

This License made in duplicate this ____ day of June, 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 -

BOARD OF TRUSTEES OF THE LORD BEAVERBROOK RINK IN SAINT JOHN, INC. a body corporate duly incorporated under the *Companies Act*, having its head office in the City of Saint John in the County of Saint John and Province of New Brunswick, hereinafter called the “Licensee”

OF THE OTHER PART

WHEREAS the Licensor is the owner of the premises located at 711 Dever Road in Saint John, New Brunswick, having PID No. 00036590, commonly known as the Peter Murray Arena (the “Premises”); and

WHEREAS the Licensee has made a request to the Licensor for the use of the Premises, save and except for the following: any offices and storage rooms already used or occupied by the Licensor on or before July 1st, 2021, the sports fields and 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 not hereby licensed; and

WHEREAS the parking lot within the Premises will be shared by the parties to this License; 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 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 on the days and during the corresponding hours particularized below between the dates of July 2nd, 2021, and September 30th, 2021, inclusive (the “Term”):

(a) On any day during the Term between the hours of 8:00 a.m. and 12:00 am Midnight, inclusive.

- (b) For the purposes of this License, the temporal periods described in this Article 1 shall be collectively referred to as the “License Period”.
2. (a) The Licensee shall pay to the Licensor for the occupation and use of the Premises pursuant to Article 1, the total amount of Fifty-Four Thousand Dollars (\$54,000.00) plus HST during the License Period (the “License Fee”).
- (b) The payment of the License Fee shall be made to the Licensor by the Licensee 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:
- i) On or before June 30th, 2021, the amount of Eighteen Thousand Dollars (\$18,000.00) plus HST for the period commencing July 2nd, 2021, until and including July 31st, 2021;
- ii) On or before August 1st, 2021, the amount of Eighteen Thousand Dollars (\$18,000.00) plus HST for the period commencing August 1st, 2021, until and including August 31st, 2021; and
- iii) On or before September 1st, 2021, the amount of Eighteen Thousand Dollars (\$18,000.00) plus HST for the period commencing September 1st, 2021, until and including September 30th, 2021.
- (c) The ice-time purchased at the Premises pursuant to the terms of this License shall be used by the Licensee; however, the Licensee may resell 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 at its sole discretion.
- (d) 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.
- (e) The Licensor shall reserve one (1) storage room of the Licensor’s choosing at the Premises during the License Period that the Licensee shall be able to use for storing property belonging to the Licensee. 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. (a) 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.
- (b) 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 prorated

share of the License Fee, as calculated by reference to the proportion of the hours remaining during the License Period.

(c) Should the Licensee terminate this License without giving the advance written notice required in Article 3(b) 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. (a) The Licensee shall keep in place during the full Term hereof comprehensive general liability insurance in a minimum amount of Five Million Dollars (\$5,000,000.00) 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 resell ice-time pursuant to Article 2(c) above and which also expressly covers any allegations/claims of physical or sexual abuse.

(b) 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.

(c) The Licensee shall ensure that any third party to which the Licensee resells its ice time pursuant to Article 2(c) is either covered by the Licensee's insurance or has insurance that meets 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. 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 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. Should the Licensee resell its ice-time pursuant to Article 2(c) above, it shall ensure as an express term of such reselling 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 any and all property brought or placed upon the Premises by the Licensee and shall restore the Premises 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 Licensee shall:

(a) undertake during the Term the following customer interaction, maintenance, and inspection duties:

- i) book ice times, collect revenue, and generally interact with customers to whom the Licensee intends to resell ice;
- ii) check all public areas and ice surface for safety/cleanliness;
- iii) inspect ice resurfacers and perform pre-trip inspection;
- iv) maintain the ice surface;
- v) clean the Premises;
- vi) complete inspections of the ice surface daily, including completing the inspection form;
- vii) complete inspections of the ice plant operations daily, including completing the inspection form;
- viii) complete monthly facility inspections, including completing the inspection form;
- ix) follow COVID-19 Operating Plans;
- x) pick up litter around exterior of arena and in parking lot; and
- xi) transport cutting edges between the Premises and Licensor's contractor for maintenance of said cutting edges.

(b) provide to the Licensor for its approval, prior to the commencement of the Term, a facility inspection and maintenance plan, including, but not limited to, the ice surface, the ice plant and other areas of the facility, and follow said plan during the Term of this License;

(c) inform the Licensor of all required maintenance or repairs that may be required during the Term that fall outside the scope of duties listed in Article 11(a);

(d) obtain the following consumables and/or services when needed at the Licensor's expense, using the Licensor's supply contracts as directed, and provide to the Licensor by each Wednesday the list of said

consumables and/or services procured the prior week and the corresponding costs incurred by the Licensee for reimbursement purposes:

- i) ice resurfacers blade sharpening; and
- ii) propane for ice resurfacers;

(e) obtain at the Licensee's expense any additional consumables and/or services not listed in Article 11(d) including cleaning supplies and equipment; and

(f) seek and obtain the Licensor's approval prior to fixing objects to the Premises.

12. The Licensor shall:

(a) install the ice required for the License prior to the commencement of the Term;

(b) carry out an orientation for the Premises prior to the commencement of the Term;

(c) pay for utilities; and

(d) act in a reasonable manner to complete repairs, including engaging third-party contractors, as necessary and when informed by the Licensee.

The Licensor may complete an inspection of the Premises and the forms that the Licensee is required to complete pursuant to Article 11(a) at any time.

13. Notwithstanding anything to the contrary contained herein, the Licensor shall not be liable for any delays or failures in performance resulting from acts beyond its reasonable control including, without limitation, acts of God, terrorist acts, shortage of supply, breakdowns or malfunctions, interruptions or malfunction of facilities, labour difficulties (including any event of strike or lockout arising in the context of the Licensor's workplace), pandemic, war, or civil unrest.

14. The Licensee may request the Licensor to immediately stop accepting payments on this License should COVID-19 restrictions require the prohibition of the Licensee's activities in the Premises. The Licensor may recover reasonable consequential costs, if any, from the Licensee such as removal of the ice, up to a maximum of Five Thousand Dollars (\$5000.00). The Licensee agrees to reimburse the Licensor within fifteen (15) business days of the issuance of written notice by the Licensor to the Licensee itemizing such costs.

15. If the Licensee chooses to invoke Article 14 and the Licensor complies with a request made thereunder, the remainder of the License shall be considered cancelled. Payments described in Article 2(b) shall be corrected to reflect the period of use of the Premises prior to said COVID-19 restrictions preventing the Licensee's activities on a prorated basis taking into account any costs the Licensor calculates as having arisen from such cancellation.

16. The Licensor, in its sole discretion, reserves the right to terminate this License without penalty and with immediate effect and shall refund to the Licensee a prorated portion of the License Fee for that portion of the License Period that has been paid by the Licensee but not used.

