

**MIDDLESEX CENTRE WELLNESS AND RECREATION COMPLEX  
LIQUOR MANAGEMENT AGREEMENT**

THIS MANAGEMENT AGREEMENT MADE THIS 1<sup>st</sup> day of March 2023.

B E T W E E N:

**THE MUNICIPALITY OF MIDDLESEX CENTRE**  
(hereinafter called the “**Licensor**” or “**Municipality**”)

OF THE FIRST PART

- and -

**OPTIMIST CLUB KOMOKA-KILWORTH**  
(hereinafter called the “**Optimist Club**”)

OF THE SECOND PART

**WHEREAS** the Municipality is the owner and operator of the Middlesex Centre Wellness and Recreation Complex located at 1 Tunks Lane, Town of Komoka, Municipality of Middlesex Centre, Province of Ontario being a multi-purpose sports and entertaining arena (the “**Complex**”);

**AND WHEREAS** the Optimist Club is a local volunteer-based service club that organizes and/or participates in community activities including but not limited to Canada Day, Junior Golf, Spelling Bee, Kilworth Yard Sale and also provides playground equipment and regularly donates to programs at the Children’s Hospital of Western Ontario. The Optimist Club also raises money through the provision of services throughout the Municipality including but not limited to operating the Concession & Vending Services at the Complex;

**AND WHEREAS** the Municipality is interested in engaging in a liquor business at the Complex permitting the sale and consumption of alcohol in certain specified designated areas located in the Complex (the “**Liquor Business**”);

**AND WHEREAS** the *Liquor License Act* of Ontario prohibits the consumption of alcohol in public places unless a license has been issued. The Municipality is acquiring a Liquor License, permitting the sale and consumption of alcohol in the areas of the complex identified on Schedule “A” to this Management Agreement and referred to as: Rink 1; Rink 2; Main Lobby Rink 1 Side; London Life Room; Plunkett Meeting Room; Main Lobby Rink 2 Side; Dressing Rooms (1 – 6) Rink 1 Side; and, Dressing Rooms (1 – 6) Rink 2 Side (the “**Designated Areas**”);

**AND WHEREAS** the Municipality desires to engage the Optimist Club to manage and operate the Municipality’s Liquour Business on behalf and for the benefit of the Municipality;

**AND WHEREAS** the Optimist Club agrees to provide the services required to manage and operate the Liquor Business relating to the sale of liquor to be consumed in the Designated Areas pursuant to the terms and conditions set out in this Agreement (the “**Management Agreement**”);

**AND WHEREAS** the Optimist Club in the operation of the Liquor Business at the Complex shall comply with all Applicable Laws including but not limited to any health and safety measures related to covid-19 and as may be imposed by the Municipality or any other governmental authority or body from time to time; complying with all of the Alcohol and Gaming Commission of Ontario’s (the “**AGCO**”) applicable standards and regulatory requirements; and all Municipal policies;

**AND WHEREAS** in the event more restrictive provisions are enacted by the Federal, Provincial or Municipal governments following the execution of this Management Agreement

as they relate to public gatherings, or the sale and consumption of liquor, or any other matters the Parties agree that the more restrictive provisions shall apply;

**AND WHEREAS** the Municipality has initiated the liquor business and engaged in this Management Agreement provided the Optimist Club meets all applicable laws and any and all mandatory requirements as required by the Municipality its by-laws, policies, or standards, including but not limited to the Management Conditions relating to the sale and consumption of alcohol in the Complex set out in Schedule "B" attached;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the premises and of the covenants and agreements hereinafter contained on the part of the Optimist Club to be observed, fulfilled and performed, and the sum of TEN DOLLARS (\$10.00) now paid by the Optimist Club to the Municipality, the receipt of which is hereby acknowledged, the Parties agree with each other as it relates to the management, oversight and responsibility the Liquor Business as follows subject to the limitations and provisions hereinafter set out:

#### **RECITALS**

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

#### **LIQUOR MANAGEMENT SERVICES**

2. The Optimist Club hereby agrees, represents, warrants and covenants as follows:
  - a. To be responsible for the oversight and management of the sale and consumption of alcohol at the Complex and all associated services and obligations relating to and associated with the sale and consumption of alcohol at the Complex (the "**Management Services**");
  - b. That it has full legal right, power, and authority to enter into this Management Agreement;
  - c. To abide by all requirements of the Alcohol and Gaming Commission of Ontario, or any conditions required by the approved liquor license;
  - d. That it has full knowledge and understanding of the contents of this Management Agreement and the applicable Municipal by-laws, policies, standards, and guidelines and hereby agrees to comply with all Applicable Law including but not limited to the applicable legislation, regulations, orders, policies or by-laws or any other directive issued by any level of government including but not limited to the Province of Ontario and Municipality of Middlesex Centre;
  - e. That all necessary permissions, including but not limited to any permits, approvals, licenses required by the AGCO and the Municipality, if applicable, have been obtained permitting the use of the Designated Areas for the purposes of the sale and consumption of alcohol;
  - f. That it accepts the Complex in its present condition;
  - g. To ensure that only the Designated Areas are used for the purposes of the sale and consumption of alcohol and no other purpose;
  - h. That no signage, advertising, or other notices will be erected or placed on Municipal property without obtaining the Municipality's prior written approval and/or any

