

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2023 – 50

BEING A BY-LAW TO ENTER INTO A LEASE AGREEMENT WITH THE MAGNETAWAN DAYCARE CENTRE INC. FOR THE AHMIC HARBOUR COMMUNITY CENTRE

**WHEREAS** Section 5(3) of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, requires a municipal Council to exercise a municipal power, including a municipality's capacity, rights, powers and privileges under Section 9, by by-law unless the municipality is specifically authorized to do otherwise;


**NOW THEREFORE BE IT RESOLVED THAT** the Council of the Corporation of the Municipality of Magnetawan enacts as follows:

1. **THAT** the Corporation of the Municipality of Magnetawan is hereby authorized to enter into a lease agreement with the Magnetawan Daycare Centre Inc, attached hereto as Schedule 'A' and forming part of this By-law;
2. **THAT** the <sup>deputy</sup> Mayor and CAO/Clerk are hereby authorized to execute the Agreement on behalf of the Corporation.

**READ A FIRST, SECOND, AND THIRD TIME**, passed, signed and the Seal of the Corporation affixed hereto, this 4<sup>th</sup> day of October 2023

THE CORPORATION OF THE  
MUNICIPALITY OF MAGNETAWAN

  
Deputy Mayor

  
CAO/Clerk

THIS INDENTURE made this 6<sup>th</sup> day of October, 2023.

IN PURSUANCE OF THE SHORT FORMS OF LEASES ACT.

BETWEEN:

**THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN**  
(hereinafter called the Lessor)

OF THE FIRST PART

- and -

**MAGNETAWAN DAYCARE CENTRE INC.**  
(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 the Lessor doth demise and lease unto the Lessee the lands and premises described in Schedule A which is attached hereto and form's part hereof (the foregoing hereinafter referred to as the Premises).

1. PREMISES, TERM AND OCCUPATION

- (a) Premises: The Ahmic Community Centre Building and such area surrounding it as shown in Schedule "A" located at 60 Ahmic Street (legal description).
- (b) The term shall be for one year commencing on 16<sup>th</sup> OCT 2023 and ending upon the 15<sup>th</sup> day of OCT 2024 (the "Term") subject to the limitation set out in subsection (c) and the Lessor's rights set out in subsection (d).
- (c) The Lessee acknowledges and agrees that its possession of the Premises shall be limited to the periods between 6 A.M. and 6 P.M., Monday through and inclusive of Friday during the Term.
- (d) The Lessee acknowledges and agrees that, during the Term, the Lessor shall retain use, possession, and control over the Premises at all times other than the times set out in subsection (c) and without limitation, that the Lessor shall have the right to rent the Premises to third parties during such times, provided that the Lessor shall give the Lessee 72 hours written notice of any such rental.
- (e) Where the Premises are rented to third party pursuant to subsection (d), the Lessor will document condition of the Premises, before and after such third-party rental and the Premises shall be left in the same condition as existed prior to such third-party rental.
- (f) Extension of Term – The Lessee may request an extension of the Term on an as needed basis; such request for an extension shall be submitted for Council approval not later than 60 days prior to the expiry of the Term. Council shall have the discretion to extend term for such period as it deems appropriate and may impose conditions thereupon.

2. LESSEE'S COVENANTS

The Lessee covenants with the Lessor as follows:

- (a) To pay Rent and all related expenses as further set out in subsection (b).
- (b) (1) Rent shall be Five Hundred Dollars (\$500.00) per month.  
(2) The related expenses shall include heat and electricity charges (including the cost of any inspections related thereto) subject to pro rata allocation as provided for in subsection (4).

