

LICENCE AGREEMENT

BETWEEN:

THE CORPORATION OF THE MUNICIPALITY OF LAMBTON SHORES

(hereinafter called the "Municipality")

- and -

THE FOREST AGRICULTURAL SOCIETY

(hereinafter called the "Society")

WHEREAS:

- a) The Municipality and the Society both own property that is collectively known as the Forest Fairgrounds as represented in Schedule "A" to this agreement;
- b) The Municipality owns premises known as the Forest Fairgrounds (the "Premises"), more particularly described in Schedule "B" to this agreement, which is presently used by the Society, to hold an annual agricultural fair (the "Annual Fair") and other community events;
- c) The Society represents that it is a corporation without share capital incorporated or continued under the Agricultural and Horticultural Organizations Act, R.S.O. 1990, chapter A.9.
- d) The Society owns and maintains buildings and improvements on the Premises;
- e) The Municipality recognizes the Society's contribution to encouraging awareness of agriculture and community well-being;
- f) The Municipality supports the Annual Fair hosted by the Society;
- g) The Parties encourage shared and compatible use of the Premises

THE PARTIES AGREE AS FOLLOWS

1. **Grant of Licence**

The Municipality hereby grants to the Society a non-exclusive licence (the "Licence") to occupy and use the Premises in accordance with this Agreement, for the purpose of conducting an Annual Fair and such other agricultural, educational, cultural or community events as the Society may consider appropriate.

2. **Schedules**

The following Schedules are attached and form part of this agreement:

Schedule "A" – Buildings and improvement on the Premises and Society-owned lands known as the Forest Fairgrounds.
Schedule "B" - Legal Description of the Premises.

3. **Camping**

Camping is not permitted on the Premises unless in conjunction with the Annual Fair or any other special event hosted by the Society.

4. **Admission Charges**

The Municipality recognizes the Society's right to charge admission fees to events held by the Society at the Premises.

5. **Licence Term**

This Licence Agreement is effective from the 1st day of January, 2021 and run for a period of twenty (20) years, terminating on the 31st day of December, 2040 (the "Termination Date")

6. **Licence Renewal**

This Agreement may be extended by agreement of the parties either before or after the Termination Date.

7. **Licence Fee**

The Society agrees to pay to the Municipality an annual fee of Five Dollars (\$5.00) in Canadian currency, which shall be payable on the 30th day of January in each year, with the full \$ 100.00 for the term payable in advance

8. **Expenses**

a) The Society shall pay for all utilities serving the Premises, including but not limited to all expenses for hydro, gas and municipal water and sanitary sewer service.

b) The Society will maintain its own buildings, improvements and fixtures at its own expense.

c) The Society shall pay property tax, if any, applicable to the Premises.

d) The Municipality will maintain the playground known as Pleasure Park and public streets within the Premises, but is not obligated to participate in other maintenance or capital expenditures on the Premises.

9. **Payments**

All payments due to the Municipality shall be delivered to the Municipality at the Municipality's address for service set out below.

10. **Obligations of Society**

(1) The Society shall not do or permit to be done at the Premises anything that may:

- a) constitute a nuisance;
- b) cause damage to the Premises;
- c) cause injury or annoyance to occupants of the Premises or neighbouring properties;
- d) make void or voidable any insurance upon the Premises or any part of the Buildings;
- e) constitute a breach of any by-law, statute, order or regulation of any municipal, provincial, federal or other competent authority relating to the Premises;
- f) cause any lien, mortgage, or other encumbrance to be incurred or registered against the Premises.