permits and/or licenses required by the Municipality for the signage. However, the Optimist Club shall ensure that appropriate signage is displayed within the Designated Areas confirming the availability of washrooms in the building and whether such washrooms are accessible to persons with disabilities;

- i. To limit as much as reasonably possible any risk of, or damage to the Municipal property as a result of the sale and consumption of alcohol;
- j. When engaging in the sale of alcohol to maintain and keep the Designated Areas in a tidy and clean state at its sole cost and expense as much as reasonably practicable and in a condition acceptable to the Municipality, acting reasonably;
- k. When engaging in the sale of alcohol any garbage and recycling closed containers and not open blue boxes shall only be placed within the Designated Areas and in a location acceptable to the Municipality and shall not be situated beyond the Designated Areas. Furthermore, the Optimist Club agrees to ensure that no refuse, litter, garbage or loose or objectionable material accumulates in or around the Complex as a result of the sale and consumption of alcohol;
- l. When engaging in the sale of alcohol to not commit or suffer, cause, or permit to be committed any kind of nuisance or offensive act or misconduct in or around the Designated Areas; and,
- m. To establish a monthly schedule to the satisfaction of the Municipality, acting reasonably, clearly identifying, and setting out the times and dates during which it will engage in the sale of alcohol in the designated areas.

#### **TERM**

3. This Management Agreement shall be in force from the date upon which the license is issued by the AGCO and continuing for a period of two years from the date of execution subject to the renewal provisions set out in section 4 below unless terminated prior thereto under the terms and conditions of this Management Agreement (the “**Initial Term**”).
4. Provided the Optimist Club is not in default of any provisions of this Management Agreement the Optimist Club shall have the option to renew this Management Agreement at the end of the Term for a further term of five (5) years from and after the expiry of the Initial Term on the same terms and conditions (“**Renewal Term**”). If the Optimist Club wishes to exercise its option to renew, the Optimist Club shall provide written notice to the Municipality at least ninety (90) days prior to the expiry of the Initial Term (“**Option to Renew Period**”).
5. Either Party may terminate this Management Agreement upon provided the other with sixty (60) days written notice of its intention to terminate the Management Agreement.
6. Failure of the Optimist Club to meet the terms and conditions set out in this Agreement including but not limited to compliance with all Applicable Laws may result in the immediate termination of this Management Agreement by the Municipality.

#### **LICENCE FEE**

7. The Optimist Club shall be responsible for the Liquor Licence application fee in the amount of \$1,055.00 (the “**Licence Fee**”). The Optimist Club shall pay the Licence Fee to

the Municipality forthwith upon the Alcohol and Gaming Commission of Ontario (the "AGCO") issue the Liquor Licence for the Complex to the Municipality. The Optimist Club may not engage in any of the activities set out under this Management Agreement until written confirmation from the Municipality that the Licence Fee has been paid in full.

8. Immediately at the start of the Renewal Term the Optimist Club shall be responsible for paying the renewal application fee for the Liquor Licence (the "**Renewal Licence Fee**"). The Renewal Licence Fee shall be paid thereafter every two (2) years by the Optimist Club. The costs associated with the Renewal Licence Fee shall be the amount established by the AGCO. Failure of the Optimist Club to pay the Renewal Licence Fee within a period of fifteen (15) days of written notification of the Renewal Licence Fee by the Municipality may result in the immediate termination of this Management Agreement.

#### **MUNICIPALITY'S COVENANTS**

9. The Municipality covenants and agrees as follows:
  - a. To, in a timely and reasonable manner, make any repairs to the Complex arising as a result of normal wear and tear or associated with the Complex and shall not include those repairs set out in section 2 i. above and upon giving written notice to the Optimist Club to make good any defect or repair to the Complex;
  - b. To pay for all electrical power used by the Optimist Club in the management and operation of the sale and consumption of alcohol in the Designated Areas;
  - c. To provide heat and air conditioning and to repair and to keep and maintain all HVAC equipment in good working order;
  - d. To maintain adequate insurance on the Property in accordance with the Municipality's general standards as they apply to similar buildings located throughout the Municipality of Middlesex Centre; and,
  - e. To keep and maintain a liquor licence as issued by the AGCO.