- (3) The maintenance obligations set out in subsection (2) shall not include any major capital improvements.
  - (4) The payment of all of the related expenses set out in subsection (2)(i) shall be subject to the Lessee paying only such pro rata share of such expenses that exceed the amount set out in the annual budget for the Ahmic Community Centre (of which the Premises form part of and in consideration of potential use of the Premises by third parties.).
- (c) To use the Premises only as a not-for-profit daycare centre and functions ancillary to the daycare – e.g. Meet and greets, parent interview, fundraising.
  - (d) To maintain the Premises in a good state of repair and a clean and safe condition in consideration of the intended uses specified in subsection (c). Without limitation this obligation includes:
    - (1) the obligation to undertake regular cleaning and sanitization of the Premises such that each day at 6 P.M., the Premises are in a condition that is appropriate for use by third parties provided that notice of such third-party use has been given;
    - (2) the obligation to undertake all winter maintenance to the entrance for staff, students, and parents (snow ploughing, sanding, application of ice melter); and the Municipality will maintain the rest of the parking lot as per under its usual maintenance program which includes snow ploughing, sanding and application of ice melter as needed.
  - (e) Not to carry on any activities on the Premises that the Lessor may determine, in its reasonable discretion, are a nuisance or which interfere with the use of the adjoining lands.
  - (f) To comply with all provisions of the By-laws of the Municipality as amended from time to time.
  - (g) To comply with all Provincial Legislation, Regulations, and Guidelines including without limitation:
    - (1) with respect to the drinking water supply system, the *Safe Drinking Water Act*, and associated regulations including without limitation Regulation 170/03 and 243/07;
    - (2) with respect to any required inspections including without limitation, fire safety and health and welfare;
    - (3) with respect to the operation of a daycare facility.

With respect to sentence 1 and 3, the Lessee shall provide written confirmation from the applicable authority concerning its approval of the operation and/or licensing of drinking water supply and the daycare operation respectively.
  - (h) Not to permit or cause to be done anything whereby any policy of insurance that may be maintained by any party on or in respect of the premises may become void or voidable or whereby the rate of premiums thereof may be increased and to repay to the Lessor on demand all sums paid by way of increased premiums and all expenses incurred by the Lessor in connection with any renewal or replacement of the policy rendered necessary by breach of this covenant.
  - (i) To obtain the written approval of the Lessor before making or permitting to be made any improvements, renovations or additions to the Premises or any part thereof. The Lessee acknowledges that if approval is given by the Lessor that it may be subject to terms and conditions including a written Agreement between the parties. The Lessee shall be responsible for and pay the cost of any alterations, additions, installations, or improvements that any governing authority, municipal, provincial or otherwise, may require to be made in, on or to the Premises.
  - (j) To carry out all alterations or construction in a good and workmanlike manner in accordance with all applicable laws and to keep the Premises free of any liens filed under the *Construction Act* or any other legislation. To this end the Lessor may require, as part of the approval process for any project, that the Lessee obtain appropriate bonding to ensure completion of any contract and payment for all labour and material.

