

THIS LICENSE AGREEMENT made in duplicate this 20<sup>th</sup> day of April, 2022

**BETWEEN:**

**THE MUNICIPALITY OF MIDDLESEX CENTRE**  
(hereinafter referred to as the "**Owner**" or "**Municipality**")

OF THE FIRST PART

- and -

**ILDERTON AREA BUSINESS ASSOCIATION**  
(collectively referred to as the "**Ilderton Farmer's Market**" or "**Licensee**")

OF THE SECOND PART

**WHEREAS** the Municipality is the owner and operator of the lands used for the purposes of a municipal parking lot and municipally identified at 13230 Ilderton Road, Ilderton, Ontario (the "**Municipal Parking Lot**");

**AND WHEREAS** the Ilderton Area Business Association is a not for profit organization that provides support to local business owners in the Ilderton area and have agreed to provide a community-based Farmer's Market ("**Ilderton Farmer's Market**") at the Municipal Parking Lot in the area identified in blue on the attached Schedule "A" ("**Licensed Area**") subject to the terms and conditions set out in this License Agreement;

**AND WHEREAS** Ilderton Farmer's Market will be utilizing the Licensed Area for the purposes of providing a venue to market local farm, agricultural and handmade products, to support local food production, and to stimulate public interest and increase consumption of these local products;

**AND WHEREAS** the Municipality agrees to allow the Ilderton Farmer's Market non-exclusive use of the Licensed Area subject to the terms, covenants and conditions set out in this Agreement;

**AND WHEREAS** the Ilderton Famer's Market has all the necessary and appropriate approvals, permits, licenses, insurance and any other approvals required by any governmental authority including but not limited to the Municipality ("**Applicable Laws**");

**NOW THIS AGREEMENT WITNESSES THAT** in consideration of the mutual covenants herein and subject to the terms and conditions in this Agreement, the Parties agree as follows:

## RECITALS

1. The above recitals are true in substance and in fact and are hereby incorporated into this Agreement by reference.

## TERM

2. This License Agreement shall be in force from April 21, 2022 and continuing until October 31, 2025 subject to the renewal provisions set out in paragraph 3 below unless terminated prior thereto in accordance with the terms of this Agreement (the “**Initial Term**”).
3. Provided the Licensee is not in default under this Agreement, the Licensee shall have the option to renew this Agreement at the end of the Term for a further term of two (2) years from and after the expiry of the Initial Term on the same terms and conditions (“**Renewal Term**”). If the Licensee wishes to exercise its option to renew, the Licensee shall provide written notice to the Municipality at least sixty (60) days prior to the expiry of the Initial Term (“**Option to Renew Period**”).
4. Either Party may terminate this License Agreement upon provided the other with sixty (60) days written notice of its intention to terminate the License Agreement.

## GRANT OF LICENSE

5. Subject to the terms and conditions of this agreement, the Municipality grants to the Licensee a non-exclusive license to use the Licensed Area subject to the terms and conditions of this Agreement and provided that the Licensee is in compliance with Applicable Laws for the sole purposes of a Farmers Market on each and every Saturday, from 8:00 a.m. to 12:00 p.m., starting on the second Saturday of June and expiring on the second Saturday of October during the Initial or Renewal Term of this Agreement.
6. In addition to the License granted herein, the Licensee shall have the right of ingress and egress to the Licensed Area, via the routes designated by the Municipality. The Municipality agrees that it shall designate the ingress and egress route in writing to the Licensee in writing. The Municipality may alter the routes in its sole and absolute condition at which time it shall immediately advise the Licensee. The Licensee shall post signage to the satisfaction of the Municipality, acting reasonably, clearly identifying the ingress and egress routes.
7. In the event that at any time the Licensed Area is required for the exclusive use of the Municipality, or for purposes deemed by the Municipality (in accordance with past practice), written notification shall be promptly provided to the Licensee and the Licensee shall not use the Licensed Area on the specified day. The Licensee acknowledges and agrees that priority shall be given to those matters that advance the business of the Municipality, or any person authorized by the Municipality as it relates to the use of the Licensed Area. The Municipality shall provide

the Licensee with no less than two weeks written notice, unless it is for purposes that the Municipality deems to be an emergency in which case the Municipality shall provide as much notice as reasonably possible in the circumstances.

