

## **LEASE AGREEMENT – Bowman Electric Keewatin Memorial Arena**

This Commercial Lease Agreement (“Lease”) is made effective [date], by and between The Corporation of the City of Kenora (the “City”) and The Keewatin Curling Club (the “Tenant”).

**Whereas** the City is the owner of the land and improvements referred to below as the Premises;

**And Whereas** the City desires to lease the Premises to the Tenant, and the Tenant desires to lease the Premises from the City for the term, at the rent and upon the covenants, conditions and provisions herein set forth;

**Now Therefore**, in consideration for the shared promises and agreements contained herein, and for other good and valuable consideration, the parties hereby agree as follows:

### **THE PREMISES**

1. Subject to the terms of this Agreement and all applicable laws, the City grants to the Tenant a lease of the Bowman Electric Keewatin Memorial Arena (“the Premises”):

Bowman Electric Keewatin Memorial Arena – Concession space  
930 Front St  
Kenora, ON  
P9N 1L2

2. The Premises shall not, during the term of this lease, be at any time used for any other purpose other than the operation of the concession for food and beverage services.
3. The Tenant agrees to comply with all applicable laws, by-laws, and regulations relative to the Premises and to the business carried on.
4. Subject to the provisions of this Lease, the Tenant is entitled to the non-exclusive use of the following 1 parking space: (the "Parking"). Only properly insured motor vehicles may be parked in the Tenant's space.
5. The Tenant shall not change locks to the Premises without the prior written permission from the City. If the locks are changed, a copy of the new key must be provided to the City forthwith.

**TERM**

6. The term of this lease agreement is three years, commencing on September 1, 2024 and ending August 31<sup>st</sup>, 2027.
7. Upon 30 days' notice, the City may terminate the tenancy under this Lease Agreement if the Tenant has defaulted in the payment of any portion of the Rent when due.
8. Upon 30 days' notice, the City may terminate the tenancy under this Lease if the Tenant fails to observe, perform and keep each and every of the covenants, agreements, stipulations, obligations, conditions and other provisions of this Lease to be observed, performed and kept by the Tenant and the Tenant persists in such default beyond the said fifteen (30) day notice.
9. Notwithstanding paragraph 8, the city may terminate a lease for a breach of it or an immediate basis if, in the City's opinion, the breach has resulted, or may reasonably result, in a serious risk to public health and safety or the environment, substantial financial harm to the City or a contravention of law.
10. Should the Tenant remain in possession of the Premises with the consent of the City after the end of the term of this Lease Agreement, a new tenancy from month to month shall be created between the City and the Tenant which shall be subject to all the terms and conditions of this Lease Agreement but shall be terminable upon either party giving 30 days' notice to the other party.

**USE AND OCCUPATION**

11. The Tenant shall use and occupy the Premises only for the Permitted Use and for no other purpose whatsoever.
12. The Tenant covenants that the Tenant shall carry on and conduct its business in and about the Premises in such manner as to comply with all statutes, bylaws, rules and regulations of any federal, provincial, municipal or other competent authority and shall not do anything on or in the Premises in contravention of any of them.
13. The Tenant shall not allow or engage in any activity that shall affect an increase in the rate of insurance for the Building in which the Premises is contained nor shall the leaseholder allow or commit any nuisance or annoyance in or about the Premises or the lands on which the Premises is situated.

**RENT**

14. The Tenant shall pay the following to the City as Rent: \$300.00, plus H.S.T. or similar taxes applicable to such rent per month between September to April and \$50.00 per day the Tenant operates between May to August.
15. The Tenant shall pay the Rent, including applicable taxes, on or before the first of each and every month of the term of this Lease Agreement to the City by postdated cheques made payable to the City, or by such other method of payment that the City advises, in writing, is acceptable to the City.
16. If the start date of the Lease does not fall on the first of the month, then the Rent, including applicable taxes, shall be pro-rated for the first month.

**UTILITIES, AND OPERATING COSTS**

17. The City shall be responsible for paying the following operating costs:
  - a. repairs and replacements to the Building and any component of the Building;
  - b. provision, repair, replacement and maintenance of heating, cooling, ventilation and air conditioning equipment throughout the Building;
  - c. all outdoor maintenance including landscaping and snow removal;
  - d. operation and maintenance of parking areas;
  - e. preventive maintenance and inspection.
  - f. utility costs
18. The Tenant shall be responsible for paying the following operating costs, in addition to those set out elsewhere in this Lease Agreement:
  - a. All cleaning costs associated to the space.
  - b. Maintaining lighting fixtures.
  - c. Maintaining seating and table fixtures.

