

THIS INDENTURE AND AGREEMENT made the 21st day of November, 1995.

B E T W E E N :

THE CORPORATION OF THE TOWN OF PELHAM
(hereinafter called the Lessor)

OF THE FIRST PART,

- and -

THE FONTHILL PLATFORM TENNIS CLUB INC.
(hereinafter called the Lessee)

OF THE SECOND PART,

WHEREAS the Lessor and Lessee herein entered into a lease agreement dated November 21, 1988 (the "Initial Lease") for the Lands at the Pelham Arena Grounds (hereinafter called the "Site") upon which the Lessee has now erected two platform tennis courts, decking and a clubhouse (hereinafter called the "Facility");

AND WHEREAS the Initial Lease was amended by an agreement between the parties dated October 15, 1990 (the "Amended Lease Agreement");

AND WHEREAS the Lessee now intends to grant and convey its equity in the Facility to the Lessor;

AND WHEREAS the Lessor intends to lease to the Lessee the Facility;

NOW THEREFORE THIS INDENTURE AND AGREEMENT WITNESSES THAT in consideration of the premises, rents, covenants and agreements hereinafter contained on the part of the Lessee, the Lessor has demised and leased and by these presents does demise and lease to the Lessee:

ALL OF THOSE CERTAIN BUILDINGS AND STRUCTURES located in and on the Site, and outlined in red on the sketch annexed hereto as Schedule "A".

TO HAVE AND TO HOLD the Facility for the sole purpose of a platform tennis club from the time of execution of this agreement and expiring on November 21, 1998.

YIELDING AND PAYING THEREFOR, in addition to the amounts to be paid pursuant to paragraph 4, yearly and every year during the said term hereby granted and any renewal period, unto the said Lessor, the sum of \$1.00 per annum payable on the 21st day of November, 1995 and in each such year thereafter.

1. The Lessee covenants with the Lessor that:
 - (a) the Lessee will pay the said rent;
 - (b) the Lessee will pay municipal real property taxes, and all other charges, impositions, costs and expenses of any nature, if any, assessed against the Site and Facility;
 - (c) the Lessee will pay all charges for electric energy (for light and power) and municipal water and sanitary sewer used by the Lessee in connection with the Facility.
 - (d) the Lessee, its agents, invitees or licensees, shall not do or permit to be done at the Site and Facility anything which may:

- (i) constitute a nuisance;
- (ii) cause damage to the Site or Facility;
- (iii) make void or voidable any insurance upon the Site or Facility; or
- (iv) constitute a breach of any by-law, statute, order or regulation of any municipal, provincial or other competent authority relating to the Site or Facility.

2. The Lessor and Lessee hereby mutually covenant and agree that:

- (a) Concurrently with the execution of this agreement, the Lessee shall, subject to the terms hereof, grant and convey all its right, title and interest in and to the Facility to the Lessor;
- (b) title to and ownership of the Facility is intended by the parties hereto and is for all purposes hereby deemed to remain separate and distinct from the title to and ownership of the Site, and the Facility is intended and is for all purposes hereby deemed to remain personal property and not to become real property after having been erected on the Site.;
- (c) this agreement shall, at the option of the Lessor, terminate upon the occurrence of either of the following events:

- (i) the Lessee shall have ceased to carry on its activities as a platform tennis club for a period of twelve consecutive months; or
 - (ii) the Lessee shall be in breach of any covenant or condition contained in this agreement or shall have failed to perform any of its obligations pursuant to this agreement and shall not have remedied such default within the required time as set out in the written notice of such default as given by the Lessor which notice shall be no less than 30 days;
- (d) the Lessee shall have the right to purchase from the Lessor at any time during the term of this agreement, and any renewal thereof, all the Lessor's right, title and interest in and to the Facility at no cost. The Lessee may exercise its right to purchase by giving written 6 months notice thereof to the Lessor. Provided further that should the Lessee exercise this option and desire to move the Facility, the Lessee will be responsible for all relocation costs as well as the costs of restoring the Site to its original condition subject to reasonable wear and tear;
- (e) the Lessee has the right to renew this Lease on the same terms, save and except as to this renewal provision, and save and except for the payment described in paragraph 4 herein, for one further period of 5 years by giving written notice thereof to the Lessor on or before 30 days prior to the expiration of the term of this Lease.

(f) upon any termination of either this agreement or any renewal thereof the Lessor may, in its sole discretion, either:

- (i) continue to operate the Facility itself; or
- (ii) convey the Facility back to the Lessee at no cost and the Lessee shall be required, at the cost of the Lessee, to dispose of the Facility and to restore the Site to its original condition subject to reasonable wear and tear.