8. The Municipality and all persons authorized by it shall have the right at any time to enter the Licensed Area for any purpose, and entry shall be deemed not to be an interference with the Licensee and the Licensee's privileges granted by this Agreement.

#### **LICENSE FEE**

9. There will be no fees during the term of this agreement.

#### **USE OF LICENSED AREA**

10. The Licensed Area shall be used by the Licensee solely for the purposes of a publicly accessible Farmers Market.
11. Vendors wishing to sell craft beer, wine or spirits must adhere to the regulations set out by the Alcohol and Gaming Commission of Ontario (AGCO) and obtain any and all permits / approvals / licenses required by all Applicable Law. It shall be the sole responsibility of the Licensee to ensure all vendors wishing to do so, complies with all Applicable Law including but not limited to the AGCO requirements. Failure to do so may result in the immediate termination of this Agreement. Consumption of alcoholic beverages is strictly prohibited unless under a valid Special Occasions Permit is provided by the AGCO in accordance with the *Liquor License Act* and its applicable regulations and approval of the Municipality under their Municipal Alcohol Policy and compliance with all other Applicable Laws and/otherwise permitted by the AGCO in accordance with Applicable Law.
12. The Licensee is permitted to allow up to five mobile food trucks as part of the Farmer's Market providing that the following information is provided to the Licensee who then shall submit the following information as a complete package to the Municipality a minimum of 14 calendar days in advance of the date of the Farmer's Market and such information shall be to the satisfaction of the Municipality prior to their attendance at the market:
  - 1) Copies of their most recent health unit inspection;
  - 2) Indication of where they plan to dump any debris/waste (note, this cannot be done on site);
  - 3) Proof of their Safe Food Handling Certification;
  - 4) A Certificate of Insurance from each vendor showing confirmation of Commercial General Liability and Automobile Liability with the Municipality of Middlesex Centre added as Additional Insured; and
  - 5) Approval to operate as a Food Truck by the Middlesex London Health Unit.

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Vendors must adhere to all regulations set out by the Middlesex London Health Unit, and all other Applicable Laws.

For food trucks that prepare and cook on board their vehicle, the following information shall also be provided to the Licensee who shall then forward it to the Municipality a minimum of 14 days in advance of being permitted to attend at the Farmer's Market:

- 1) Valid reports showing exhaust system cleaning in compliance with NFPA 96 standards;
- 2) Valid reports showing testing and maintenance of all fire extinguishers and kitchen suppression system; and
- 3) TSSA report specifying installed kitchen systems meets manufactures recommendations and CAN/ULC standards.

Providing all food trucks meet the above criteria to the satisfaction of the Municipality in its sole and absolute discretion, the Municipality shall provide written notification to the Licensee that the Food Truck has been approved to attend at the Farmer's Market as of the date specified in the written notification and the Food Truck shall be deemed compliant with the Food Truck By-Law. This approval is for the Licensed Area only and only on Market Days. Outside of Market Days, all food trucks are required to follow the Municipality's Food Truck By-Law.

13. All other vendors who are preparing and selling food on site and are not a Food Truck, must adhere to all Applicable Law including but not limited to the applicable regulations set out by the Middlesex London Health Unit as they relate to safe food handling practices. All vendors selling food on site and not a Food Truck and using gas stoves shall ensure the following:
  - 1) Open flame appliances are not permitted within a tent or tent-type structure;
  - 2) Electric hot plates or griddles are allowed under a tent structure pending the cooking does not include food that release grease-laden vapours;
  - 3) It is an approved CSA/ULC appliance and not "homemade" or some other not approved appliance;
  - 4) They have an ABC fire extinguisher of appropriate size that has been inspected within the last year, located in an accessible location (The vendor must be knowledgeable as to the fire extinguisher operation); and
  - 5) All combustibles etc. shall be removed from the area with the electric burner, griddle, flame or open flame appliance.
  
