

THIS LICENCE AGREEMENT is made the                      day of                      , 2022

BETWEEN

**THE CORPORATION OF THE MUNICIPALITY OF LAMBTON SHORES**  
(Hereinafter called the "Municipality")  
OF THE FIRST PART

-and-

**ARKONA IMPROVEMENT ASSOCIATION**  
(Hereinafter called the "Licensee")  
OF THE SECOND PART

**WHEREAS** the concession building of Utter Park in Arkona is owned by the Municipality of Lambton Shores;

**AND WHEREAS** the Municipality of Lambton Shores is empowered under Section 2 of the *Municipal Act, 2001* to manage public assets of the Municipality as it sees fit;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the sum of One (\$1.00) Dollar and other good and valuable consideration now paid by the Licensee to the Municipality, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

**Area Affected by Licence**

1. This licence applies to the concession building and bar at the Utter Park located at 7268 Arkona Road, Arkona.

**Term**

2. This Agreement commences on the date of signing and expires on April 1, 2023 with an option to renew subject to agreement by both parties.

**Termination with Notice**

3.
  - a) It is understood and agreed to by the Licensee that if any or all of the lands are required for Municipal purposes, the license agreement will be terminated, with the Municipality providing a minimum of 30 days' notice.
  - b) The licence agreement may also be terminated by the Municipality if the Licensee breaches any terms of the agreement and/or with "cause", in which case no part of the license fee will be refunded.

## **Title**

4. The Municipality represents to the Licensee that it has the authority to licence the use of the land described above. In the event of a dispute regarding the Municipality's authority to licence use of the land, the Municipality will respond to such proceedings as it considers appropriate and shall notify the Licensee of any determination which is adverse to continuation of the Agreement. The Licensee is responsible for payment for the use of the land for all periods during which it has been licensed to use same notwithstanding any subsequent determination regarding the Municipality's title. In the event of a legal determination or interpretation that requires the use of the licensed land to cease, the parties specifically agree that the Licensee's payment of a licence fee for the year in question will be prorated. The Municipality shall have no further obligation or liability to the Licensee with respect to termination.

## **Utility Costs and Maintenance**

5.
  - a) The Municipality is responsible for:
    - Paying all utility costs for the premises.
    - Providing paper towels, toilet paper and hand soap for the washrooms.
    - Cleaning the washrooms once per week.
    - Providing garbage bags and waste receptacles.
    - Provide monthly rental schedule to the Licensee.
    - Renting the pavilion and baseball diamonds.
  - b) The Licensee is responsible for:
    - All costs associated with cleaning the licensed area.
    - Stocking the washrooms adjacent to the concession building, a minimum twice weekly and before and after special events.
    - Additional cleaning if required beyond the municipal cleaning of once per week.
    - Cleaning the bar area prior to, and after special events.
    - Ensuring the pavilion area is kept clean and free of litter.
    - Collect garbage/recycling bags throughout the park on a minimum weekly basis, including taking garbage/recycling to the road or on-site dumpster for collection.
    - Report any facility problems to the Municipality.

## **Use of Licensed Area as a Concession**

6.
  - a) The Municipality does not warrant that any particular use of the licensed land is authorized at law or that the licensed land is suitable for the intended purpose. The Licensee shall determine at its own risk and expense the suitability of the land for the intended purpose. Permits, approvals and improvements are the Licensee's responsibility and at the Licensee's expense. A determination by any court or tribunal that the Licensee is not

permitted to use the land for a purpose that the Licensee wishes to make of the land does not terminate this Agreement. It is the responsibility of the Licensee to provide notice if it wishes to terminate the Agreement owing to controls respecting use of the property whether at a Federal, Provincial or local level or for any other reason.

