

THE CORPORATION OF THE TOWNSHIP OF PRINCE

BY-LAW NO. 2005-12

Being a by-law to authorize execution by the Reeve and Administrator of a lease agreement between the municipality and the Prince Township Volunteer Firefighters' Association

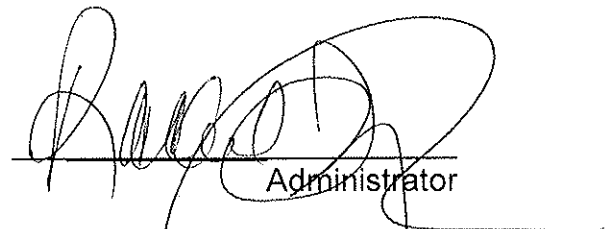
THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF PRINCE
HEREBY ENACTS AS FOLLOWS:

1. THAT the Reeve and Administrator are and they are hereby authorized to execute and affix the Corporate Seal to a Lease Agreement between the municipality and the Prince Township Volunteer Firefighters' Association, which Agreement is attached hereto as Schedule "A".
2. SCHEDULE "A"

Schedule "A" forms part of this by-law.

READ THREE TIMES AND PASSED in open Council this 24th day of May 2005.


Reeve


Administrator

LEASE AGREEMENT

PRINCE TOWNSHIP VOLUNTEER FIREFIGHTERS' ASSOCIATION

c/o 658 Walls Road, Sault Ste. Marie, ON
hereinafter referred to as the "Lessor"

-and-

CORPORATION OF THE TOWNSHIP OF PRINCE

3042 Second Line West, Sault Ste. Marie, ON
hereinafter referred to as the "Lessee"

Equipment

1986 Ford E350 Fire Rescue Truck (2005FA02)

TERMS AND CONDITIONS OF LEASE

The Lessee leases from the Lessor and the Lessor leases to the Lessee the personal property described above together with any parts, accessories or attachments relating thereto or affixed thereon (the "Equipment") upon the terms and conditions set forth in the Lease.

1. Term

This Lease shall be effective from the date of acceptance by an authorized representative of the Lessor. The Lease term commences on May 15th, 2005 and, unless terminated earlier as provided for in this Lease, shall end on the 15th day of April 2025, provided that all terms and conditions of this Lease shall apply until the Equipment has been physically returned to the Lessor. This Lease can not be cancelled or terminated except as expressly provided.

2. Rental

The Lessee agrees to pay to the Lessor the sum of One Dollar (\$1.00) annually upon the 15th day of May in each year, commencing May 15, 2005. Such payments shall be payable without demand or invoice unless otherwise specified by the Lessor, at the address of the Lessor shown above or as otherwise directed by the Lessor. The Lessee shall pay or reimburse the Lessor for all expenses, fees, charges, claims and demands incurred or arising in connection with the registration, licensing or possession, use or operation of the Equipment, and all other consequential or ancillary expenses relating to the Equipment on this transaction shall be borne by the Lessee. The rental and any other amounts payable under this Lease are payable unconditionally and absolutely net to the Lessor without abatement, set-off, diminution, compensation or other deduction whatsoever even if the Equipment does not operate as intended by the Lessee or at all or the Equipment is or becomes unacceptable for any other reason whatsoever.

3. Entire Agreement, Representations and Warranties

This Agreement constitutes the entire agreement between the Lessor and Lessee and the Lessee acknowledges that there are no promises, inducements, representations, collateral warranties, warranties, conditions, options or terms, oral or written, express or implied or

otherwise, made by or on behalf of the Lessor or operating in favour of the Lessee with respect to any aspect of the Equipment (including, without limitation, its condition, design, capabilities, operation, use, suitability, fitness, durability, quality, merchantability or history (e.g. new, used or reconditioned) or with respect to the appropriate treatment of this Agreement or payments to be made pursuant thereto for the Lessee's accounting or tax purposes, other than as expressly stated in this Agreement. The Lessee acknowledges that it alone has selected the Equipment and the supplier and that the Lessor has or will have purchased the Equipment at the specific request of the Lessee. The Lessee acknowledges and agrees that the sole functional obligation of the Lessor in respect of the Equipment is to permit quiet possession of such Equipment on an "as is" basis as long as the Lessee is not in default. In the event of an action by the Lessor for failure to pay any amount owing, the Lessee waives all defences predicated on any failure of the Equipment to function or perform as intended by the Lessee or at all. The Lessor shall not be liable to the Lessee for any loss, cost, expense or damage of any kind or nature whatever caused directly or indirectly by the Equipment or the use, operation, ownership or maintenance of it, or for any loss of business or other damages whatsoever and howsoever caused. In the event of any failure of the Equipment, it is the Lessee's express intention that any exclusion of liability operating in favour of the Lessor shall continue to bind the Lessee. The Lessor hereby assigns to the Lessee, to the extent permitted by law, all warranties, if any, resulting from the sale of the Equipment by the supplier to the Lessor. Upon the prior written request of the Lessee, at the Lessor's expense, the Lessor will cooperate with the Lessee, as may be reasonably necessary, in the enforcement of any warranty, guarantee or other obligation made by the supplier or manufacturer in respect of the Equipment.