- (k) To maintain a sufficient temperature within the Premises at all times to ensure that the Premises shall not be damaged by the prevailing temperatures outside of the Premises.
- (l) Not to assign this Lease or sub-let the Premises in whole or in without the prior written consent of the Lessor. The Lessee acknowledges that the Lessor may refuse consent for any assignment or sub-let that the Lessor considers is not in the best interests of the public.
- (m) Upon the expiration of the term of this Lease or upon any earlier termination to surrender possession of the Premises to the Lessor in good condition and repair, reasonable wear and tear excepted. In addition to provide or permit the Lessor access to the Premises for the purposes of showing the Premises to prospective purchasers or Lessees (in which latter case such access shall be limited to a period commencing 3 months before termination of the lease).
- (n) To maintain with respect to the Premises, insurance coverage insuring against:
  - (1) loss or damage by perils as are commonly provided under an Aall risks@ property policy with respect to damage to the Premises and other property owned or controlled by the Lessee or as may be reasonably required by the Lessor.
  - (2) liability for bodily injury or death or property damages sustained by third parties with a minimum limit of \$5,000,000.00 per occurrence.
  - (3) such insurance coverage shall show the Lessor as a named insured and the policy shall include a cross-liability endorsement. The insurance coverage will act as primary insurance for the Lessor with respect to the Premises and any activities or programs carried on by the Lessee.
  - (4) such policy shall require the insurer to give the Lessor a minimum of thirty (30) days written notice prior to cancellation or material change.
  - (5) the Lessee shall provide copies of the insurance coverage required herein to the Lessor prior to the execution of this Lease by the Lessor and proof of continuing coverage as required from time to time.
- (o) To release the Lessor, its councillors, officers, employees, and agents (collectively the Lessor) of and from any claims, actions, suits or losses arising directly or indirectly out of the Lessees use and occupation of the Premises or this Lease except to the extent that the Lessor is in default hereunder.
- (p) To indemnify and save harmless the Lessor, its councillors, officers, employees and agents (collectively the Lessor) of and from any claims, actions, suits or losses, suffered by, imposed upon or asserted against the Lessor, including legal expenses incurred by the Lessor on a solicitor and his own client basis, as a result of, in respect of, or arising from any Act, any failure to act or failure to perform any term or condition of this Lease to be performed or observed by the Lessee, its officers, employees and agents or in any way arising out of the Lessees operation and use of the Premises.
- (q) To store garbage and recyclable materials in such containers so as to prevent access by animals and to remove on a regular basis; for the purposes of this lease regular basis means no fewer than twice a week subject to the condition that no garbage or recyclables shall remain on the Premises after Friday at 6 P.M.
- (r) To arrange and pay for the pump out of the holding tank servicing the Premises in accordance with the provisions of the *Building Code Act, 1992*, its regulations and any other applicable law.

### 3. LESSOR'S COVENANTS

The Lessor covenants with the Lessee as follows:

- (a) To maintain insurance on the premises insuring against loss or damage by fire for the full insurable value as determined by the Lessors insurer.

- (b) To permit the Lessee to place signage on municipal property identifying the facility and directing the public to its location in accordance with the sign by-law of the Municipality and subject to the Lessor approving in writing the signage and the location.
- (c) Not to unreasonably withhold approval for the alteration of the interior of the Premises for the uses intended and set out in section 1(c).
- (d) For quiet enjoyment.
- (e) To undertake regular inspections of the Premises including the condition of the building and its mechanical systems.
- (f) To undertake general surface maintenance (grading and pothole repair) of such parking areas including those that form part of the Premises.
- (g) To provide for and undertake pest control through a licensed contractor.

4. DEFAULT AND TERMINATION

- (a) Each and every of the following events shall constitute an event of default (hereinafter referred to as an Event of Default):
  - (1) If the Lessee neglects or fails to observe, perform, or comply with any of its obligations pursuant to this Lease during the term; howsoever arising.
  - (2) If the Lessee abandons the Premises.
  - (3) If the Lessee fails to make prompt payment of any accounts for which it is responsible pursuant to the terms of this Lease.
  - (4) If the Lessee fails to comply with all applicable laws, by-laws or statutory regulations in force from time to time during the term of this Lease, including without limitation failure to comply with such applicable laws, by-law or statutory regulations concerning the use set out in subsection 3(c) and those identified in subsections 3(g)(1)(2) and (3) .
  - (5) If the Lessee fails to keep title to the Premises free of construction liens or other encumbrances.

The Lessor shall provide written notice to the Lessee of an Event of Default and the Lessee shall have a period of thirty (30) days from the date of receipt of the notice to cure the default to the satisfaction of the Lessor in its unfettered discretion. If any Event of Default continues for thirty (30) days, the Lessor may terminate this Lease by delivery of notice in writing to that effect to the Lessee. Such termination shall not limit in any way the recourse by the Lessor to any remedies available to it pursuant to this Lease or otherwise at law or in equity.

If the Lessee fails to perform any of the covenants or obligations on its part set forth in this Lease, the Lessor shall have the right, but shall not be obligated, to perform or cause the same to be performed and to do or cause to be done such things as may be necessary or incidental thereto, including without limiting the foregoing, the right to make repairs, installations, erections and expend monies and all payments, expenses, costs, charges, fees, including all legal fees on a solicitor and his own client basis, and disbursements incurred that are paid by or on behalf of the Lessor in respect thereof shall be immediately due and payable by the Lessee upon demand.