(2) The Society agrees to do the following things at its own expense:

- a) to observe a duty of care for the Premises, as outlined in the *Occupiers Liability Act*, and to take such care as in all circumstances as reasonable to see that persons entering on the Premises, and the property brought on the Premises by those persons, are reasonably safe while on the Premises;
- b) to keep doors and gates to the Buildings and improvements closed and locked when the Buildings and improvements are not in use;
- c) to keep both the interior and exterior of the Buildings and improvements in a good state of repair, safe and fit for public access and use;

- d) to maintain and service all required fire extinguishers, alarms, smoke and fire detection and carbon monoxide systems in the Buildings and any and all fire, building and health retrofit requirements as may apply and be required from time to time;
- e) to supply and maintain external security lights around the Premises;
- f) to keep walkways, entrances, and parking areas in a safe and fit condition, and barrier-free, in accordance with the Municipal Standards attached hereto in Schedule "B",
- g) to provide the Municipality with a key to any gated access points the Premises;
- h) to permit reasonable access to the Premises by the general public and community groups using the Premises;
- i) to provide all required staff and security as deemed necessary for Society events taking place on the Premises.

11. **Buildings and Other Fixtures on the Premises**

The Society agrees to accept the Premises on an "as is" basis. Buildings and improvements on the Premises which are owned by the Society are identified and listed in Schedule "A".

12. **Alterations and Additions**

- (1) If, during the Term of this Agreement, or any extension thereof, the Society desires to replace or construct buildings, or make any alterations, additions or improvements to the Premises, the Society may do so at its own expense, at any time and from time to time, if the following conditions are met:
 - (a) before undertaking any alteration, addition or improvement, the Society shall submit to the Municipality a plan showing the proposed work and any changes to Schedule "A" of this Agreement, and
 - (b) the Society shall obtain the Municipality's permission, as well as all necessary permits, including a building permit (if applicable).
- (2) All exterior signage on the Premises must be in accordance with Municipal policy and regulation.

- (3) The Society agrees, at its own expense and by whatever means necessary, to immediately to obtain the release or discharge of any encumbrance that may be registered against the Municipality's or the Premises in connection with work on the Premises undertaken by the Society or in connection with any other activity of the Society.
- (4) The Society agrees that upon the expiration of the Term (or any extension or renewal thereof as may be applicable), or upon other termination of this Licence, the Society shall leave the Premises in a state of good repair, reasonable wear and tear excepted.
- (5) All buildings and improvements listed in Schedule "A" that belong to the Society and may be removed at any time during the Term, provided that the Society provides a minimum of 30 days' Notice of Intention to Remove. The Society shall repair any damage to the Premises caused by such removal.

13. **Shared and Cooperative Use**

The Parties agree to consult with each other regarding the scheduling of events, to avoid the scheduling of events that may conflict with each other.

14. **Insurance**

- (1) The Society shall at their expense, obtain and keep in force during the term of this License and any renewal thereof, Commercial General Liability Insurance satisfactory to the Municipality, be written by an insurer licensed to conduct business in the province of Ontario and include but not be limited to the following:
 - (a) A limit of liability not less than \$5,000,000/occurrence.
 - (b) The Municipality shall be named as the additional insured;
 - (c) The policy shall contain a provision for cross liability and severability
 - (d) Non-owned automobile coverage with a limit of \$5,000,000.00 including contractual non-owned coverage;
 - (e) Contractual liability - both oral and written
 - (f) Contingent Employer's Liability, Employer's Liability
 - (g) Hostile Fire and pollution from hostile fire
 - (h) Broad Form Property Damage
 - (i) That 30 days prior notice of cancellation of the policy shall be given in writing to the Municipality

2. The Society shall, at its sole cost and expense, take out and maintain in full force and effect, at all times throughout the Term, the following insurance:

“All Risks” insurance on property of every description and kind owned by the Society, or for which the Society is legally liable, or which is installed by or on behalf of the Society, within the Premises or on the Property, including, without limitation, stock-in-trade, furniture, equipment, partitions and fixtures, in an amount not less than the full replacement cost thereof from time to time.

3. The Society shall provide Certificates of Insurance evidencing the required coverages to the Municipality thirty (30) days prior to the commencement of the Agreement and annually upon any renewal of same and at any other time at the request of the Municipality.

4. The Municipality shall at their expense, obtain and keep force all necessary coverages as a prudent Municipality would in similar circumstances.