- b) The Licensee will ensure that concession staff/volunteers have successfully completed food handler certification training and will provide copies of the certificates to the Municipality prior to commencing food service operations and that one certified food handler is on site at all times while the concession is operating.
- c) The Licensee will ensure that all policies, procedures and regulations regarding food safety and safe handling practices are followed. The Licensee will maintain regular contact with Lambton Public Health to complete inspections and adhere to guidelines and recommendations set forth by Lambton Public Health. Any expenditure necessary to comply with Public Health inspections on food service equipment is the responsibility of the Licensee.
- d) The licensed area will be used only for the purpose of selling concession goods and miscellaneous baseball supplies to the general public.
- e) Special Occasion Permit(s) shall be obtained through the Alcohol and Gaming Commission of Ontario (AGCO) for all events selling or providing alcohol.
- f) The Licensee agrees to keep the licensed area and surrounding area in an orderly, neat and clean condition at all times and to keep the licensed area in a good state of repair. This includes, but is not limited to: regular cleaning and sanitizing of tables and other surfaces, sweeping and garbage collection and removal in the area surrounding the licenced area. The Licensee will be invoiced for any additional cleaning of the concession as deemed necessary by the Municipality.
- g) The Licensee will maintain contact with regular facility users regarding their schedules and special events or games, and will make every effort to open the concession during these times.
- h) The Licensee will operate and manage all aspects of the concession.
- i) The Licensee will manage and retain the revenues from the concession.
- j) The Licensee is not authorized to order product on existing Municipal accounts and must arrange for account set up on its own accord.

- k) The Licensee will return all facility keys and remove equipment as directed by the Parks and Facilities Manager upon expiration of the lease.

## **Equipment**

- 7. Existing equipment in providing in an “as is” condition. Maintenance is the responsibility of the Licensee during the term of this agreement.

## **Reporting**

- 8. The Licensee will provide the Municipality with a year-end financial statement for the concession operation, with proof of how revenue is being used to support the Licensee as the sole benefactor of any profit gained from the concession operation.

## **Risk**

- 9. The Licensee agrees to assume all risk and liabilities associated with use of the licensed land and will:
  - a) Carry liability insurance in an amount not less than 2 million dollars which includes the Municipality as a named insured, and will provide a copy of the policy to the Municipality at the time of the signing of the agreement. The Licensee shall not be permitted to commence operations until the insurance has been provided.
  - b) If the policy expires during the term of this agreement, the Licensee shall provide replacement insurance PRIOR to the expiration. Failure to provide the required replacement insurance will be considered “cause” for termination of the Licensee Agreement at the option of the Municipality, in which case the License Fee will not be refunded.
  - c) Provide in such policy of insurance that the insurance is not to be terminated without a minimum of thirty (30) days’ notice to the Municipality.
  - d) Provide the insurance at no expense to the Municipality, and in a form that is satisfactory to the Municipality’s solicitor and insurance advisor.

## **Indemnity**

- 10. The Licensee agrees to indemnify and save the Municipality harmless from any claims, prosecutions, actions, proceedings and judgments of any type relating to the use of the licensed area by the Licensee, its customers, agents, successors or assigns. The Licensee shall respond to any such matter by engaging legal counsel, at its sole cost, to represent the Municipality’s interest and will promptly satisfy any settlement amount, fine, bill of costs or judgment imposed with respect to same.

## Inspection

11. The Municipality reserves its right to inspect the Licensed area at any time for any reason, including but not limited to verifying compliance under this Agreement. The Licensee agrees to provide any and all documents requested by the Municipality that are reasonably necessary to verify compliance within 10 days of the date the documents are requested.

## Notice

12. If notice is required to be given with respect to this agreement, notice will be sent to:

Municipality of Lambton Shores  
7883 Amtelecom Parkway  
Forest, Ontario N0N 1J0                      Attn. Clerk

to: Arkona Improvement Association  
c/o Frank Devet  
Box 69  
46 Fairview Drive  
Arkona ON N0M 1B0

IN WITNESS WHEREOF the Parties hereto have hereunto caused to be affixed their respective seals, attested by the hands of their proper officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED  
in the presence of

### THE CORPORATION OF THE MUNICIPALITY OF LAMBTON SHORES

\_\_\_\_\_  
Bill Weber, Mayor

\_\_\_\_\_  
Stephanie Troyer-Boyd, Clerk

### ARKONA IMPROVEMENT ASSOCIATION

Frank Devet  
I/we have the authority to bind the company

Elaine Devet  
I/we have the authority to bind the company