4. Title

The Lessee acknowledges that ownership and title to the Equipment shall remain vested in the Lessor. The Lessee shall have no right, title or interest in the Equipment other than, conditional upon the Lessee's compliance, with the fulfilment of the terms and conditions of this Agreement, the right to maintain possession and use of the Equipment for the Lease term. Such right to possession and use shall be exercised only by the Lessee and/or competent employees of the Lessee. The Lessor may require plates or markings to be affixed to or placed on the Equipment indicating that the Lessor is the owner. The Lessor and Lessee confirm their intent that the Equipment shall always remain and be deemed personal or movable property, even though the Equipment may become attached or affixed to realty and regardless of the manner in which it may become affixed or attached. The Lessee shall be responsible for any damage done to any real estate, immovable property, building or structure by removal of the Equipment (whether removal be effected by the Lessee, Lessor or any third party) and shall indemnify and save harmless the Lessor from any and all claims, actions, suits, proceedings, costs, expenses, damage and liabilities whatsoever arising out of, connected with or resulting from the removal of the Equipment. The Lessee shall obtain any landlord or mortgagee waiver as the Lessor may require.

5. Compliance with Laws

The Lessee, at its own cost and expense, shall comply with and conform to all applicable laws, ordinances, regulations and legislation in any way relating to the ownership, installation, testing, possession, use, operation, repair, maintenance, servicing, transportation, storage,

or operation, repair, maintenance, servicing, transportation, storage or bailment of the Equipment throughout the term of this Agreement and to the complete exoneration of the Lessor from liability. The Lessee, at its own cost and expense, shall keep the Equipment free of levies, liens and encumbrances and shall pay when due all licence fees, registration fees, assessments, charges and taxes (municipal, provincial and federal) which may be levied or assessed directly or indirectly against or on account of the Equipment or any interest therein or use thereof. If the Lessee shall fail to pay such items when due, the Lessor may pay such licence fees, assessments, registration fees, charges or taxes, as the case may be, in which event the cost thereof shall constitute so much additional rent which shall immediately due and payable and the Lessor shall be entitled to all the rights and remedies provided in this Lease or otherwise in the event of default of payment of rent.

6. Maintenance and Inspection

The Lessee shall at its own expense maintain the Equipment in a state of good repair, condition and working order and shall furnish the Lessee with all such parts or mechanisms required to keep the Equipment in the aforesaid condition in the event that it be repossessed by the Lessor. The Lessee shall not without the prior written consent of the Lessor make any alterations, additions or improvements to the Equipment. All such alterations, additions or improvements to the Equipment so made shall belong to and remain the property of the Lessor. No loss or damage to the Equipment or any part of it shall affect or impair the obligations of the Lessee which shall continue in full force and effect. The Equipment shall be at the risk of the Lessee and the Lessee assumes the risk of liability and shall pay for any loss or damage arising from or pertaining to the possession, operation or use of the equipment or from any cause whatever and, without limiting the generality of the foregoing, liability or loss arising from fire, theft, loss, confiscation or expropriation,. The Lessor, its employees and specifically authorized agents shall at all reasonable times have access to the equipment for the purpose of inspecting or testing it. The Lessee agrees that the Lessor may substitute the Equipment or any item of Equipment other substantially similar equipment in comparable condition to that of the Equipment.

