which are owned by the Tenant, as further described in Section 3, and acknowledged by the Landlord.

**3. TRANSIENT DOCKS AND BOAT RAMP – PUBLIC AND EMERGENCY SERVICE ACCESS**

- 3.1 The Tenant, as owner of the Transient Docks shall be solely responsible for the seasonal placement, removal, storage, configuration, maintenance and replacement, at the Tenant's sole cost and expense. The Tenant shall not remove any Transient Docks or arrange them in a configuration that impedes or restricts their use and shall ensure they remain accessible to the general public at all times.
- 3.2 The Tenant shall, at its sole cost and expense, maintain, repair and replace the Transient Docks as reasonably required to keep them in good repair, condition and quality.
- 3.3 The Tenant's policies and guidelines regarding the general public's use of the Transient Docks, including but not limited to duration of stay permissions, provision of hydro services, and applicable user fees, shall be established, agreed upon and adjusted by the Tenant and the Landlord, acting reasonably.
- 3.4 The Tenant shall permit all over-night users of the Transient Docks to access to and use the private change rooms, showers and washroom facilities located in the Boat Club Building.
- 3.5 The Tenant shall, at its sole cost and expense, operate and manage all Transient Docks and related services at its own risk. The Tenant shall indemnify, defend and hold harmless the Landlord from and against any and all claims, losses or damages arising from any person's use of the Transient Docks, or the Tenant's ownership or management thereof.
- 3.6 The Tenant shall, at its sole cost and expense, manage the collection of user fees associated with the general public's use of the Transient Docks and shall retain such fees collected.

- 3.7 If Haldimand County opts to purchase new day docks to be located in a property adjacent to the Leased Premises, the Tenant agrees to assume ownership of the docks, be responsible for maintenance, seasonal installation/removal, and general upkeep and replace the docks at their own cost when they reach the end of their lifespan. The docks would be available at no charge to users and there would be no fee collection responsibilities for the Tenant, unless mutually agreed to be both parties.
- 3.8 Reporting – within 30 days at the end of each season after dock removal is completed, the Tenant shall submit a report to the Manager, Economic Development & Tourism providing statistical data on usage of the transient docks and public use of the boat ramp.
- 3.9 The Tenant covenants, represents and warrants that it shall, throughout the Term, at its own cost and expense:
- 3.9.1 Continuously allow and provide the general public with the right of ingress and egress over the Tenant's Property for the purposes of enabling the general public to freely access and use the boat ramp and launch ("Boat Launch") on the Tenant's Property. The Landlord shall be entitled to place appropriate signage on the Tenant's Property indicating that the Boat Launch is open and available to the general public for its use and enjoyment.
  - 3.9.2 Ensure unrestricted public access to the waterfront area on Part 3, with the understanding and agreement that only the Premises will be fenced.
  - 3.9.3 Manage the collection of user fees related to the general public's use of the Boat Launch.
  - 3.9.4 Charge a reasonable amount for user fees related to the general public's use of the Boat Launch, which amount shall be established, agreed upon, and may be adjusted by the Tenant and the Landlord, acting reasonably. It is understood and agreed that the Tenant shall be entitled to keep all such user fees collected by it in relation to the general public's use of the Boat Launch.
  - 3.9.5 Make the Boat Launch open and available to the general public during the same hours of operation that the Boat Launch is available to private members of the Tenant.
  - 3.9.6 Maintain, repair and replace, as reasonably required to keep in good repair, condition and quality, the Boat Launch and all waterfront areas that are accessible to the general public on the Premises.
- 3.10 The Leased Premises shall not be used for any purpose other than outlined in this Lease during the Term.

**4. TERM**

- 4.1 **TO HAVE AND TO HOLD** the said Leased Premises for and during the term of ten (10) **years, commencing on May 6, 2026**. The Tenant has the option to renew the Lease for up an additional 10 year period and a subsequent five-year period for a total of 25 years, subject to mutual consent. Written notice of the Tenant's intent to exercise this option must be provided no less than ninety (90) days prior to the expiry of this Lease.
- 4.2 **TERMINATION FOR CAUSE** - In the event of any material default by the Tenant in meeting the requirements of this Lease, where such default is within the reasonable control of the Tenant, the Landlord shall have the right to provide written notice of such default to the Tenant. The notice shall demand that the deficiency or problem be rectified, or that the Tenant submit a plan to the Landlord to address the deficiency or problem within fifteen (15) working days or such longer period as may be agreed upon by the Landlord. If the default is not rectified, or steps are not taken to rectify the situation in accordance with the agreed-upon plan, the Landlord shall be entitled to issue a written notice of termination for cause with no less than thirty (30) days' notice and all rents outstanding shall be payable to the Landlord within thirty (30) days from termination.
- 4.3 **TERMINATION FOR CONVENIENCE** - The Tenant or the Landlord shall have the right to terminate this Lease with ninety (90) days written notice without cause. If this clause is invoked, all outstanding Rent shall be payable to the County within thirty (30) days of termination.