**IMPROVEMENTS AND REPAIRS**

19. The Tenant shall not make any amendments, additions or improvements to the Premises or the building in which the Premises is situated without the prior written permission of the City, which the City may, in its sole discretion, not unreasonably withhold.
20. Without limiting the generality of the foregoing, the Tenant shall obtain written permission from the City before doing any of the following:
- a. applying adhesive materials, or inserting nails or hooks in walls or ceilings other than two small picture hooks per wall;
  - b. painting, wallpapering, redecorating or in any way significantly altering the appearance of the Premises;
  - c. removing or adding walls, or performing any structural alterations;
  - d. changing the amount of heat or power normally used on the Premises as well as installing additional electrical wiring or heating units;
  - e. placing or exposing or allowing to be placed or exposed anywhere inside or outside the Premises any placard, notice or sign for advertising or any other purpose; or
  - f. affixing to or erecting upon or near the Premises any radio or TV antenna or tower.
  - g. will maintain the premises, furnishings and fittings in a clean and tidy condition at all times, that he/she will not allow refuse or other loose objectionable material to accumulate on or around the premises and will keep the premises in a clean and tidy condition at all times
  - h. will not sell, or offer sale, in the premises anything which the City considers should not be sold from the premises

### **ASSIGNMENT AND SUBLETTING**

21. Without the written consent of the City, which the City may, in its sole discretion withhold, the Tenant shall not assign this Lease Agreement, or sublet or grant any concession or license to use the Premises or any part of the Premises. An assignment, subletting, concession, or license, whether by operation of law or

otherwise, shall be void and shall, at the City's option, terminate this Lease.

### **QUIET ENJOYMENT**

22. The City covenants that on paying the Rent and performing the covenants contained in this Lease, the Tenant shall peacefully and quietly have, hold, and enjoy the Premises for the agreed term.

### **DISTRESS**

23. If and whenever the Tenant is in default in payment of any money, whether hereby expressly reserved or deemed as Rent, or any part of the rent, the City may, without notice or any form of legal process, enter upon the Premises and seize, remove and sell the Tenant's goods, chattels and equipment from the Premises or seize, remove and sell any goods, chattels and equipment at any place to which the Tenant or any other person may have removed them, in the same manner as if they had remained and been distrained upon the Premises, all notwithstanding any rule of law or equity to the contrary, and the Tenant hereby waives and renounces the benefit of any present or future statute or law limiting or eliminating the City's right of distress.

### **OVERHOLDING**

24. If the Tenant continues to occupy the Premises without the written consent of the Landlord after the expiration or other termination of the term, then, without any further written agreement, the Tenant shall be a month-to-month tenant at a minimum monthly rental equal to twice the Rent, including applicable taxes, and subject always to all of the other provisions of this Lease insofar as the same are applicable to a month-to-month tenancy and a tenancy from year to year shall not be created by implication of law.

### **ADDITIONAL RIGHTS ON RE-ENTRY**

25. If the City re-enters the Premises and/or terminates this Lease Agreement, then:
- a. notwithstanding any such termination or the term thereby becoming forfeited and void, the provisions of this Lease Agreement relating to the consequences of termination shall survive;
  - b. the City may use such reasonable force as it may deem necessary for the purpose of gaining admittance to and retaking possession of the Premises and the Tenant hereby releases the Landlord from all actions, proceedings, claims and demands whatsoever for and in respect of any

such forcible entry or any loss or damage in connection therewith or consequential thereupon;

- c. the City may expel and remove, forcibly, if necessary, the Tenant, those claiming under the Tenant and their effects, as allowed by law, without being taken or deemed to be guilty of any manner of trespass;
- d. in the event that the City has removed the property of the Tenant, the Landlord may store such property in a public warehouse or at a place selected by the City, at the expense of the Tenant;
- e. if the City, in its sole discretion, feels that it is not or becomes not worth storing such property given its value and the cost to store it, then the City may, in its sole discretion, dispose of such property and use such funds, if any, towards any indebtedness of the Tenant to the City. The City shall not be responsible to the Tenant for the disposal of such property other than to provide any balance of the proceeds to the Tenant after paying any storage costs and any amounts owed by the Tenant to the City;
- f. the City may re-let the Premises or any part of the Premises for a term or terms which may be less or greater than the balance of the term of this Lease Agreement remaining and may grant reasonable concessions in connection with such reletting including any alterations and improvements to the Premises;
- g. the Tenant shall pay to the City on demand:
  - i. all Rent and other amounts payable under this Lease up to the time of re-entry or termination, whichever is later;
  - ii. reasonable expenses as the City incurs or has incurred in connection with the re-entering, terminating, reletting, collecting sums due or payable by the Tenant, realizing upon assets seized; including without limitation, brokerage fees and expenses and legal fees and disbursements and the expenses of keeping the Premises in good order, repairing the same and preparing them for re-letting; and
  - iii. as liquidated damages for the loss of rent and other income of the City expected to be derived from this Lease Agreement during the period which would have constituted the unexpired portion of the term had it not been terminated, at the option of the City, an

amount equal to the Rent, including applicable taxes, for a period of six (6) months