15. **Indemnity**

- (1) The Society waives, releases, discharges and indemnifies the Municipality from and against all rights, claims, demands or actions of whatsoever kind or nature, direct or indirect, of any person whether in respect of damage to person or property arising out of or occasioned by the construction, maintenance, use or occupancy of the Premises from any cause whatsoever and whether or not such rights, claims, demands or actions arise through the negligence or other fault of the Municipality, its servants, agents, employees, invitees, or contractors.
- (2) The Society agrees to look solely to its own insurers in the event of loss whether the insurance coverage is sufficient to fully reimburse the Society for the loss or not.
- (3) The Society further covenants to indemnify and save harmless the Municipality with respect to any encumbrance on or damage to the Premises occasioned by or arising from the act, omission, default, or negligence of the Society, its officers, members, agents, servants, employees, contractors, customers, and invitees.
- (4) The foregoing indemnities shall survive the termination of this Licence Agreement notwithstanding any provisions of this Agreement to the contrary.

16. **Acts of Default and Municipality’s Remedies**

- (1) An “Act of Default” has occurred when:

- a) The Society has breached its covenants or failed to perform any of its obligations under this Agreement; and
 - i) the Municipality has given fifteen (15) days notice, or such longer period as the Municipality may determine in its sole discretion, specifying the nature of the default and the steps required to correct it; and,
 - ii) The Society has failed to correct the default as required by the notice;
- b) The Society has;
 - i) become bankrupt or insolvent or made an assignment for the benefit of creditors;
 - ii) had its property seized or attached in satisfaction of a judgment;
 - iii) had a receiver appointed;
 - iv) committed any act or neglected to do anything with the result that a Construction Lien or other encumbrance is registered against the Municipality's property;
 - v) without the consent of the Municipality, made or entered into an agreement to make a sale of its assets to which the Bulk Sales Act applies;
 - vi) taken action if the Society is a corporation, with a view to winding up, dissolution or liquidation;
 - vii) ceased to exist or has failed to offer its annual agricultural fair event for a period of three (3) or more years
- c) any insurance policy is cancelled or not renewed by reason of the use or occupation of the Premises, or by reason of non-payment of premiums;
- d) the Premises;
 - i) become vacant or remain unoccupied by the Society for a period of one hundred and eighty (180) consecutive days; or

- ii) is used by any other person or persons, or for any other purpose than as provided for in this License without the written consent of the Municipality.
- (2) When an Act of Default has occurred, the Municipality has the right to terminate this Agreement.
- (3) If, because an Act of Default has occurred, the Municipality exercises its right to terminate this Licence prior to the end of the Term or an extension of same, the Society shall nevertheless be liable for payment of the Licence Fee and all additional fees and all other amounts payable by the Society in accordance with the provisions of this Agreement.
- (4) If, when an Act of Default has occurred, the Municipality chooses not to terminate the Licence, the Municipality shall have the right to take any and all necessary steps to rectify any or all Acts of Default of the Society and to charge the costs of such to the Society.
- (5) If, when an Act of Default has occurred, the Municipality chooses to waive its right to exercise the remedies available to it under this Agreement or at law, the waiver shall not constitute condonation of the Act of Default, nor shall the waiver be pleaded as an estoppel against the Municipality to prevent its exercising its remedies with respect to a subsequent Act of Default. No covenant, term, or condition of the Licence shall be deemed to have been waived by the Municipality unless the waiver is in writing and signed by the Municipality.

17. **Termination**

- (1) If, in the unlikely event that the Municipality finds it necessary at any time to, sell or change the land use of the Premises or any part thereof, to an extent that renders continued possession by the Society impracticable, the Society shall, upon receiving five hundred and forty-five (545) clear days' written notice from the Municipality, representing not less than one and one half years notice:
 - a) surrender the Licence, including any unexpired portion of the Term; and
 - b) vacate the Premises.
- (2) In the event of the abandonment or permanent closure of the Premises for any reason whatsoever and made in the sole discretion of the Municipality, acting reasonably, the Municipality shall have the right to terminate this Agreement by giving written notice to the Society, in which

case the Licence shall be cancelled, without further recourse by either party against the other, except for such claims as may exist before such cancellation.

