



FACILITY USAGE AGREEMENT

THIS AGREEMENT made in duplicate this ~~14th~~ day of ~~November~~May, 2023.

B E T W E E N: **MIKE PRIMEAU**, hereinafter called the **TENANT**

OF THE FIRST PART,

and

MUNICIPALITY OF THAMES CENTRE, hereinafter called the **LANDLORD**

OF THE SECOND PART.

The following recitals form the basis for this Agreement and are made a material part thereof:

- (a) The **Municipality** is the owner of the FlightExec Centre located 2066 Dorchester Road, Dorchester, Ontario (the "Facility")
- (b) The **Municipality** is committed to promoting community inclusion and public service in Thames Centre;

NOW THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

WHEREAS the Landlord is committed to providing the Tenant with the exclusive use of "Smitty's Lounge" along with storage space (to be agreed upon with Municipal Staff) and occasional use (when available) of the Blueline Room and Community Room 1 (also known as the Creative Age Art Studio), in the FlightExec Centre;

AND WHEREAS the Landlord is agreeable to providing the said facility space on the following terms and conditions, namely:

1. TERM

- (a) The ~~trial~~ period for this lease shall be until December 31, 2024~~for the remainder of the year 2023~~.
- (b) This ~~extended~~ trial period will be free of charge to the Tenant.
- (c) Either party may terminate this Agreement upon providing the other with sixty (60) days written notice of its intention to terminate the Agreement.
- (d) Towards the end of this trial period, after consulting with the Tenant, Municipal Staff shall report back to Council with details on the success of the program along with a recommendation on how to proceed beyond 202~~4~~3.

2. TENANT OBLIGATIONS

- i. To provide free, supervised programs and events for the community, often referred to as "The Playroom Experiment."

- ii. To only access the FlightExec Centre and offer events and programs during hours that this facility is open to the public.
- iii. All bookings and cancellations of any/all space, other than Smitty's Lounge, must be made in writing (via e-mail), or in person, as follows:
 - Community Room 1 – via Senior Centre Staff, with a minimum of two business days notice.
 - Blueline Room – via Recreation Administration Assistants.
 - Smitty's Lounge does not require booking by the Tenant since they have exclusive use of this space for the term of this agreement.
- iv. To ensure all activities and events are supervised by the Tenant and/or by volunteers coordinated by the Tenant, with at least one supervisor at all times having a clear/negative "Vulnerable Sector" Police Background Check on record with the Landlord. These records must be updated within every three years.
- v. The Tenant shall be responsible to supply all equipment necessary to operate their programs and events and must receive approval from the Landlord prior to installation of any equipment in the FlightExec Centre. The Tenant shall assume full risk and responsibility for any loss or damage to the Landlord's facility and to Tenant owned equipment.
- vi. The Tenant is responsible for internet service and related costs along with any upgrades to internet, electrical, etc. Any service work required in this regard must be pre-approved by the Landlord.
- vii. Any and all renovations within the facility shall be at the cost and responsibility of the Tenant and shall require written approval from the Landlord in advance.
- viii. Janitorial requirements for Smitty's Lounge.
- ix. Advise the Landlord of any required repairs and maintenance to the facility, which the Landlord will then conduct or coordinate.
- x. The Tenant shall, at their own expense, provide the Landlord a comprehensive general liability insurance policy in an amount of not less than two million Canadian dollars, naming The Municipality of Thames Centre as an additional insured. The insurance shall be maintained during the term of this agreement and shall insure both Mike Primeau / The Playroom Experiment and the Municipality of Thames Centre.
- xi. The Tenant shall be held liable and responsible for the costs and repairing or making good any damage or marring that occur during their free use of any of the rooms/spaces at the FlightExec Centre caused by them, their agents or participants in their events and activities, and shall at all times leave the used spaces clean and tidy.
- xii. The Tenant shall assume all risk of loss, damage or injury to their property, or to the persons or property of his/her servants, agents or employees.
- xiii. The Tenant shall indemnify and save harmless the Landlord from any and all liability whatsoever and against any and all actions, damages, liens, claims

and demands of every nature and kind arising out of the performance by the Tenant or her/his employees, officers or agents of this agreement.

- xiv. The Tenant shall, at its own expense, provide any necessary leasehold improvements, only upon written approval from the Landlord.
- xv. The Tenant shall secure all necessary licenses and permits and be solely responsible for observing and complying with all provisions of Federal, Provincial, and local regulations relating to any leasehold improvements.
- xvi. The Tenant shall not assign, lease sublet or otherwise delegate the Agreement without written consent of the Landlord.
- xvii. The Landlord shall not be held liable to the Tenant for any damage or loss occasioned by a lack of heat, gas, power, or water.
- xviii. Failure to comply with the terms of this Agreement may lead to its termination by the Landlord.

