

This License made in duplicate this ____ day of February, 2021.

BY AND BETWEEN:

The City of Saint John, having its City Hall at 15 Market Square, Saint John, New Brunswick, a body corporate by Royal Charter, confirmed and amended by Acts of the Legislative Assembly of the Province of New Brunswick, hereinafter called the "Licensor"

OF THE ONE PART

- and -

Rothsay Netherwood School, a body corporate under the *Companies Act*, hereinafter called the "Licensee"

OF THE OTHER PART

WHEREAS the Licensor is the owner of premises known as the Stewart Hurley Arena located at 1500 Hickey Road in Saint John, New Brunswick (the "Premises") and premises known as the Peter Murray Arena located at 711 Dever Road in Saint John, New Brunswick (the "Alternate Premises"); and

WHEREAS the Licensee has made a request to the Licensor for the use of the Premises or the Alternate Premises, as applicable, save and except for the following: the ice plant and maintenance room, the ice-making equipment, any offices and storage rooms already used or occupied by the Licensor on or before April 1st, 2021 and also the use by the Licensor, its officers, servants, agents, contractors and workers of a right of way for access to and from those parts of the Premises or Alternate Premises, as applicable, not hereby licensed; and

WHEREAS the Licensor has agreed to grant the within License upon the terms and conditions herein contained.

NOW THEREFORE THIS INDENTURE WITNESSETH that for and in consideration of the charges stipulated in this License and other good and valuable consideration, the receipt whereof is hereby acknowledged, the Licensor does hereby grant, subject to the terms, conditions, covenants and provisions herein contained, permission and license to the Licensee, its servants, agents, employees, contractors and invitees to enter into and upon and exit from the Premises or Alternate Premises, as applicable, during such days and periods of occupation and use as are more particularly set out below. All times referenced in this License are expressed in Atlantic Daylight Time and not otherwise.

1. The Licensee may occupy and use the Premises or the Alternate Premises, as applicable, on the days and during the corresponding hours particularized below between the dates of April 1st, 2021 and May 15th, 2021, inclusive:

- (a) On Mondays, Tuesdays, Wednesdays, Thursdays and Fridays during the Term between the hours of 5:45pm and 9:15pm, inclusive;
- (b) On Saturdays and Sundays during the Term between the hours of 10:00am and 6:00pm, inclusive;

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- (c) Notwithstanding Article 1(a) and (b) above, the Licensee shall not occupy or use the Premises or the Alternate Premises, as applicable, on any statutory holiday occurring during the Term, namely Good Friday and Easter Monday;
 - (d) For the purposes of this License, the temporal periods described in this Article 1 shall be collectively referred to as the “License Period”;
 - (e) For the purposes of this License, the Licensor shall determine in its sole discretion and advise the Licensee in writing by not later than March 1st, 2021 whether the Premises or Alternate Premises shall be used during the License Period (the “Premises Selection”). After the Premises Selection is made by the Licensor pursuant to this provision, there shall be no further or other alternative premises available. The Licensee shall not be entitled under this License to use the Premises and the Alternate Premises simultaneously.
- 2.(i) The Licensee shall pay to the Licensor for the occupation and use of the Premises or the Alternate Premises, as applicable, pursuant to Article 1, the amount of Thirty-Six Thousand Five Hundred and Seventy-Five Dollars (\$36,575.00) plus HST during the License Period (the “License Fee”);
- (ii) The payment of the License Fee shall be made to the Licensee by the Licensor by cash or certified cheque at the City of Saint John Customer Service Centre, ground floor of the City Hall Building, 15 Market Square, Saint John, New Brunswick, or such other place as may from time to time be designated by the Licensor in the following installments and before the date identified below for the payment of each installment:
- (a) On or before April 1st, 2021 in the amount of Twenty-Three Thousand Four Hundred and Fifty Dollars, (\$23,450.00) plus HST for the period commencing April 1st, 2021 until and including April 30th, 2021;
 - (b) On or before May 1st, 2021 in the amount of Thirteen Thousand One Hundred and Twenty-Five Dollars, (\$13,125.00) plus HST for the period commencing May 1st, 2021 until and including May 15th, 2021;
- (iii) Should the Licensee wish to purchase additional ice-time during the License Period outside the specified hours identified in Article 2(i) and (ii), and, further, provided that the ice-time is available, the Licensee may purchase such additional ice-time on an hourly basis at a cost of One Hundred and Seventy-Five Dollars (\$175.00) plus HST per hour.
- (iv) The ice-time purchased at the Premises or Alternate Premises, as applicable, pursuant to the terms of this License shall be used by the Licensee; however, the Licensee may re-sell its purchased ice-time to a third party/third parties, which shall abide by the terms of this License and which may be prohibited by the Licensor from using the Premises or Alternate Premises, as applicable, at its sole discretion.
- (v) The Licensee shall provide to the Licensor on a weekly basis no later than the preceding Wednesday the Licensee’s schedule of ice use for the following week (Sunday to Saturday, inclusive), together with the contact information for at least one individual for the group using the ice each