**5. RENT**

The Tenant covenants with the Landlord as follows:

- 5.1 From and after the Commencement Date of this Lease, the Tenant shall pay to the Landlord as Rent, in lawful money of Canada and without deduction, statement or setoff:
- 5.1.1 Rent annually, within 30 days of being invoiced, with the first payment being the sum of \$XXX plus HST.
- 5.1.2 For the remainder of the Term, the Tenant shall pay Rent as outlined in clause 5.1.1 plus a percentage annual adjustment, based upon the Consumer Price Index (CPI) for Ontario for Rent, year over year, calculated each January for the term of the Lease.
- 5.2 All Rent in arrears shall bear interest at the Stipulated Rate of Interest from the date it is due to the date of payment. Rent due prior to the execution of the Term or renewal terms shall not be considered in arrears until thirty (30) days after the Commencement Date.
- 5.3 If the Tenant is in default in the payment of any amounts or charges required to be paid pursuant to this Agreement, whether or not the same are designated as Additional Rent,

they shall, if not paid when due, be collectible as Rent with the next monthly instalment of Minimum Rent thereafter falling due under this Agreement, but nothing herein contained is deemed to suspend or delay the payment of any amount of money or charges at the time same becomes due and payable hereunder, or limit any other remedy of the Landlord. The Tenant agrees that the Landlord may, at its option, apply or allocate any sums received from or due to the Tenant against any amounts due and payable under this Agreement.

- 5.4 If the Tenant fails to pay Rent or any other amounts payable by the Tenant under this Agreement when the same is due and payable, such unpaid amounts shall bear interest from the due date of payment at a rate per annum that is three (3) percentage points in excess of the minimum lending rate charged by the Royal Bank of Canada to prime commercial borrowers, calculated and payable monthly.

## **6. TAXES**

- 6.1 The Tenant shall pay as Additional Rent to the Landlord:

6.1.1 all Taxes (including any increase in Taxes resulting from the Tenant's occupation or use of the Premises) that are levied, rated, charged or assessed from time to time, against the Premises or any part thereof, whether on the basis of a separate tax bill rendered by any lawful taxing authority or as allocated to the Premises by the Landlord on a reasonable and equitable basis;

6.1.2 at the earlier of the time specified in the applicable legislation or when such Rent is required to be paid under this Agreement, all HST eligible in respect of amounts payable by the Tenant as Rent under this Agreement and, notwithstanding that HST shall not be considered Additional Rent under this Agreement, the Landlord shall have the same rights and remedies for the recovery of such amounts payable as HST as it has for amounts payable as Additional Rent under this Agreement.

- 6.2 The Tenant shall throughout the Term indemnify, defend and hold harmless the Landlord from and against all loss, costs, charges and expenses occasioned by or arising from all such Taxes, and all such Taxes which may in the future be levied in lieu of such Taxes, whether against the Landlord or the Tenant, including without limitation, any increase in Taxes, whether against the Landlord or the Tenant.

- 6.3 The Taxes that the Tenant is required to pay pursuant to this section shall be subject to a per diem adjustment on the basis of a period of three hundred and sixty-five (365) days per calendar year.

- 6.4 The Tenant shall pay all business taxes, rates and license fees levied in respect of the business carried on by the Tenant in and upon or by reason of occupancy of the Leased Premises.

**7. UTILITIES AND RELATED COSTS**

- 7.1 The Tenant shall be solely responsible for and shall promptly pay to the Landlord, as Additional Rent in addition to Minimum Rent, or directly to the appropriate authority, the aggregate of:

7.1.1 the total cost of supplying water, fuel, gas, oil, hydroelectricity and all other utilities used or consumed in connection with the Premises; and

7.1.2 the total cost of all telephone, internet, television services, general property maintenance and waste collection charged in relation to the Premises.

- 7.2 The Landlord shall not be liable for, nor have any obligation with respect to, an interruption or cessation of, or a failure in the supply of any utility to the Premises, whether supplied by the Landlord or others.

- 7.3 The Tenant shall pay the aforementioned amounts to the Landlord within fifteen (15) days of presentation by the Landlord of the particular account or invoice to the Tenant. Such accounts or invoices shall be presented on a monthly basis or as received from the service provider. Alternatively, the Tenant shall pay the aforementioned amounts directly to the appropriate utility or other provider prior to the time such amounts become due and payable.

**8. PAYMENT OF TAXES AND UTILITIES**

- 8.1 Upon receipt of bills or accounts for any portion of the said amounts are, the Landlord may invoice the Tenant. The Tenant shall pay the Landlord such amounts on or before the earliest due date specified on the statements issued by the relevant authorities, as Additional Rent on demand.