- (3) If the Society is not in default of its obligations pursuant to this Agreement, at the expiration of the Term or any extension, or upon earlier determination of the Term, the Society has the right to remove, at its sole cost, all Buildings, Improvements and Fixtures on the Premises as set out in Schedule "A" attached. The Society agrees to restore the Premises upon which the removed Buildings, Improvements and Fixtures were located, to a state of repair satisfactory to the Municipality within six (6) months of the date of the termination of the Term. After the six (6) month period has expired, any remaining Building, Improvement or Fixture of the Society remaining on the Premises shall be deemed to be abandoned and ownership default to the Municipality to use or remove as it wishes.

18. **Rules and Regulations**

The Society agrees on behalf of itself and all persons entering the Premises with the Society's authority or permission to abide by such reasonable written rules and regulations as the Municipality may make from time to time.

19. **Notice**

- (1) Any notice required or permitted to be given by one party to the other pursuant to the terms of this Agreement shall be given

To the Municipality at:

The Corporation of the Municipality of Lambton
Shores
7883 Amtelecom Parkway
Forest, Ontario N0N 1J0
Attention: Clerk

Email: clerks@lambtonshores.ca

To the Society at the Premises or at:

Forest Agricultural Society
45 Jefferson Street West
Forest, Ontario N0N 1J0
Attention: Secretary

E-mail: forestfair@xcelco.on.ca

- (2) The above addresses may be changed at any time by giving ten (10) days written notice.
- (3) Any notice given by one party to the other in accordance with the provisions of this Agreement shall be deemed conclusively to have been received on the date delivered if the notice is served personally or sent by facsimile transmission or seventy-two (72) hours after mailing if the notice is mailed by post or transmitted by email.

20. **No Registration**

The Society hereby acknowledges and agrees that this Agreement does not create or confer on the Society any tenancy or ownership interest in the Premises, that this Agreement is personal to the Society and that this Agreement merely confers on the Society the non-exclusive right to enter onto and occupy the Premises for the Term and for the purpose of holding events. Accordingly, the Society agrees that it shall not at any time register notice of or a copy of this Agreement on title to the Premises or the property of which the Premises forms part.

21. **Not Transferable Without Written Permission**

The Society shall not assign or transfer all or any part the Licence without the prior written consent of the Municipality.

22. **Entire Agreement**

It is agreed and understood that this Agreement (including the schedules referred to herein, which are hereby incorporated by reference) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior arrangements, proposals, understandings and negotiations, both written and oral, between the parties or their predecessors with respect to the subject matter of this Agreement.

23. **Compliance With Laws**

The Society agrees to obtain all necessary permits and licences required in connection with its activities and to comply with all statutes, regulations and by-laws which may from time to time apply.

DATED at the Municipality of Lambton Shores, this day of , 2021

**THE CORPORATION OF THE MUNICIPALITY OF
LAMBTON SHORES**

PER: _____
Bill Weber, Mayor

PER: _____
Stephanie Troyer-Boyd, Clerk

(I/We have authority to bind the Corporation)

We hereby accept the above Agreement on the terms and conditions contained therein