14. The Licensed Area has no water or hydro available. Any hydro supplied and used by a vendor must meet all Applicable Law including but not limited to the Electrical Safety Authority (ESA)

standards. It is the responsibility of the Licensee to ensure compliance. If water or hydro is required, the Licensee is to make their own arrangements. Any water supply must meet the standards of all Applicable Laws including but not limited to those of the Middlesex London Health Unit. The supply of these utilities must be done in a way that is safe for all users of this location, meets all public safety standards and presents no risk to the public, vendors, or any adjacent properties. Any trip hazards must be minimized and clearly identified.

15. The Licensee shall supply all of its own equipment and supplies to conduct their operation.
16. The Licensee, at all times, shall keep the Licensed Area in a clean and sanitary condition and in accordance with all Applicable Laws and shall keep the Licensed Area in good order and in good repair. If the Licensed Area is left in poor condition, the Licensee may be invoiced for any costs incurred by the Municipality to clean, repair and/or maintain the Licensed Area in accordance with the Municipality's Rates & Fee By-Law.
17. For after hour's non-medical or non-police related emergencies dial the Community Services after hour's operation line at 519-601-8022 ext. 5119 or email [servicerequest@middlesexcentre.ca](mailto:servicerequest@middlesexcentre.ca).
18. The Municipality shall provide and maintain garbage cans for use by the public. The Licensee shall advise each vendor, and enforce if necessary, that it is the vendor's responsibility for the disposal of all debris and refuse generated from their operation.
19. The Licensee shall forthwith upon receipt of written notice from the Municipality remove from the Licensed Area, all signs, decorations, flyers or displays (collectively referred to as the "Display") to which the Municipality objects and/or does not comply with all Applicable Law. If the Display is not removed forthwith upon notification from the Municipality, the Municipality shall be permitted to remove the Displays with the costs associated with the removal being the sole responsibility of the Licensee.
20. The Municipality is not responsible for items that are damaged or missing from the Licensed area.
21. The Licensee is not to construct, alter, affix or remove any item within Licensed Area.
22. Market vendors shall not occupy the Licensed Area or start any set activities before 6:00 a.m. on Market Day. The Licensed Area must be vacated and returned to its original state of condition on or before 2:00 pm on each Market Day. The Licensee shall establish, communicate and enforce with all vendors a cut off time for set up and sales. Vendor vehicles shall at no time use the designated access and egress route to the Licensed Area during Market Hours.

23. The Licensee shall provide at their cost and expense a sufficient number of porta-potties equipped with hand washing stations each market season during the term of this Agreement for public use. The municipality agrees to allow the porta-potties to be stored on site through the duration of each market season.
24. Storage of market items shall at no time be permitted in the Licensed Area outside of Market Days.
25. The request for additional supporting infrastructure will be at the sole expense of the Licensee.
26. It is the responsibility of the Licensee to ensure walking paths, fire routes and access points are maintained free and clear at all times during market hours and in accordance with all Applicable Law.
27. It is the responsibility of the Licensee to clearly and physically delineate the Licensed Area to the patrons of the Farmer's Market, any vendors, Food Trucks and the public.
28. The Licensee shall ensure its vendors do not paint, mark, penetrate, apply excess heat, place excessive weight, spill product/grease/oil onto the asphalt surface or anywhere in the Licensed Area.
29. All vendor tents, shade structures, product and displays shall be secured from wind in a manner that does not cause damage to the Park infrastructure, are deemed safe for the public and in accordance with all Applicable Law.
30. Vendors shall not be permitted to place mobile signs at the Municipal Parking Lot or within the Licensed Area outside of Market Days. Temporary signage may be permitted on the day of the Market in accordance with all Applicable Law and to the satisfaction of the Municipality, acting reasonably. The Licensee will be permitted to have one mobile sign placed in the Licensed Area through the term of this agreement, to advertise the Market in accordance with all Applicable Law and to the satisfaction of the Municipality.
31. Any vendors that have a politically motivated agenda or are in attendance to gain support or provide information regarding any matter that does not fall within the definition of a Farmers' Market and/or is not in keeping with Applicable Law, and/or intended to incite the public contrary to the applicable Municipal policies and guidelines for the use of Municipal Property shall at no time be permitted on Municipality Property.