- 8.2 All payments required to be made by the Tenant shall be payable to:

The Corporation of Haldimand County  
C/O Finance  
53 Thorburn Street South  
Cayuga, Ontario N0A 1E0.

**9. NET LEASE**

- 9.1 The Tenant acknowledges and agrees that, except as expressly set out herein, the provisions of this Lease are intended to create a completely carefree net lease for the Landlord. The Landlord shall not be responsible during the Term for any costs, charges,

expenses, or outlays of any nature whatsoever arising from or relating to the Premises, their use and occupancy, their contents, or the business conducted therein. The Tenant shall bear and pay all charges, impositions, costs, and expenses of every kind relating to the Premises. Notwithstanding the foregoing, the Tenant shall not be required to pay any amounts related to mortgage payments of principal or interest on any mortgage, charge, or debenture affecting the Premises, or any income taxes of the Landlord.

**10. ADDITIONAL LEASES**

- 10.1 The Tenant acknowledges that, during the Term, the Landlord may, at its sole discretion, grant or lease to another party the right to use the Lands, or any part thereof, including any buildings situated on the Lands, for any purpose.

**11. REPAIR, MAINTENANCE AND ALTERATIONS**

- 11.1 The Tenant shall, at its own expense, operate, maintain, and keep the Premises in good order and condition, comparable to the standards of a careful and reasonable owner. Subject to the provisions herein regarding damage by fire and other named perils, the Tenant shall promptly and diligently perform all necessary replacements and repairs to the entire Premises, except for reasonable wear and tear. By taking possession of the Premises on the Commencement Date, the Tenant shall be deemed to have accepted the Premises as being in good order and satisfactory condition.
- 11.2 The Tenant shall not make any alterations, replacements or improvements (collectively, "Improvements") to any part of the Premises without first obtaining the Landlord's prior written consent, which consent may be unreasonably withheld.
- 11.3 Upon the termination of the Term, the Tenant shall peaceably surrender and deliver the Premises to the Landlord in the condition and repair required to be maintained throughout the Term. The Tenant shall surrender all keys for the Premises to the Landlord.
- 11.4 All alterations, decorations, additions, and Improvements made by the Tenant, or made by the Landlord on the Tenant's behalf (excluding the Tenant's chattels and personal property), shall immediately become the property of the Landlord upon affixation or installation, without any compensation to the Tenant. The Landlord shall have no obligation to repair, maintain, or insure such alterations, decorations, additions, or Improvements, all of which shall remain the responsibility of the Tenant as outlined in this Agreement. These alterations, decorations, additions, or Improvements shall not be removed from the Premises during or upon the termination of the Term, except as follows:



- 11.4.1 the Tenant may, during the Term and in the usual course of its business, remove its trade fixtures with the prior written consent of the Landlord, which consent may be unreasonably withheld, provided that such trade fixtures are either surplus to the Tenant's needs or are being replaced with new and similar trade fixtures
- 11.4.2 the Tenant is not in default under this Agreement at the time of removal; and
- 11.4.3 such removal is conducted at the Tenant's sole cost and expense.
- 11.5 If the Tenant does not remove its trade fixtures at the termination of the Term, the trade fixtures shall, at the option of the Landlord, become the property of the Landlord and may be removed from the Premises and sold or disposed of by the Landlord in such manner as it deems advisable.
- 11.6 The Tenant shall, when it becomes aware of same, immediately notify the Landlord of any damage to, or any deficiency or defect in any part of the Premises, any equipment or utility systems, or any installations located therein, notwithstanding the fact that the Landlord may have no obligations with respect to same.
- 11.7 The Tenant shall not paint, display, inscribe, place or affix any sign, picture, symbol, notice, lettering, advertising or display of any kind anywhere outside the Premises (including the roof) or within the Premises so as to be visible from outside and shall not install on the roof or outside walls of the Premises or other structures located on the Premises any television, telecommunication or radio antennae, satellite dishes or any exterior lights, shades, awnings or decorations whatsoever or any means of exterior sound production, without the prior written consent of the Landlord, which consent may be unreasonably withheld. Should the Landlord at any time object to any such sign, picture, symbol, notice, lettering, advertising, display or material or equipment, the Tenant shall remove the same forthwith at the Tenant's sole cost and expense.

## **12. DAMAGE AND DESTRUCTION OF THE PREMISES**

- 12.1 If during the Term the Premises are destroyed or damaged in whole or in part or the Premises become totally or partially unusable, either the Landlord or the Tenant may, in its own discretion, terminate this Agreement upon thirty (30) days' written notice to the other. If neither party terminates this Agreement within thirty (30) days of the occurrence of such event, then the Landlord shall proceed with all diligence to repair or replace the Premises to the state that they were in prior to the occurrence of such damage or destruction.