7. Insurance

The Lessee shall obtain and maintain for the entire term of this Lease, at its own expense, property damage and liability insurance and insurance against loss or damage to the Equipment, including, without limitation, loss by fire (including so-called extended coverage), theft, collision and such other risks of loss as are customarily insured by "all risks" policies on the type of Equipment leased and by businesses in which the Lessee is engaged, in such amounts, in such form and with such insurers as shall be satisfactory to the Lessor, provided however that the amount of insurance covering damage to or loss of the Equipment shall not be less than the full replacement value of the Equipment. Each insurance policy will name the Lessee as an insured and the Lessor and its Assignees as an additional insured, and loss payee thereof, and shall contain a clause requiring the insurer to give the Lessor at least thirty (30) days' prior written notice of any alteration in the terms of such policy or of the cancellation of it. At the Lessor's request, the Lessee shall furnish to the Lessor a certificate of insurance or other evidence satisfactory to the Lessor that such insurance coverage is in effect, provided however that the Lessor shall be under no duty either to ascertain the existence of or to examine such insurance policy or to advise the Lessee in the event such insurance

coverage shall not comply with the requirements of this Lease. Upon failure of the Lessee to provide evidence of insurance satisfactory to the Lessor, the Lessor may purchase or otherwise provide for such insurance and the cost of it to the Lessor shall be deemed additional rent and shall be payable by the Lessee on demand. The Lessee appoints the Lessor or its agent and attorney to make claims and receive payment in accordance with the provisions of such policies. The Lessee further agrees to give the Lessor prompt notice of any damage to, or loss of, the Equipment or any part of it.

8. Assignments

Without the prior written consent of the Lessor, the Lessee will not assign any of its rights or sublet any Equipment or permit any Equipment to be in the possession of anyone but the Lessee. The Lessor may assign or sell all or any portion of its right, title and interest in and/or grant a security interest in and to the Equipment on this Lease to any person or corporation or to lenders or other parties providing funding (the "Assignees"). The Lessee consents to such assignments and/or grants, agrees to promptly execute and deliver such further acknowledgment, agreements and other instruments as may be reasonably requested by the Assignee to effect such assignments and/or grants, from time to time, and agrees to comply fully with the terms of any such assignments and/or grants. In the event of any assignment, the Lessor shall notify the Lessee of such assignment and thereafter all references to the Lessor shall include the Assignee, provided however, that the Lessor's failure to give such notice shall not affect the validity of the assignment of the right of the Lessee, Lessor or Assignee, and that the Assignee shall not be obligated to perform the obligations of the Lessor unless the Assignee expressly agrees to do so in writing.

9. Events of Default

The occurrence or happening of any one or more of the following events shall constitute an Event of Default:

- a. Default and continuance thereof for five days in the payment of rent or other charge payable by the Lessee under this Lease;
- b. Default in the observation or performance of any other term, covenant or condition of this Lease;
- c. Any representation or warranty made by the Lessee, or any report, notice or other writing furnished by the Lessee to the Lessor in connection therewith, being untrue in any material respect;
- d. The Lessee suspending business or professional practice;
- e. If all or any part of the equipment is, or may be in imminent danger of being confiscated, sequestered or seized under process of law;
- f. Any act of the Lessee reducing the value or usefulness of the Equipment, including failure to maintain or repair the Equipment as required;
- g. The subjection of the Equipment to any lien, levy, charge or encumbrance;
- h. The Lessee making a sale in bulk of its assets or becoming insolvent or bankrupt or unable to pay its debts as they fall due or any bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding being instituted by or against the Lessee and, if instituted against the Lessee and defended by the Lessee, remaining undismitted for thirty (30) days;

- i. The private or court appointment of a receiver or receiver and manager or officer with similar powers over any part of the Lessee's property;
- j. If any insurance placed or maintained pursuant to the terms of this Lease shall lapse or be cancelled and shall not be replaced by another policy within ten (10) days after notice from the Lessor to the Lessee;
- k. The Lessee parting with the Equipment;
- l. The Lessee not having fully exercised for the time being the option to renew this Agreement pursuant to Section 15, shall fail to return all of the Equipment to the Lessor at the end of the initial term (or at the end of the renewal term) in the date of repair, condition and working order required by Section 6, at the Lessee's cost, expense and risk;
- m. At the option of the Lessor, upon amalgamation of the Lessee with another municipality.

10. Repudiation

If the Lessee shall fail to make any rental payment or other payment required when due and such failure shall continue unremedied for a period of five (5) days after written notice by the Lessor, or the Lessee disposes of, abandons, conceals or encumbers, or attempts or purports to dispose of, conceal or encumber, any item of Equipment, it shall be conclusively presumed and deemed that the Lessee has repudiated this Lease. The Lessee may, at its option, choose to accept or ignore such repudiation or any other repudiation by the Lessee.