DATED at the Municipality of Lambton Shores, this day of , 2021

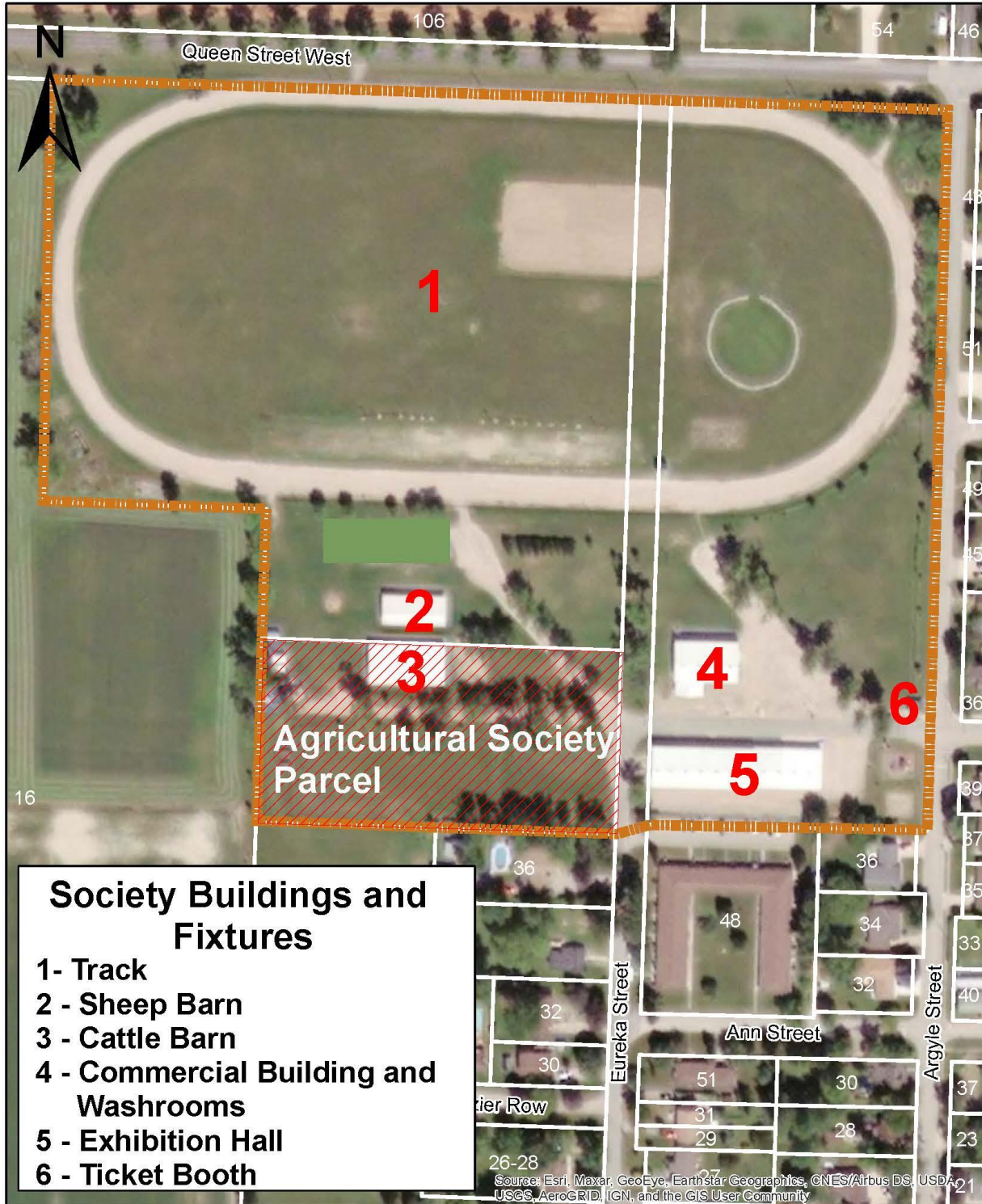
FOREST AGRICULTURAL SOCIETY

PER: _____
Name:
Title:

PER: _____
Name:
Title:

(I/We have authority to bind the Corporation)

SCHEDULE A



SCHEDULE "B"

Legal Description

This agreement pertains to land more particularly described as:

1. Lots 1-7, Plan 15 (Forest), N ½ Lot 8 Plan 15 (Forest), Pt Lot 29 Con 14 (Plympton)
2. Eureka Street, Plan 15 (Forest) abutting Park Lot A to E, Plan 14 (Forest)
3. Park Lot A, B and C, Plan 14 (Forest)