**13. INSPECTION BY LANDLORD**

- 13.1 The Tenant grants the Landlord the right to enter the Premises at any time, upon 24 hours' written notice, and with as little disruption to the Tenant's business as reasonably possible, to inspect the Premises and ensure compliance with Applicable Law. If the Tenant receives notice of any violation of Applicable Law from the Landlord or any other authority during the Term, the Tenant must immediately notify the Landlord and provide a copy of such notice. The Tenant shall promptly rectify the violation at their own expense. The Tenant agrees to indemnify and hold the Landlord harmless from any and all claims, actions, damages, liabilities, and expenses (including legal and other fees) incurred by the Landlord in connection with such violations or any breach by the Tenant of these requirements.

**14. TENANT INSURANCE**

- 14.1 From and after the *Commencement Date*, the Tenant shall, in the name of the Tenant with the Landlord being named as Additional Insured: maintain throughout the duration of this Lease, a General Liability Insurance Policy covering the operations taking place on in the Facility, in an amount not less than \$2,000,000 per occurrence from an insurer licensed to conduct business in the Province of Ontario, providing coverage, including but not limited to, bodily injury including death, property damage, contractual liability, and tenants' legal liability. The policy shall contain cross liability and severability of interest clause and provide 30 days' prior written notice to the Landlord of cancellation or material change. Prior to the execution of this Lease and upon any renewal, the Tenant shall provide a Certificate of Insurance to the Landlord evidencing the policy as herein set out.
- 14.2 Any other form of insurance as the Tenant or the Landlord reasonably requires from time to time in the form, amounts and for insurance risks against which a prudent Tenant would insure.
- 14.3 The Tenant is encouraged to maintain throughout the duration of the Lease, a Contents Insurance Policy covering the assets of the Tenant. The Tenant agrees that the assets of the Tenant are not insured by the Landlord for damage or loss, and the Landlord assumes no liability for such damage or loss.
- 14.4 The Tenant will indemnify, hold harmless, and defend the Landlord from any and all liabilities, damages, costs, claims, suits or actions growing out of:
- 14.4.1 Any breach, violation of non-performance of any covenant or provision contained in this Lease by the Tenant or any of the Tenant's invitees;

14.4.2 Any damage to anything whatsoever caused by the use and occupation of the Leased Premises, and;

14.4.3 Any injury to person or persons, including death, occurring in or about the *Leased Premises*.

14.4.4 Such indemnification in respect of any such breach, violation or non-performance, damage to property, injury or death occurring during the term of this Lease shall survive any expiration or termination of this Lease, notwithstanding any provisions to the contrary.

**15. LANDLORD INSURANCE**

15.1 The Landlord shall, during the entire Term, at its sole cost and expense, take out and keep in full force and effect the following insurance:

15.1.1 Insurance upon the Boat Club Building and any machinery, boilers, pressure vessels, air-conditioning equipment and miscellaneous electrical apparatus contained therein and owned by the Landlord in an amount not less than one hundred (100%) per cent of the full replacement cost thereof on an all-risks basis, including earthquake, flood and collapse (if available), and replacement cost due to by-laws (including the value of the undamaged portion, the cost of demolition of damaged and undamaged structures and site clearance) subject to such reasonable deductible amounts as would be carried by a prudent owner of reasonably similar premises.

**16. ASSIGNMENT OF LEASE**

16.1 The Tenant shall not assign this Agreement in whole or in part, nor sublet all or any part of the Premises, nor mortgage or encumber this Agreement or the Premises or any part thereof, nor grant any licence or franchise in respect thereof, nor suffer or permit the occupation of, or part with or share possession of all or any part of the Premises by any person (all of the foregoing being hereinafter collectively referred to as a "Transfer"), without the prior written consent of the Landlord in each instance, which consent may be unreasonably or arbitrarily withheld at the Landlord's sole option and discretion, notwithstanding any statutory provision to the contrary. The consent by the Landlord to any specific Transfer, if granted, shall not constitute a waiver of the necessity for such consent to any subsequent Transfer. This prohibition against a Transfer is construed so as to include a prohibition against any Transfer by operation of law and no Transfer shall

take place by reason of a failure by the Landlord to reply to a request by the Tenant for consent to a Transfer.