time. Should there be any changes to the schedule of ice use, the Licensee shall notify the Licensor in writing immediately of any such changes.

- (vi) The Licensor shall reserve one (1) storage room of the Licensor's choosing at the Premises or Alternate Premises, as applicable, during the License Period that the Licensor shall be able to use for storing property belonging to the Licensor. Said storage room can be occupied on the first day of the License Period and must be fully vacated by the final day of the License Period.
3. (i) The Licensor may terminate this License and the Licensee shall have no further recourse should the Licensee fail to pay the License Fee pursuant to the terms of this License or otherwise fail to meet any obligations, conditions or agreements stipulated in this License.
- (ii) Either the Licensor or the Licensee may terminate this License upon the giving of advance written notice of Thirty (30) business days. Should such a termination occur, the Licensee shall be refunded a pro-rated share of the License Fee, as calculated by reference to the proportion of the hours remaining during the License Period.
 - (iii) Should the Licensee terminate this License without giving the advance written notice required in Article 3(ii) above, the Licensee shall be obligated to pay to the Licensor, as a penalty for providing inadequate written notice, the equivalent of Three (3) weeks of the License Fee, as calculated by reference to the applicable License Fee payable in the month(s) that are covered by the specific period in question.
- 4.(i) The Licensee shall keep in place during the full term hereof comprehensive general liability insurance in a minimum amount of Five Million (\$5,000,000.00) Dollars wherein the Licensor is named an "additional insured" and wherein there is a cross-liability clause, all of which also expressly covers and protects the Licensor in circumstances where the Licensee chooses to re-sell ice-time pursuant to Article 2(iv) above and which also expressly covers any allegations/claims of physical or sexual abuse;
- (ii) The Licensee shall provide a Certificate of Insurance to the Licensor at the time of the execution of this License evidencing the insurance coverage described herein and providing that coverage shall not be altered or cancelled without the insurers giving thirty (30) days notice in writing to the Licensor prior to any such alteration or cancellation;
 - (iii) The Licensee shall ensure that any groups that the Licensee re-sells its ice time pursuant to Article 2(iv) must either be covered by the Licensee's insurance or have insurance that meet the terms of this Article 4 and the Licensee must provide proof of said insurance to the Licensor if and when requested by the Licensor.
5. The Licensee shall not have any claim against the Licensor for loss or damage of any nature, kind or description whatsoever arising from the exercise or purported exercise of the License herein granted, unless such loss or damage is due to the negligence of the Licensor or its employees, servants or agents.
6. Notwithstanding Article 4 hereof, the Licensee does hereby indemnify and save harmless the Licensor from all damages, claims, demands, actions, suits or other proceedings by whomsoever made, brought or prosecuted in any manner and whether in respect of property owned by others or in respect of damage

sustained by others based upon or arising out of or in connection with this License or anything done or purported to be done in any manner hereunder.