## **CARE AND USE OF PREMISES**

26. The Tenant shall promptly notify the City of any damage, or of any situation that may significantly interfere with the normal use of the Premises or to any furnishings or other property supplied by the City.
27. Vehicles, equipment or other property that the City reasonably considers unsightly, noisy, dangerous, improperly insured, inoperable or unlicensed are not permitted on the lands on which the Premises is situated and such property may be removed or towed away at the Tenant's expense.
28. Parking facilities are provided at the Tenant's own risk. The Tenant is required to park in only the space allotted to them.
29. The Tenant shall not make (or allow to be made) any noise or nuisance which, in the reasonable opinion of the City, disturbs the comfort or convenience of other tenants.
30. The Tenant shall not engage in any illegal trade or activity on or about the Premises.
31. The Landlord and Tenant shall comply with all standards of health, sanitation, fire, housing and safety as required by law.

## **DAMAGE TO PREMISES**

32. In case the Premises at any time during the Term be damaged by fire, water or other acts of nature so as to render the Premises unfit for the purpose of the Tenant, the Rent hereby reserved or a proportionate part according to the nature and extent of the damage sustained shall be suspended and abated until the Premises have been rebuilt or made fit for the purpose of the Tenant.
33. If, in the opinion of the City, the Premises cannot be rendered fit for the purpose of conducting the Tenant's business, within a period of two (2) months, the Lease shall be deemed terminated; the term shall come to an end and the Tenant shall cease to be held liable for payment for Rent, except such Rent as shall have

already accrued due, and be entitled to be repaid any rent paid in advance for the balance of the period.

### **SURRENDER OF PREMISES**

34. At the expiration of the lease term, the Tenant shall quit and surrender the Premises in as good a state and condition as they were at the commencement of this Lease Agreement, reasonable use and wear and damages by the elements excepted

### **HAZARDOUS MATERIALS**

35. The Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might unreasonably increase the danger of fire on the Premises or that might be considered hazardous by any public authority or responsible insurance company.

### **RULES AND REGULATIONS**

36. The Tenant shall obey all rules and regulations posted by the City regarding the use and care of the Premises and the Buildings and lands, including, without limitation, the parking lot and other common facilities on the lands, on which the Premises is situated.

### **INSURANCE**

37. The Tenant shall purchase, at the Tenant's own cost, public liability insurance in the amount of \$ 5,000,000 as well as fire and exposure insurance in the amount of \$ 5,000,000 for the property and shall provide satisfactory proof thereof to the City and shall continue same in force and effect throughout the Lease period hereof.

### **GOVERNING LAW**

38. The Tenant shall meet the terms, policies, orders, codes and laws of all governmental bodies having jurisdiction or authority over the property.

39. At the end of the period of this Lease Agreement, the Tenant shall give in and deliver up the property in the same condition (subject to any additions, alterations or improvements, if any) as presently exists, reasonable wear and tear excepted.



**GENERAL PROVISIONS**

- 40. Any waiver by the City of any failure by the Tenant to perform or observe the provisions of this Lease Agreement shall not operate as a waiver of the City's rights under this Lease Agreement in respect of any subsequent defaults, breaches or non-performance and shall not defeat or affect in any way the City's rights in respect of any subsequent default or breach.
- 41. This Lease Agreement shall extend to and be binding upon and ensure to the benefit of the respective heirs, executors, administrators, successors and permitted assigns, as the case may be, of each party to this Lease Agreement. All covenants are to be construed as conditions of this Lease.
- 42. All sums payable by the Tenant to the City pursuant to any provision of this Lease Agreement shall be deemed to be Rent and shall be recovered by the City as rental arrears.
- 43. Where there is more than one Tenant executing this Lease Agreement, all Tenants are jointly and severally liable for each other's acts, omissions and liabilities pursuant to this Lease Agreement.

**IN WITNESS WHEREOF** the Parties to this Lease have duly affixed their signatures under hand and seal, or by a duly authorized officer under seal, on this Day of Month, Year.

**Signed on \_\_\_\_\_ of \_\_\_\_\_**

\_\_\_\_\_  
**Tenant**

\_\_\_\_\_  
**Mayor**

\_\_\_\_\_  
**Heather Pihulak, City Clerk**