- 16.2 If there is a permitted Transfer of this Agreement, the Landlord may collect rent from the assignee, subtenant or occupant (all of the foregoing being hereinafter collectively referred to as the "Transferee"), and apply the net amount collected to the rent required to be paid pursuant to this Agreement, but no acceptance by the Landlord of any payments by a Transferee shall be deemed a waiver of this covenant, or the acceptance of the Transferee or a release of the Tenant from the further performance by the Tenant of the covenants or obligations on the part of the Tenant herein contained. Whether or not the Landlord collects rent from a Transferee, that portion of the total rent to be paid by a Transferee which exceeds the Rent (on a proportionate basis relative to the space occupied) to be paid by the Tenant to the Landlord under the terms of the Agreement, shall be paid to the Landlord. In addition, any fee, payment, charge or other consideration payable by a Transferee in respect of any Transfer permitted hereunder shall accrue to the benefit and shall be paid to the Landlord.
- 16.3 Any document or consent evidencing such Transfer of this Agreement if permitted or consented to by the Landlord shall be prepared by the Landlord or its solicitors, and all legal costs with respect thereto shall be paid by the Tenant to the Landlord forthwith upon demand.
- 16.4 Any consent by the Landlord shall be subject to the Tenant causing any such Transferee to promptly execute an agreement directly with the Landlord agreeing to be bound by all of the terms, covenants and conditions contained in this Agreement as if such Transferee had originally executed this Agreement as Tenant. Notwithstanding any such Transfer permitted or consented to by the Landlord, the Tenant shall be jointly and severally liable with the Transferee on this Agreement and shall not be released from performing any of the terms, covenants and conditions of this Agreement.

## **17. LANDLORD'S ASSIGNMENT**

- 17.1 If the Landlord sells any interest in the Lands or the Premises or in this Agreement to the extent that the purchaser or assignee is responsible for compliance with the covenants and obligations of the Landlord hereunder, the Landlord without further written agreement will be relieved of liability under all such covenants and obligations. The Tenant shall, if requested to do so, acknowledge in writing any notice of assignment of this Agreement by the Landlord.

**18. LANDLORD'S RIGHT TO RE-ENTER**

- 18.1 If the Tenant fails to pay Rent, or fails to observe or perform any other terms, conditions, or covenants under this Agreement, or in the event of seizure or forfeiture of the Term, or if re-entry is permitted under other terms of this Agreement, the Landlord, in addition to any other rights or remedies available, shall have the right of immediate re-entry if Rent is not paid. Otherwise, the Landlord may re-enter the Premises after providing ten (10) days' written notice to the Tenant. The Landlord may remove all persons and property from the Premises, and any property may be stored in a public warehouse or elsewhere at the Tenant's cost and expense. This action may be taken without the need for notice or legal process, and the Landlord shall not be considered guilty of trespass or liable for any loss or damage caused by such actions.
- 18.2 Additionally, upon ten (10) days' prior written notice to the Tenant, the Landlord may sell any or all of the removed property. The proceeds from the sale may be applied toward the Rent and any other payments owed to the Landlord under this Agreement. The sale may be conducted at the Landlord's discretion by public auction, private sale, or a combination of both, as the Landlord deems appropriate.

**19. BANKRUPTCY OF TENANT**

- 19.1 If the Term or any of the chattels of the Tenant on the Premises shall be any time during the Term seized or taken in execution or attachment by any creditor of the Tenant or if the Tenant shall make any assignment for the benefit of creditors or any bulk sale or become bankrupt or insolvent or shall take the benefit of any act now or hereinafter in force for bankrupt or insolvent debtors, or if any order shall be made for the winding up of the Tenant, or if the Premises shall without the written consent of the Landlord become and remain vacant for a period of fifteen (15) days or be used by any other persons than such as are entitled to use them under the terms of this Agreement, or if the Tenant shall without the written consent of the Landlord abandon or attempt to abandon the Premises or sell or dispose of chattels of the Tenant or remove them or any of them from the Premises so that there would not in the event of such abandonment, sale or disposal be sufficient goods on the Premises subject to distress to satisfy the Rent due or accruing due, or in the event of default, then and in every such case the then current month's Rent and the next ensuing three (3) months' Rent shall immediately become due and be paid and the Landlord may re-enter and take possession of the Premises as though the Tenant or the servants of the Tenant or any other occupant of the Premises were holding over beyond the expiration of the Term, and the Term shall at the option of the Landlord forthwith become forfeited and terminated and in every one of the cases above

mentioned, such accelerated Rent shall be recoverable by the Landlord in the same manner as the Rent hereby reserved as if the Rent were in arrears.