The Lessee acknowledges and agrees that the Lessor may, but is not obliged to, rely upon other applicable authorities concerning the determination of a "failure to comply" under subsection 4(a)(4).

- (b) Any sums owing by the Lessee to the Lessor pursuant to the terms of this Lease

shall bear interest at the rate of 12% per annum calculated from the date of demand.

- (c) If, when an Event of Default has occurred, the Lessor chooses not to terminate the Lease and re-enter the Premises, the Lessor shall have the right to take any and all necessary steps to rectify any or all Events of Default of the Lessee and to charge the costs of such rectification to the Lessee and to recover the costs as Rent.
- (d) If, when an Event of Default has occurred, the Lessor chooses to waive his right to exercise the remedies available to him under this Lease or at law the waiver shall not constitute condonation of the Event of Default, nor shall the waiver be pleaded as an estoppel against the Lessor to prevent his exercising his remedies with respect to a subsequent Event of Default:
- (e) No covenant, term, or condition of this Lease shall be deemed to have been waived by the Lessor unless the waiver is in writing and signed by the Lessor.

5. GENERAL PROVISIONS

- (a) Any notice or other communication required or permitted to be given or delivered pursuant to this Lease shall be in writing and shall be well and sufficiently given or delivered if delivered:
  - (1) personally; or
  - (2) by email to the email address listed below and provided the confirmation of delivery of said email is obtained.,
 Any notice delivered after 6:00 P.M. is deemed to have been delivered on the next business day.

The Corporation of the Municipality of Magnetawan at 4304 Hwy # 520, P.O. Box 70, Magnetawan, Ontario, P0A 1P0 Attn: CAO/Clerk; email: Clerk@magnetawan.ca

Magnetawan Daycare Centre Inc. *INSERT address and email. magnetawan daycare @ sym 21. com*  
~~142~~ 61 ONTARIO ST. BURKS FALLS ON P.O. Box 369 P0A1C0

- (b) This Lease, including the Schedules hereto, constitute the entire Lease between the parties and the parties hereto acknowledge that there are no covenants, representations, warranties, agreements or conditions, express or implied, collateral or otherwise, forming part of or in any way affecting or relating to this Lease save as expressly set out in this Lease, and that this Lease may not be amended except by written instrument executed by all the parties hereto.
- (c) No condonation, forgiveness, waiver, or forbearance by the Lessor of any non-observance or non-performance by the Lessee of any of the provisions, terms or conditions of this Lease shall operate as a waiver or estoppel by or against the Lessor in respect of any provision, term or condition or any subsequent non-observance or non-performance by the Lessee of any provision of this Lease.
- (d) This Lease shall be binding upon and enure to the benefit of the Lessor and the Lessee and their permitted assigns.

IN WITNESS WHEREOF each of the parties has duly executed this Lease under the hands of its authorized signing officers.

By the Lessee on the 5<sup>th</sup> day of October, 2023

**MAGNETAWAN DAYCARE CENTRE INC.**

per: *Meagan Fincham*  
Name: Meagan Fincham  
Title: Director

per: *Amanda Munn*  
Name: Amanda Munn  
Title: Director

We have authority to bind the Corporation.

By the Lessor on the 6<sup>th</sup> day of October, 2023.