3. **LANDLORD OBLIGATIONS**

- i. To provide the Tenant with the exclusive free use of Smitty's Lounge (and periodically other specified space, when available), for the sole purpose of offering free programming and events for the community.
- ii. To pay for utilities (hydro, gas and water) used by the Tenant directly related to the operation of booked space(s).
- iii. To provide heat and air conditioning and to repair and maintain all HVAC equipment in good working order for booked space(s).
- iv. To maintain adequate insurance on the property in accordance with the Landlord's general standards as they apply to similar buildings located throughout the Municipality of Thames Centre.
- v. In the event that any time a space booked by the Tenant is required for the exclusive use of the Landlord, or for purposes deemed by the Landlord (in accordance with past practice) written notification shall be promptly provided to the Tenant and the Tenant shall not use the booked space(s) on the specified day(s). The Landlord shall provide the Tenant with no less than two weeks written notice, unless it is for purposes that the Landlord deems to be an emergency in which case the Landlord will provide as much notice as reasonably possible. The Landlord will endeavor at all times not to disrupt the services provided by the Tenant in booked spaces.
- vi. The Landlord and all persons authorized by it shall have the right at any time to enter the booked space(s) for any purpose, and entry shall be deemed not to be an interference with the Tenant and the Tenant's privileges by this Agreement.

4. **NATURE OF RIGHTS**

It is hereby acknowledged by the Tenant that this Agreement provides for and is for the sole purpose of the lease of Smitty's Lounge (along with occasional use of other spaces specified above) and does not provide for any other benefits or provisions to the Tenant.

5. **TERMINATION**

This Agreement may be terminated by the Landlord on Thirty (30) days' written notice to the Tenant, provided that the default has not been rectified within that time, if:

- i. A change occurs in the ownership or business practice of the Tenant, or if the Tenant or any of its officers or directors commits any act, which, in the reasonable and good faith opinion of the Landlord, is likely to compromise or reflect unfavourably on the reputation and good name of the Landlord; or
- ii. The Tenant ceases or threatens to cease carrying on its business, passes a resolution or files an application for its winding up or liquidation, becomes insolvent or makes a general assignment for the benefit of its creditors or a proposal under the Bankruptcy and Insolvency Act or commences any proceedings under creditors arrangements legislation.

6. **INDEMNIFICATION**

Each party shall indemnify and save the other party harmless from and against all losses, damages, claims, suits, costs, or liabilities which the other party may suffer or incur as a result of the breach by it of any provision of this agreement or as a result, directly or indirectly, of its wrongful acts, omissions or negligence or those of its employees, agents or contractors.

7. **RELATIONSHIP**

Neither party shall be or become the agent of the other party for any purpose in connection herewith. The Tenant shall not be liable for the Landlord's acts or omissions. This is not a franchise agreement and does not create a partnership or joint venture. Nothing herein contained shall be construed to give the Tenant any control over or responsibility for the operation of the Facilities or any part or aspect thereof.

8. **NO ASSIGNMENT**

The Tenant shall not transfer or assign its rights or obligations under this Agreement without the express written consent of the Landlord, which consent may be arbitrarily withheld.

9. **NOTICES**

All notices, or other communications required or permitted to be given pursuant to this Agreement shall be in writing/email and shall be considered as properly given or made if emailed, delivered personally or by messenger or delivered by mail and addressed to the address of the intended recipient(s) at the following addresses:

To the Landlord:

smacdonald@thamescentre.on.ca

Municipality of Thames Centre
4305 Hamilton Road
Dorchester, ONTARIO, N0L 1G3

To the Tenant:

Editguy99@gmail.com

Mike Primeau
10 Cedar Terrace
Dorchester, ONTARIO, N0L 1G2

Delivery by mail shall be deemed to have been effected five (5) business days following the date of mailing.

Either party may change its address by giving notice in writing stating its new address to the other party.

10. **NON-WAIVER**

No delay or omission of any party to exercise rights or powers under this Agreement shall impair any such right or power or shall be construed to be a waiver of any default or acquiescence therein. No waiver of any default shall be construed, taken, or held to be a waiver of any other default, or waiver, acquiescence in, or consent to any further or succeeding default of the same nature.

11. **APPLICABLE LAW**

This Agreement shall be interpreted pursuant to the laws of the Province of Ontario. Any actions concerning interpretation or enforcement of this Agreement shall be brought in the Ontario Superior Court of Justice at London, Ontario.

12. **ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties and supersedes any prior understandings and written and oral agreements between them respecting the subject matter of this Agreement. There are no representations, agreements, arrangements or understandings between the parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement.

IN WITNESS WHEREOF the said parties have hereunto set their hands and seals duly attested by their proper officers in that behalf.

The MUNICIPALITY OF THAMES CENTRE

Director of Community Services & Facilities
Steve MacDonald

**MIKE PRIMEAU / THE PLAYROOM
EXPERIMENT**

Licensee
Mike Primeau