3. The Lessor covenants with the Lessee for quiet enjoyment and the Lessee covenants to use the Facility and Site only as a platform tennis club.

4. The Lessee covenants and agrees to pay the \$550.00 annual payment on the 19th day of December in each year as provided for in paragraph (3) of the Amended Lease Agreement. The parties acknowledge that the final payment pursuant to the Amended Lease Agreement is due on the 19th day of December, 1997, provided that if this agreement is terminated prior to that date, then the total amount of all such payments shall become immediately due and payable by the Lessee.

5. The Lessee covenants and agrees that, except as to those extended times as set out in Schedule "B", all outside activities and operations at or on the Facility and the Site including the use of floodlighting shall end no later than 11:00 p.m. each day and

that all inside activities and operations at or on the Facility and Site shall end no later than 1:00 a.m. each day.

6. The Lessee covenants that during the term of this agreement and any renewal thereof it shall, at its expense, keep in good condition the Facility and Site and shall, with or without notice, promptly make all needed repairs and necessary replacements. The Lessee further covenants that it will not make any installations, alterations or additions to the Site and Facility without the written consent of the Lessor.

7. The Lessee covenants with the Lessor that it will at all times maintain adequate fire, theft and public liability insurance on the Facility in form and amount acceptable to the Lessor with such acceptance not to be unreasonably withheld.

8. The Lessor may terminate this agreement at the end of the initial term of this agreement by giving written notice to the Lessee at least nine (9) months prior to the expiry date of the initial term of this agreement.

9. The Lessee hereby indemnifies and saves harmless the Lessor from and against all liability, losses, damages, actions, causes of action, claims, suits, demands, expenses or costs whatsoever which may arise either directly or indirectly by reason of an act, neglect or refusal of the Lessee, its agents, invitees or licensees in respect to the Facility or due to or arising out of

a breach by the Lessee of any provision of this agreement, including liability for injury or damage to the person or property of the Lessee, its agents, invitees or licensees occasioned by the Lessee's negligence.

10. The Lessee shall operate its programs and activities in the building and on the courts located on the Site in such a manner that they are available for the enjoyment of any resident of the Lessor who satisfies the ordinary requirements of the Lessee for membership and use of the facilities.

11. The Lessee shall not assign this agreement or sublet the whole or any part of the Site and Facility without the written consent of the Lessor which consent may be withheld.

12. Any condoning, excusing or overlooking by the Lessor of any default, breach or non-observance by the Lessee of any covenant or condition contained herein does not operate as a waiver of the Lessor's rights hereunder in respect of subsequent defaults, breaches or non-observances and does not defeat or affect in any way the rights of the Lessor herein in respect of any subsequent defaults or breaches.

13. Any notice, demand, acceptance, or request provided for in this agreement shall be in writing and shall be deemed to be sufficiently given if personally delivered by registered mail

(postage prepaid) as follows: -

To the Lessor at: -

THE CORPORATION OF THE TOWN OF PELHAM
P.O. Box 400
20 Pelham Town Square
FONTHILL, Ontario
L0S 1E0

or such other address that the Lessor may from time to time designate in writing and to the Lessee by delivery to or by mailing by registered mail addressed to: -

THE FONTHILL PLATFORM TENNIS CLUB INC.
1120 Haist Street
FONTHILL, Ontario
L0S 1E2

or any other such address that the Lessee may from time to time designate in writing and every such notice shall be deemed to have been given upon the day it was so delivered or on the fifth day after the date upon which it is mailed by registered mail.

14. It is further agreed between the parties that where the terms of this agreement are inconsistent with those of the agreements entered into between the parties hereto, dated November 21, 1988 and October 15, 1990, previously referred to herein, the terms of this agreement shall govern and be binding upon the parties.

15. Both parties agree that each of them shall and will, upon reasonable request of the other party, make, do, execute or cause to be made, done or executed all such further and other lawful acts, deeds, things, devices and assurances whatsoever for the further and more perfect and absolute perfection of the terms,

conditions and covenants of this agreement.

16. If any term, clause or provision of this agreement shall be adjudged to be invalid, the validity of any other term, clause, or provision shall not be affected, and such invalid term, clause, or provision shall be deleted from this agreement.

17. This agreement shall be governed by and construed in accordance with the law of the Province of Ontario.

18. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors and administrators, successors, transferees, and permitted assigns.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date first written above.

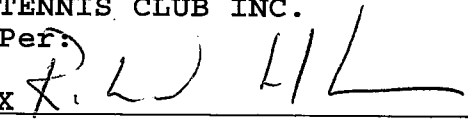
SIGNED, SEALED AND DELIVERED

in the presence of:

THE FONTHILL PLATFORM
TENNIS CLUB INC.