## **PUBLIC HEALTH**

32. In the event of a pandemic or community wide public health concern, related legislation, orders, directives, orders, guidance or recommendations from the Federal and/or Provincial Governments and/or Middlesex-London Health Unit (“**Orders**”), will automatically supersede any and all requirements and entitlements of the Licensee pursuant to this License Agreement, and the Licensee shall be required to comply with such Orders and shall indemnify the Municipality for any failure to do so.

## **GENERAL LIABILITY INSURANCE**

33. The Licensee shall, at their expense obtain and keep in force during the term of the Agreement, Commercial General Liability Insurance satisfactory to the Municipality and underwritten by an insurer licensed to conduct business in the Province of Ontario. The policy shall provide coverage for Bodily Injury, Property Damage and Personal Injury and shall include but not be limited to:
- a) A limit of liability of not less than \$2 million/occurrence with an aggregate of not less than \$5 million
  - b) Add the Municipality of Middlesex Centre as an additional insured with respect to the operations of the Named Insured
  - c) The policy shall contain a provision for cross liability and severability of interest in respect of the Named Insured
  - d) Products and completed operations coverage
  - e) Broad Form Property Damage
  - f) Contractual Liability
  - g) Hostile fire
  - h) The policy shall provide 30 days prior notice of cancellation
34. Forthwith after the execution of this License Agreement, Licensee shall provide the Municipality with evidence of the insurance to be provided as required in section 33 in the form of a certificate or certificates of insurance issued by an authorized agent of the insurer on the face of which certificate shall be the following endorsement:

The insurance evidenced by this certificate satisfies the insurance requirements of this Agreement dated March 16, 2022 between the Municipality of Middlesex Centre and the Ilderton Area Business Association.

## INDEMNIFICATION

35. The Licensee shall defend, indemnify and save harmless the Municipality its elected officials, officers, employees, contractors, sub-contractors and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including consultant and legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the Licensee, its directors, officers, employees, agents, contractors and subcontractors, vendors, or any of them, in connection with or in any way related to the delivery or performance of this License Agreement and use of the Licensed Area. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Licensee in accordance with this License Agreement and shall survive the termination of this License Agreement.

## NOTICE

36. Any notice to be given pursuant to this License Agreement shall be sufficiently given if served personally upon the party or an officer of the party for whom it is intended, or mailed, or sent by e-mail in the case of:

The Municipality:           Municipality of Middlesex Centre  
Scott Mairs  
Director of Community Services  
10227 Ilderton Road  
Ilderton, ON N0M 2A0  
519-666-0190 Ext. 5227  
Email: [mairs@middlesexcentre.ca](mailto:mairs@middlesexcentre.ca)

The Licensee:               Ilderton Area Business Association  
Dakota Soares  
President  
[president@iaba.ca](mailto:president@iaba.ca)

or at another address that the party has specified by notice in writing to the other party. Where notice is given by mail, it is deemed to have been received by the person to whom it is addressed, on the fifth (5) business day following the next business day after which the notice, sent by prepaid first-class mail, was deposited in a post office or letter box in Ontario. Where notice is personally delivered or sent via email, it shall be deemed to have been received by the person to whom it is addressed on the next business day immediately following the date of



delivery. In the event of postal disruption, the parties agree that service shall be made by personal delivery only.

#### **ARBITRATION**

37. Any and all disputes arising between the Parties hereunder shall be referred to the arbitration of three arbitrators, one to be nominated by the Licensee, one to be nominated by the Municipality, and the third to be appointed by the two so nominated before the reference is proceeded with and the decision of any two of the arbitrators shall be binding. A submission made under this paragraph shall be deemed to be a submission to arbitration within the provisions of the *Arbitration Act, 1991* (Ontario). The arbitrator(s) shall be instructed that time is of the essence in proceeding with the determination of any dispute and, in any event, the arbitration award must be rendered with sixty (60) days of the submission of such dispute to arbitration, or such other period as the Parties may agree.