**20. RIGHT OF RE-LET**

- 20.1 If the Landlord re-enters as herein provided, it may either terminate this Agreement or it may from time to time without terminating the Tenant's obligations under this Agreement, make alterations and repairs considered by the Landlord necessary to facilitate a re-letting and re-let the Premises or any part thereof as agent of the Tenant for such term or terms at such rental or rentals and upon such other terms and conditions as the Landlord in its reasonable discretion considers advisable. Upon each re-letting, all rent and other moneys received by the Landlord from the re-letting will be applied first to the payment of indebtedness other than Rent due hereunder from the Tenant to the Landlord, second, to the payment of costs and expenses of the re-letting including brokerage fees and solicitor's fees and costs of the alterations and repairs and third, to the payment of Rent due and unpaid hereunder. The residue, if any, will be held by the Landlord and applied in payment of future Rent as it becomes due and payable. If the Rent received from the re-letting during a month is less than the Rent to be paid during that month by the Tenant, the Tenant will pay the deficiency to the Landlord forthwith. Interest on the deficiency at a rate per annum which is three (3) percentage points in excess of the minimum lending rate charged to prime commercial borrowers at such time by the Royal Bank of Canada, shall be calculated and payable monthly. No re-entry by the Landlord will be construed as an election on its part to terminate this Agreement unless a written notice of that intention is given to the Tenant. Despite a re-letting, without termination, the Landlord may elect at any time to terminate this Agreement for any breach.
- 20.2 If the Landlord terminates this Agreement, then, in addition to any remedies it may have, it may recover from the Tenant all arrears of Rent and all damages it incurs by reason of the breach including, without limitation, the cost of recovering the Premises, reasonable legal fees and the present value of the unpaid future Rent for the unexpired portion of the Term, all of which amounts shall be immediately due and payable by the Tenant to the Landlord.
- 20.3 If the Landlord brings an action against the Tenant arising from alleged breach of a covenant, condition or other term in this Agreement to be complied with by the Tenant and the court establishes that the Tenant is in breach of the covenant, condition or term, the Tenant will pay to the Landlord all expenses incurred by the Landlord in the action, including reasonable legal fees (on a solicitor and client basis).

**21. LANDLORD MAY FOLLOW GOODS**

- 21.1 In the case of removal by the Tenant of the goods and chattels of the Tenant from the Premises, the Landlord may follow the same for thirty (30) days in the same manner as is provided for in the legislation governing the relationship between landlords and tenants in the Province of Ontario.

**22. NO EXEMPTION FROM DISTRESS**

- 22.1 The Tenant agrees with the Landlord, in consideration of this Agreement, that, despite any statutory provisions to the contrary, none of the Tenant's goods or chattels will be exempt from seizure by distress for Rent arrears during the Term, as allowed by any applicable law or its amendments. If the Tenant claims such an exemption or if the Landlord enforces distress, this covenant can be used as an estoppel against the Tenant in any legal action challenging the right to seize exempted goods under such laws or amendments. The Tenant waives any benefits they might have received under such statutory exemptions due to this covenant.

**23. LANDLORD MAY CURE TENANT'S DEFAULT OR PERFORM TENANTS COVENANTS**

- 23.1 If the Tenant fails to pay, when due, any amounts or charges (other than Minimum Rent) required to be paid pursuant to this Agreement, the Landlord, after giving five (5) days' notice in writing to the Tenant, may, but shall not be obligated to, pay all or any part of the same. If the Tenant is in default in the performance of any of its covenants or obligations hereunder (other than the payment of Rent or other sums required to be paid pursuant to this Agreement) the Landlord may from time to time after giving 10 days written notice to the Tenant (or no notice in the case of an emergency), unless the Tenant within such 10 day period performs or commences diligently to perform such covenants or obligations to the reasonable satisfaction of the Landlord, perform or cause to be performed any of such covenants or obligations, or any part thereof, and for such purpose may do such things as may be required, including, without limitation, entering upon the Premises and doing such things upon or in respect of the Premises or any part thereof as the Landlord reasonably considers requisite or necessary. All expenses incurred and expenditures made pursuant to this Section, plus a sum equal to fifteen (15%) percent thereof representing the Landlord's overhead, shall be paid by the Tenant as Additional Rent, or otherwise as may be the case, forthwith upon demand. The Landlord shall have no liability to the Tenant for any loss or damages resulting from any such action or entry by the Landlord upon the Premises in accordance with the terms of this Agreement and same is not re-entry or a breach of any covenant for quiet enjoyment contained in this Agreement.