Per:

X


RICHARD HUMPHRIES, President
I have the authority to
bind the Corporation

THE CORPORATION OF THE
TOWN OF PELHAM

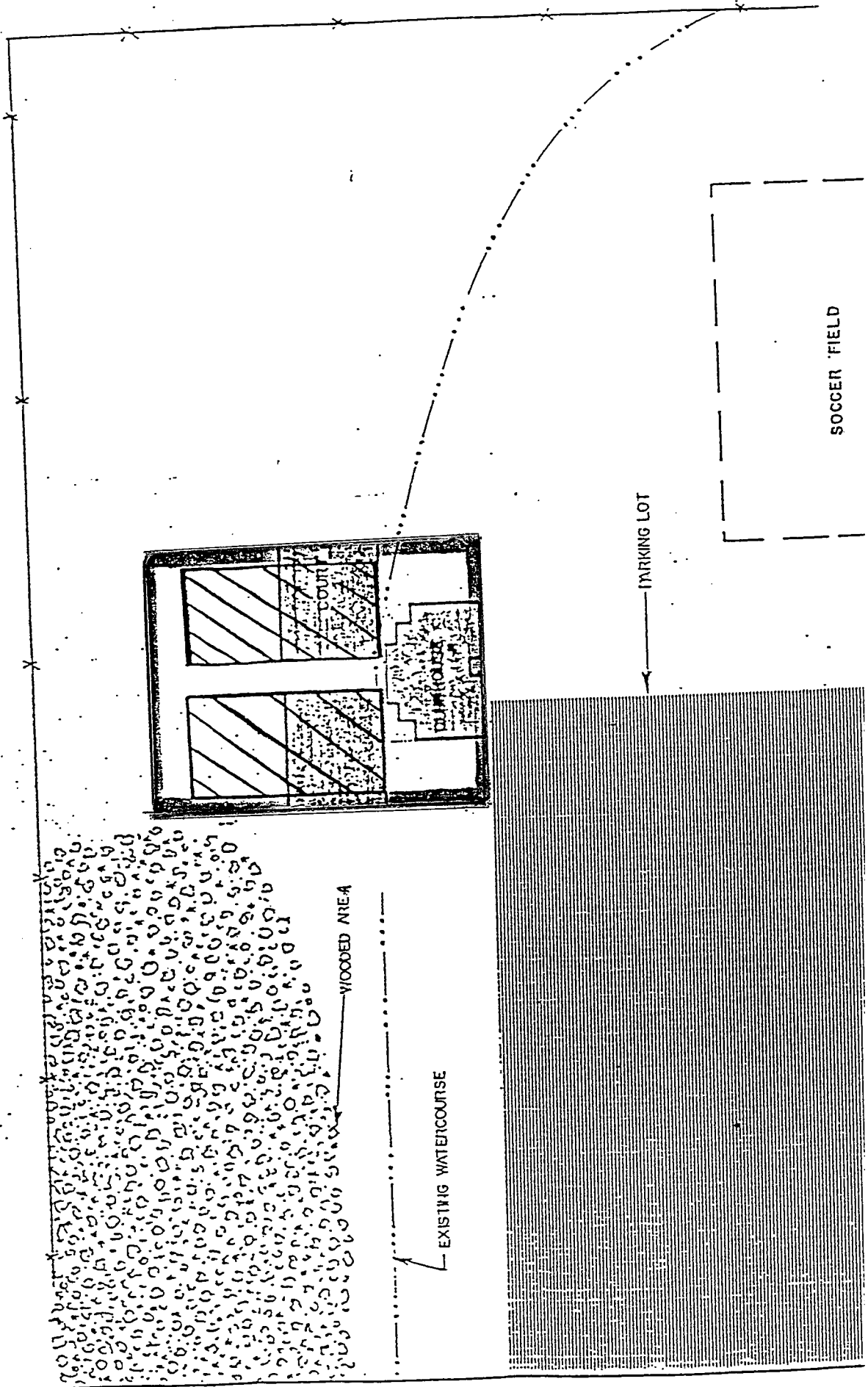
Per:

X


MAYOR

X


CLERK



SCHEDULE "B"

EXTENSION OF TIMES PERMITTED IN PARAGRAPH 5

<u>DATES</u>	<u>TIMES</u>	
	INSIDE ACTIVITIES	OUTSIDE ACTIVITIES
NEW YEARS'S EVE		12:00 a.m.
MORNING OF NEW YEAR'S DAY	4:00 A.M.	2:00 a.m.
ANNUAL ONE-DAY MEN'S TOURNAMENT		12:00 a.m.
ANNUAL ONE-DAY WOMEN'S TOURNAMENT		12:00 a.m.