#### **SUPERVENING EVENTS**

38. Neither party shall be liable for delay or failure in performance resulting from acts beyond the control of that party, including, but not limited to the acts of God, acts of war, riot, fire, flood, or other disasters, acts of government, strike, lock-out, pandemic, communication line or power failures, failure, inoperability or destruction of the Licensed Area (unless by reason of the negligent party to this Agreement).

#### **FAILURE TO PAY**

39. Failure of the Licensee to pay any and all fees, charges, penalties, repairs or any other costs incurred under this Agreement may result in the immediate termination of this Agreement upon the Municipality providing written notification to the Licensee.

#### **GENERAL PROVISIONS**

40. It is hereby mutually agreed between the Licensee and the Municipality that:

- a. No waiver of any of the provisions contained in this License Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be construed as further or continuing waiver of any such provision or as a waiver of any provision contained in this License Agreement;
- b. Nothing contained herein shall be construed by the Parties hereto nor by any third party as creating the relationship of principal and agent or of a partnership or of a joint venture between the Parties hereto.

- c. This License Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter of this License Agreement and supersedes all prior agreements, representations, warranties, negotiations, discussions and understandings, whether oral or written, express or implied, with respect to the subject matter of this Agreement. Time is and shall continue to be of the essence;
- d. The invalidity of any provision of this Agreement or any covenant herein contained on the part of any party shall not affect the validity of any other provisions or covenant hereof or herein contained;
- e. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated, in all respects, as an Ontario contract. The Parties hereto irrevocably attorn to the exclusive jurisdiction of courts located in London, Ontario, Canada;
- f. Notwithstanding anything contained in this Agreement, neither party shall be liable to any other party for any lost profits, lost revenues or, failure to realize expected savings even if informed of the possibility thereof in advance;
- g. No waiver of a breach of any of the covenants of this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other covenant;
- h. The Municipality at all reasonable times, may enter upon and view the state of repair of the Licensed Area and the Licensee agrees to comply with all reasonable requirements of the Municipality with regard to the care, maintenance, and repair thereof, to the extent that the Licensee is responsible under this Agreement for such care, maintenance and repair;
- i. At all times during its use of the Licensed Area the Licensee shall comply with all of the Municipality's applicable by-laws, rules, policies and guidelines in addition to any applicable Provincial or Federal laws, regulations, policies, guidelines and directives that in any manner relate to or affect the Licensed Area and the use of the Licensed Area by the Licensee for the purposes set out in this Agreement;
- j. The Licensee shall not assign this Agreement or sublet the Licensed Area without obtaining the prior written consent of the Municipality and such consent may be arbitrarily withheld by the Municipality;

- k. All of the provisions of this Agreement are to be construed as covenants and agreements as though words importing such covenants and agreements were used in each separate paragraph hereof, and all such provisions shall be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns.

#### **FURTHER ASSURANCES**

41. Each of the Parties hereto shall from time to time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to implement and carry out the true intent and meaning of this Agreement.

#### **COUNTERPARTS**

42. This Agreement may be executed in counterparts and delivered by facsimile transmission or e-mail, and when each party has executed and delivered a counterpart, each such counterpart shall be deemed to be an original and all such counterparts when taken together shall constitute one and the same Agreement.

**Signature page on following page.**

**IN WITNESS WHEREOF** the proper officers of the parties hereto have executed this License Agreement.

**ILDERTON AREA BUSINESS ASSOCIATION**

Per: \_\_\_\_\_

Name: Dakota Soares

Title: President

I have the authority to bind the Association.

**THE MUNICIPALITY OF MIDDLESEX CENTRE**

Per: \_\_\_\_\_

Name: Aina DeViet

Title: Mayor

Per: \_\_\_\_\_

Name: James Hutson

Title: Clerk

I/We have the authority to bind The Municipality of Middlesex Centre.

**SCHEDULE 'A'  
LICENSED AREA**



Ilderton Farmer's Market License Agreement, April 20, 2022

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