**24. LIEN ON TRADE FIXTURES**

- 24.1 If the Tenant at any time during the Term or at the expiration or other termination of the Term is in default under any covenant or obligation contained in this Agreement, the Landlord shall have a lien on all stock, inventory, fixtures, equipment and facilities of the Tenant as security against loss or damage resulting from any such default by the Tenant and said stock, inventory, fixtures, equipment or facilities shall not be removed by the Tenant until such default is cured, unless otherwise permitted in writing by the Landlord.
- 24.2 The Tenant will comply with all provisions of law including, without limitation, federal and provincial legislative enactments, by-laws and any other governmental or municipal regulations which relate to the equipment, operation and use of and to the making of any repairs, replacements, alterations, additions, changes substitutions or improvements of or to the Leased Premises, and to comply with all police, fire and sanitary regulations imposed by any federal, provincial or municipal authorities and to observe and obey all governmental and municipal regulations or other requirements governing the conduct of business conducted on the Leased Premises. In the event that the Tenant shall, at any time from time to time during the term, do or permit to be done or omit to do any act or thing which shall result in any such obligation being imposed upon the Landlord and, within a reasonable time after notice in writing from the Landlord to the Tenant, of if the Tenant does not do the necessary work in order to comply with the relevant law, regulation, order or requirement, the Landlord may, at his option, without prejudice to any other rights which the Landlord may have hereunder, either do the necessary work or cause it to be done at the expense of the Tenant or forthwith, by notice in writing to the Tenant or terminate this Lease. In the event that the Landlord shall undertake any work to be done at the expense of the Tenant hereunder, the cost thereof, together with the Landlord's reasonable overhead and supervision charges in respect of such work shall be payable by the Tenant to the Landlord forthwith upon demand, and, if this Lease is terminated pursuant to the provisions of this paragraph, in addition to his other obligations on termination, the Tenant shall pay Rent to the date of surrender of possession and shall moreover reimburse the Landlord for any costs which he has then incurred or may be under any obligation to incur under such law, regulation, order or requirement.

**25. TENANT COVENANTS**

- 25.1 The Tenant agrees to permit the Landlord at any time in the event of any emergency, and otherwise at reasonable times, to take any and all measures, including inspections, repairs, alterations, additions and improvements to the Leased Premises or to the Facility, as may be necessary or desirable for the safety, protection or preservation of the Leased



Premises, or the Facility, or the Landlord's interest, or as may be necessary or desirable in the operation or improvement of the Leased Premises or in order to comply with all laws, regulations, orders and requirements of governmental or other authority and such measures may include the interruption of any services or utilities until such inspections, repairs, alterations, additions or improvements have been completed. The Landlord shall, except in the event of an emergency, give the Tenant reasonable notice of required entry to the Leased Premises, and shall indemnify the Tenant for any damage caused to the Leased Premises as a result of the aforementioned measure being taken but such indemnification shall not extend to loss of profits sustained by the Tenant unless such loss results from the negligent or wrongful act or default of the Landlord, its officers, agents, servants, employees or contractors.

- 25.2 If, because of any act or omission of the Tenant, its employees, agents, contractors, or subcontractors, any lien, charge or order for the payment of money shall be filed against the Landlord, or against all or a portion of the Leased Premises, the Tenant shall, at its own cost and expense, cause the same to be discharged within thirty (30) days after the filing thereof, and the Tenant shall indemnify and save harmless, the Landlord against and from all costs, liabilities, suits, penalties, claims and demands, including reasonable legal fees resulting therefrom.

**26. LANDLORD'S COVENANTS**

- 26.1 So long as the Tenant shall observe and perform the covenants and agreements binding on it hereunder, the Tenant shall at all times during the term herein granted, peacefully and quietly have and enjoy possession of the Leased Premises without any encumbrance or hindrance by, from or through the Landlord.

**27. ACCORD AND SATISFACTION**

- 27.1 No payment by the Tenant or receipt by the Landlord of a lesser amount than the Rent herein stipulated will be considered to be other than on account of the earliest stipulated Rent, nor will an endorsement or statement on a cheque or in a letter accompanying a cheque or payment as Rent be considered to be an accord or satisfaction, and the Landlord may accept a cheque or payment without prejudice to the Landlord's right to recover the balance of the Rent or pursue any other remedy.

**28. UNAVOIDABLE DELAY**

- 28.1 Whenever and to the extent that the Landlord or the Tenant shall be unable to fulfil or shall be delayed or restricted in the fulfilment of any obligation during the period of such

unavoidable delay hereunder in respect of the supply or provision of any service or utility or the doing of any work or the making of any repairs by reason of being unable to obtain the material, goods, equipment, service or labour required to enable it to fulfil such obligation, or by reason of any statute or order-in-council or regulation or order passed or made pursuant thereto or by reason of the order or direction of any administrator, controller, board, governmental department or officer or other authority or by reason of not being able to obtain any permission or authority required thereby or by reason of any other cause beyond its control whether of the foregoing character or not, the Landlord or the Tenant, as the case may be, shall be relieved from the fulfilment of such obligation during the period of such unavoidable delay and the other party shall not be entitled to compensation for any inconvenience, nuisance or discomfort thereby occasioned, provided that the foregoing shall in no event be construed so as to relieve the Tenant from its obligation to pay Rent or other monies due in the amounts and on the days and at the times provided for in this Agreement.

**29. PARTIAL INVALIDITY**

- 29.1 If a term, covenant or condition of this Agreement or the application thereof to any person or circumstances is held to any extent invalid or unenforceable, the remainder of this Agreement or the application of the term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable will not be affected.