11. Remedies of Default

Upon the happening of an Event of Default or in response to any repudiation, whether deemed or otherwise, the Lessor may at its sole option:

- a. Enter upon the premises where such Equipment is located and take immediate possession thereof, whether it is affixed to realty or not, and remove the same, without order of the court and without liability to the Lessor for or by reason of such entry and taking of possession, whether for damage to property or otherwise, and sell, lease or otherwise dispose of the same for such consideration and upon such terms and conditions as the Lessor may reasonably deem fit;
- b. In the name of and as the irrevocably authorized agent and attorney for the Lessee and without terminating or being deemed to have terminated this Lease take possession of the Equipment and proceed to lease the equipment to any other person, firm or corporation on such terms and conditions, for such rental and for such period of time as the Lessor may deem fit and receive such rental and hold the same and apply the same against any moneys expressed to be payable from time to time by the Lessee;
- c. Terminate the Lease and, by written notice to the Lessee specifying a payment date not earlier than five (5) days from the date of such notice, require the Lessee to pay to the Lessor on the date specified in such notice:
 - (i) arrears of periodic rental payments as of the date of Lease termination
 - (ii) as a genuine pre-estimate of liquidated damage for loss of a bargain and not as a penalty, the present worth of the aggregate of all unpaid amounts yet to become due as rental or otherwise to the expiration of the term calculated by discounting such amounts at 6% per annum

- (iii) the amount of any residual interest which the Lessor may have in the Equipment
- (iv) the Lessor's actual and/or estimated cost and expenses (as applicable) of retaking, holding, repairing, reconditioning, reconfiguring, processing, preparing for disposition and disposing of the Equipment including the Lessor's legal disbursements and fees on a solicitor-and-his-own-client basis, as specified in the Lessor's written notice to the Lessee; and
- (v) the interest charges provided for in Section 14.

12. Remedies Cumulative

All rights and remedies provided are cumulative and are not intended to be exclusive and in addition to any other right or remedy previously referred to or otherwise available to the Lessor at law or in equity and any one or more of the Lessor's rights and remedies from time to time be exercised independently or in combination and without prejudice to any other right or remedy the Lessor may have or may have exercised. The Lessee also expressly agrees that the remedies contained in this Lease are commercially reasonable in the circumstances. The amount received by the Lessor on any sale, lease or other disposition of the Equipment will be applied: first, against the Lessor's costs and expenses (as applicable) of retaking, holding, repairing, reconditioning, reconfiguring, processing, preparing for disposition and disposing of the Equipment including the Lessor's legal disbursements and fees on a solicitor-and-his-own-client basis, bailiff's fees and charges, and sales or leasing commission or brokerage charges paid by the Lessor; second, against interest accrued on sums past due; third, against arrears of periodic rental payments and/or other payments which arose prior to the date of Lease termination, applied in the order in which such arrears arose; fourth, against the genuine pre-estimate of the Lessor's damages for loss of bargain; and fifth, the balance, if any, shall belong absolutely to the Lessor.

13. Waiver by the Lessor

No covenant or condition of the Lease can be waived except by the written consent of the Lessor and the forbearance or indulgence by the Lessor in any regard whatever shall not constitute a waiver of the covenant or condition to be performed by the Lessee to which the same may apply. Until complete performance by the Lessee of said covenant or condition, the Lessor shall not be entitled to invoke any remedy available to the Lessor under this lease or by law, despite said forbearance or indulgence.

14. Interest on Overdue Payments

Should the Lessee fail to pay any part of the rent provided for or any other sum required to be paid to the Lessor by the Lessee on the due date thereof, the Lessee shall pay to the Lessor, on demand, interest at the rate of 15% per annum compounded semi annually upon such moneys due and unpaid until such payments are paid.

15. Renewal

If the Lessee shall regularly pay the rent herein provided for and perform the covenants and conditions on the Lessee's part contained in this Lease, the Lessor at the expiration of the term and upon the written request of the Lessee not less than sixty (60) days before the expiration of the original term will renew the lease on and subject to the same terms,

covenants and conditions including the covenants for renewal and payment of rentals, except that the rental for each such renewal term shall be in an amount stipulated in writing between the parties.