THE CORPORATION OF THE  
MUNICIPALITY OF MAGNETAWAN





per:   
Name: John Hetherington  
Title: Deputy Mayor

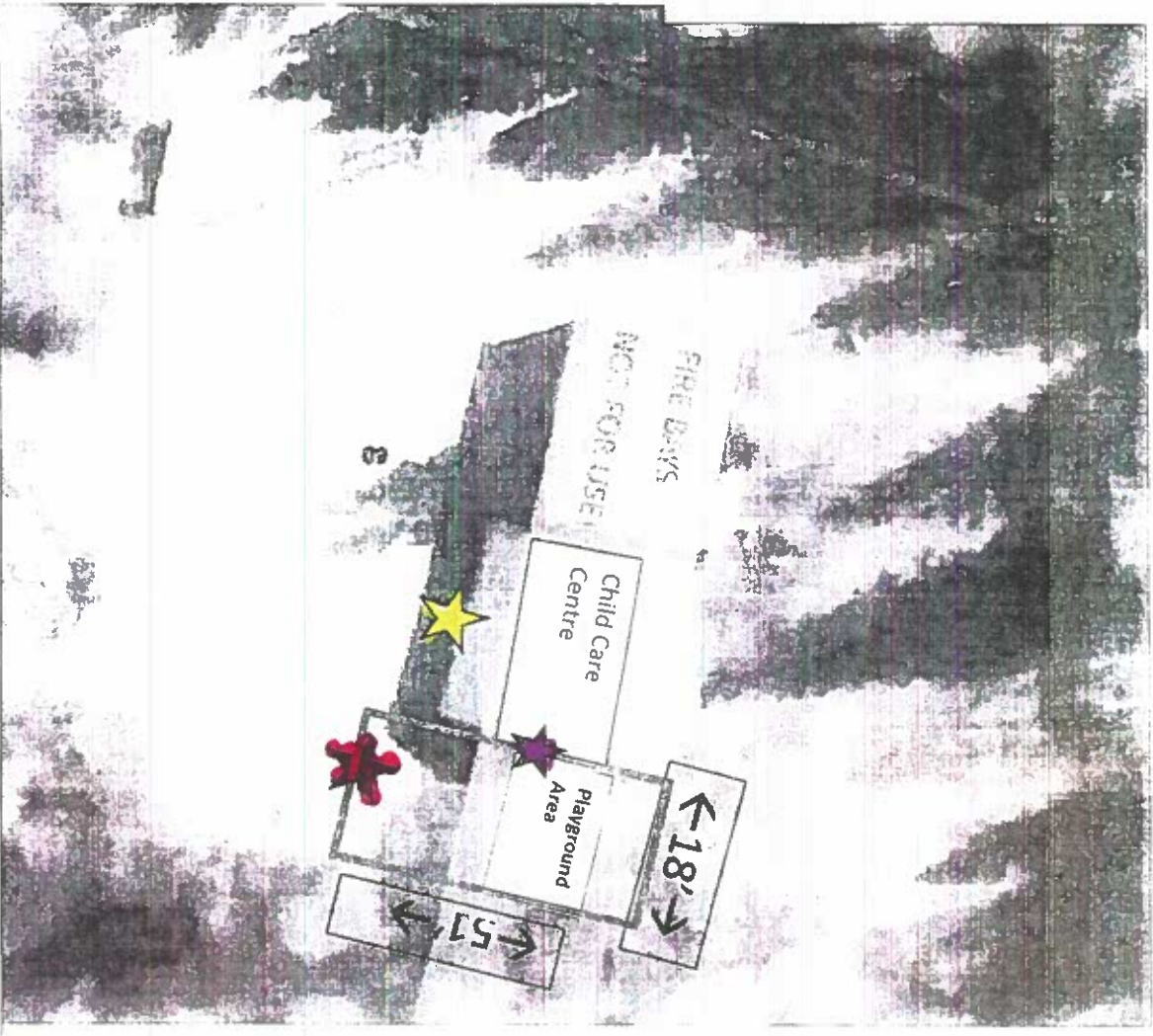
per:   
Name: Kerstin Vroom  
Title: CAO/Clerk

**SCHEDULE A**

Map or Diagram

**Magnetawan Daycare Centre**  
60 Ahmic Street, Magnetawan Ontario POA 1A0  
\* No fixed equipment

- Legend**
-  = 4' High Chain Link Fence
  -  = Secure Latched Gate
  -  = Main Entrance to Daycare
  -  = Fire Door



Ahmic Street

Highway 124