**30. REMEDIES OF THE LANDLORD**

- 30.1 No exercise of a specific right or remedy by the Landlord or by the Tenant precludes it from or prejudices it in exercising any other right or pursuing any other remedy or maintaining an action to which it may otherwise be entitled either in law or in equity.

**31. WAIVER**

- 31.1 The waiver by the Landlord of a breach of a term, covenant or condition of this Agreement will not be construed to be a waiver of a subsequent breach of the term, covenant or condition or another term, covenant or condition. The subsequent acceptance of Rent by the Landlord will not be considered to be a waiver of a preceding breach by the Tenant of a term, covenant or condition of this Agreement, regardless of the Landlord's knowledge of the preceding breach at the time of acceptance of the Rent. No covenant, term or condition of this Agreement will be considered to have been waived by the Landlord or by the Tenant unless the waiver is in writing signed by the Landlord or by the Tenant, as the case may be.

**32. RULES AND REGULATIONS**

- 32.1 The Landlord may from time to time establish, modify and enforce reasonable rules and regulations regarding the use and occupancy of the Premises. All rules and regulations and modifications thereof shall form a part of this Agreement and bind the Tenant, and the Tenant will comply with such rules and regulations and modifications. Notice of the rules and regulations and modifications, if any, will be given to the Tenant by the Landlord. No rule or regulation or modification will contradict the provisions of this Agreement.

**33. REGISTRATION**

- 33.1 The Tenant shall not register this Agreement or any notice of it.

**34. NOTICE**

- 34.1 A notice, demand, request, statement or other evidence required or permitted to be given under this Agreement must be written and will be sufficiently given if delivered in person to the Landlord or the Tenant, or to an officer of the Landlord or the Tenant, as the case may be, or mailed in Canada by registered mail addressed to the Landlord or the Tenant, as the case may be, at the last address provided by the party being served with such notice.
- 34.2 A notice, demand, request, statement or other instrument mailed as aforesaid will be considered to have been given to the party to which it is addressed on the date of delivery thereof, or in the case of mailing, on the third business day following the date of mailing, save and except that in the event of any actual or apprehended stoppage or slowdown of the postal system due to any labour dispute, the same shall be considered to have been given to such party only on the date of delivery thereof.
- 34.3 The following provides information as to how notices are to be provided:

The Corporation of Haldimand County  
53 Thorburn Street South  
Cayuga, Ontario N0A 1E0  
Attention: Lidy Romanuk,  
Manager, Economic Development & Tourism  
Telephone: 905-318-5932 ext. 6342  
Email: [lromanuk@haldimandcounty.ca](mailto:lromanuk@haldimandcounty.ca)

Dunnville Boat Club  
102 Hydro Street  
Dunnville, ON N1A 1V8  
Attention: Commodore  
Telephone: 905-774-7039  
Email: [dunnvilleboatclub@gmail.com](mailto:dunnvilleboatclub@gmail.com)

**35. AMMENDMENT IN WRITING**

- 35.1 No alteration, amendment, change or addition to this Agreement will bind the Landlord or the Tenant unless in writing and signed by them.

**36. SUCCESSORS AND ASSIGNS**

- 36.1 This Agreement binds and benefits the parties and their respective successors and assigns. No rights, however, benefit an assignee of the Tenant unless the assignment was consented to in accordance with this Agreement.

**37. PROVISOS**

- 37.1 There is no representation, warranty or condition affecting the *Leased Premises*, or this Lease, or supported by this Lease other than as expressed in this Lease.
- 37.2 This Lease does not in any way or for any purpose make the Landlord a partner of the Tenant in the conduct of its business or otherwise or a member of a joint venture or joint enterprise with the Tenant.
- 37.3 This Lease does not in any way or for any purpose make the Tenant a partner of the Landlord or any other tenant in the conduct of its business or otherwise or a member of a joint venture or joint enterprise with the Landlord or any other tenant.
- 37.4 This Lease shall be construed in accordance with the laws of the Province of Ontario.
- 37.5 Time shall be of the essence of this Lease.

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IN WITNESS WHEREOF the parties have executed this Lease.

Authorized by By-law  
No. 2473/23

**THE CORPORATION OF HALDIMAND COUNTY**  
**(Landlord)**

Date of Execution:

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Mike Evers, General Manager  
Community & Development Services

**DUNNVILLE BOAT CLUB (Tenant)**

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Phil Konkle  
Commodore

---

Ryan Silverthorne  
Vice Commodore

## Schedule A

### Leased Premises

Reference Plan 18R-2350

- the Landlord owns Parts 1, 3, 4, 5 and 6
- the Tenant owns Part 2
- the Tenant is leasing Part 3 – municipally known as 102 Hydro Street, Dunnville