16. Further Assurances

The Lessee agrees, at its expense, promptly upon the Lessor's written request, to execute and deliver such instruments and to take such other actions as may reasonably be necessary in the opinion of the Lessor to perfect and keep perfected as against third parties the property, title and interest of the Lessor in the Equipment. The Lessee authorizes the Lessor to record or register such documents at such times and at such places as the Lessor may consider appropriate and agrees to pay all costs in connection therewith. Without limiting the generality of the foregoing, the Lessee appoints the Lessor as its attorney to register a financing statement or other security interest in the Equipment in the favour of the Lessor pursuant to the Personal Property Security Act or such other similar legislation in any other province. The Lessee further agrees that the Lessor may insert the model numbers and serial numbers of the Equipment leased under this Lease on a date subsequent to its execution and the Lessee designates the Lessor as the Lessee's attorney to insert such numbers and other identifying references to the Equipment, as well as the commencement date of the initial term, the commencement date of subsequent rental payments and the consequential adjustments of rental amounts as provided for in Section 2.

17. Headings

The insertion of headings in this Lease is for convenience of reference only and shall not affect the interpretation.

18. Provisions Severable

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

19. Interpretation

It is agreed by and between the parties that, whenever the context of this Lease so requires, the singular number shall include the plural and vice versa and that words importing the masculine gender shall include the feminine and neuter genders and that, in case more than one Lessee is named as Lessee, the liability of such Lessees shall be joint and several.

20. Notices

Any notice required or permitted to be given under this Lease must be in writing and may be given by delivering or mailing the notice to the party to receive the same at the address set forth in the lease or such address as such party may notify the other of in writing. Such notice shall be deemed to have been given on the day of delivery if delivered or on the second business day following the mailing if mailed.

21. Miscellaneous

This Lease shall be binding on and enure to the benefit of the parties and their respective heirs, executors, successors and permitted assigns and Sub-Lessees. Time is of the essence with respect to this Lease and each and all of its provisions. This Lease shall be governed according to the laws of the province of Ontario. The Lessee acknowledges having received a true copy of this Lease. No variation or modification of this Lease shall in any way be valid unless signed by authorized officers of the Lessor and the Lessee. If more than one Lessee is named in this Lease, the liability of each shall be joint and several.

THE UNDERSIGNED ACKNOWLEDGE having read the entire Lease Agreement and accept the terms and conditions hereof.

EXECUTED this 15th day of May 2005.

PRINCE TOWNSHIP VOLUNTEER FIREFIGHTERS' ASSOCIATION

The undersigned affirm that they are duly authorized to execute this Lease Agreement

Per: _____
Lorraine Mousseau, Director

CORPORATION OF THE TOWNSHIP OF PRINCE

Lou Madonna, Reeve

Rachel Tyczinski, Administrator

LESSEE ACKNOWLEDGES HAVING RECEIVED A TRUE COPY OF THIS LEASE

Delivery and Acceptance Certificate

TO: PRINCE TOWNSHIP VOLUNTEER FIREFIGHTERS' ASSOCIATION

The Lessee confirms to the Lessor that the Equipment designated by the attached lease has been delivered to the Lessee, that the Lessee has inspected such Equipment and that the Lessee accepts such Equipment for all purposes of the Lease. Without limiting any provision of the Lease, the Lessee certifies, represents and warrants that such Equipment is in accordance with the specifications of the Lessee, properly installed and assembled, in good appearance, repair and working order, and without latent or patent defect in condition, design, merchantable quality, operation or fitness for the purpose or use of the Lessee, whether or not discoverable by the Lessee as of this date, and free and clear of all liens, encumbrances and rights by others whatsoever (save and except any encumbrance created by the Lessor), provided however that nothing contained herein or in the Lease shall in any way diminish or otherwise affect any right the Lessee or Lessor may have with respect to the Equipment against any manufacturer, vendor or supplier of the Equipment or any part thereof. We acknowledge that this Delivery and Acceptance Certificate is executed separate and apart from the Lease. We have read our Lease with the Prince Township Volunteer Firefighters' Association and are aware and understand the terms and conditions thereof and in particular, but not limited to, Section 3 concerning warranties and claims against the supplier or manufacturer.

The Insurance for the equipment designated by the Lease will be provided by:

Algoma Insurance Brokers Limited
Zurich Canada
Policy No. AC9947161
Contact Person: Rob Walz
Expiry Date: 15 February 2006

LESSEE:
CORPORATION OF THE TOWNSHIP OF PRINCE

Per: _____
Rachel Tyczinski