7. The Licensee and all the Licensee's customers shall, at all times, comply with such rules and regulations in use by the Licensor from time to time as may be reasonably applicable, currently entitled "City of Saint John Parks & Recreation Arena Use Regulations", a copy of which is attached hereto as **Schedule "A"**. Moreover, the Licensee acknowledges and agrees that it shall develop and follow a written COVID-19 Operational Plan should one be required under order of the Minister of Public Safety pursuant to the terms of the *Emergency Measures Act*, and shall also comply with any other statutory or regulatory requirements that may apply from time to time. This COVID-19 Operational Plan shall be submitted to and subject to the approval of the Licensor and shall be fully responsive to all requirements under order, statute or regulation having regard to the activities of the Licensee within the Premises or Alternate Premises, as applicable, during the License Period. Additionally, the Licensee acknowledges and agrees that it shall comply with any COVID-19 Operational Plan put in place by the Licensor as owner of the Premises and Alternate Premises. Should the Licensee re-sell its ice-time pursuant to Article 2(iv) above, it shall ensure as an express term of such re-selling that the third party shall at all times adopt and comply with both the Licensee's and the Licensor's COVID-19 Operational Plans.

8. The Licensee shall determine the amount and pay to the proper authority, when applicable, all fees, charges or royalties properly due to Composers, Authors and Publishers Association of Canada Limited and/or to Performing Rights Organizations of Canada Limited in accordance with the *Copyright Act*, Chapter C-30, R.S.C. 1970 as amended, such fees, charges or royalties are the sole responsibility of the Licensee.

9. Except in accordance with the terms of this License, the Licensee shall not assign, transfer or otherwise by any act cause or permit this permission and License or any portion hereof to be assigned or transferred to any person(s) whomsoever.

10. The Licensee shall, upon the termination of this License, immediately and at its own expense, remove from the Premises or the Alternate Premises, as applicable, any and all property brought or placed upon the Premises or Alternate Premises, as applicable, by the Licensee and shall restore the Premises or Alternate Premises, as applicable, to as good an order and condition as prevailed immediately prior to the commencement of the term hereof and in the event of the failure of the Licensee to do so with reasonable expedition, of which the Licensor shall be the sole judge, the Licensor may effect such removal and restoration at the Licensee's own risk and expense, but the Licensor shall, by reason of any action taken or things required under this paragraph, be entitled to compensation, reimbursement and indemnity from the Licensee.

11. The Licensor shall:

- (a) maintain the ice and operate the Premises or the Alternate Premises, as applicable, at the same standard used during the regular season;
- (b) pay for all maintenance and operating costs;
- (c) provide one experienced employee on site during the hours of operation.

12. Force Majeure

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Per:

_____, President

SCHEDULE "A"

CITY OF SAINT JOHN PARKS & RECREATION

ARENA USE REGULATIONS

- 1) Ice maintenance is completed at times mutually agreed by the Licensee and Licensor except that the Licensor at its sole discretion may cause ice maintenance to occur at any time to ensure the quality of the ice.
- 2) Should any booked period be sold to another user, the Licensor must be so advised. Should a dispute arise at the rink, the attendant will defer to the Licensor.
- 3) The City's Arena Code of Conduct is in effect.
- 4) The Licensee is responsible for damages to the premises arising out of his use of the facility.
- 5) The arena attendant on duty is in complete charge of the facility, and his/her instructions are to be followed at all times.
- 6) All persons on the ice must wear skates.
- 7) No food or drink is allowed while skating.
- 8) The City of Saint John, its employees, and agents, cannot be held responsible for any personal injury suffered by any user as a result of programs carried out at a city-owned facility

COUNTY OF SAINT JOHN

PROVINCE OF NEW BRUNSWICK

I, _____, of the _____ and Province of Newfoundland and Labrador, MAKE OATH AND SAY:-

1. THAT I am the _____ of Rothesay Netherwood School, the contractor named in the foregoing instrument and have custody of the corporate seal of the said company and am duly authorized to make this affidavit.

2. THAT the seal affixed to the foregoing License and purporting to be the corporate seal of Rothesay Netherwood School, is the corporate seal of the said Rothesay Netherwood School, the contractor named in the foregoing instrument and it was affixed by the officer authorized to so affix the seal.

3. THAT the signature, _____, subscribed to the said instrument is my signature and as _____ I am duly authorized to execute the said instrument.

4. THAT the said document was executed as aforesaid at the _____ in the Province of New Brunswick on the _____ day of _____, 2021.

SWORN TO before me at the _____)
_____ in the Province of _____)
New Brunswick _____)
this _____ day of _____)
February, 2021. _____)

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Commissioner of Oaths _____)
Being a Solicitor _____)