#### **INSURANCE**

10. The Optimist Club shall maintain in force and effect for the term of this Management Agreement, including any renewal term, insurance that satisfies the following:
  - a. such insurance shall provide comprehensive general liability insurance against claims for personal injury, death or property damage or loss arising in connection with the management and operation of the sale of alcohol in the Designated Areas;
  - b. such insurance shall provide primary coverage to the Municipality as an additional insured;
  - c. such insurance shall have limits of liability of at least Five Million (\$5,000,000.<sup>00</sup>) Dollars per incident;
  - d. such insurance shall include a cross-liability clause protecting the Municipality against claims by the Optimist Club as if the Municipality were separately insured;
  - e. such insurance shall provide coverage which shall continue for the term of this Management Agreement, including any renewal term;

- f. the Optimist Club shall provide a valid insurance certificate to the Municipality meeting the terms and conditions of this section 10 annually on November 30<sup>th</sup>; and
  - g. such insurance shall contain a clause that the insurer will not lapse, cancel or change or refuse to renew the insurance without first giving the Municipality sixty (60) days' prior written notice;
11. Forthwith after the execution of this Management Agreement, the Optimist Club shall provide the Municipality with evidence of the insurance to be provided as required by this section 11 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 the Management Agreement dated March 1<sup>st</sup>, 2023 between the Municipality of Middlesex Centre and the Optimist Club.
12. Immediately after the execution of this Management Agreement and no later than five (5) business days, the Optimist Club shall provide to the Municipality a copy of a valid Clearance Certificate from the Workplace Safety & Insurance Board, if required.

**ADDITIONAL CONDITIONS**

13. The Municipality reserves the right to apply additional or site-specific conditions, if necessary, as it relates to the sale and consumption of alcohol in the Designated Areas through the issuance of this Management Agreement.

**INDEMNIFICATION**

14. The Optimist Club 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, regulatory charges, administrative monetary penalties, costs (including legal and consulting 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 Optimist Club, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of this Management Agreement and use of the Designated Areas. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Optimist Club in accordance with this Management Agreement and shall survive the termination of this Management Agreement.

**NOTICE**

15. Any notice to be given pursuant to this Management 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

E-mail: [mairs@middlesexcentre.ca](mailto:mairs@middlesexcentre.ca)

The Optimist Club: Optimist Club of Komoka-Kilworth  
Garvin Burt, President  
133 Queen Street  
Komoka, ON N0L 1R0  
E-mail: [kkoptimists@gmail.com](mailto:kkoptimists@gmail.com)

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, 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**

16. Any and all disputes arising between the Parties hereunder shall be referred to the arbitration of three arbitrators, one to be nominated by the Optimist Club, 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 within sixty (60) days of the submission of such dispute to arbitration, or such other period as the Parties may agree.

#### **GENERAL PROVISIONS**

17. It is hereby mutually agreed between the Municipality and the Optimist Club that:
- a. Any general repairs necessary to the Designated Areas that are agreed to by the Parties in writing to be undertaken at the expense of the Optimist Club must have the prior written approval of the Municipality;
  - b. No waiver of any of the provisions contained in this Management 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 Management Agreement;
  - c. This Management Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter of this Management 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 Management Agreement. Time is and shall continue to be of the essence;
  - d. The invalidity of any provision of this Management 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 Management 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 Management 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. The Optimist Club shall return to the Municipality the Designated Lands at the termination of this Management Agreement, to the Municipality in good repair subject to reasonable wear and tear;
- h. All improvements, equipment, chattels or fixtures placed on the Designated Areas existing as of the date of this Management Agreement shall become and remain the property of the Municipality save and except for those more particularly described in this Management Agreement;
- i. All major unattached furnishings and major appliances purchased at the expense of the Optimist Club, subsequent to the date of this Management Agreement, shall remain the property of the Optimist Club and shall be immediately removed from the Designated Areas upon termination of this Management Agreement;
- j. In the event that the Optimist Club defaults in the performance of any covenants in this Management Services and if such default shall continue for ten (10) days, (after receiving written notice) the Municipality may perform that covenant on the Optimist Club's behalf and shall not be liable to the Optimist Club for any loss or damage so caused. If the Municipality at any time is compelled or elects to incur any expense including legal fees in instituting, prosecuting or defending any action or proceeding based upon any default of the Optimist Club under this Management Agreement (including any action or proceeding against the Optimist Club) any reasonable sum including any legal fees paid by the Municipality, together with all interest and damages, shall be payable by the Optimist Club immediately on demand by the Municipality;
- k. No waiver of a breach of any of the covenants of this Management Services shall be construed to be a waiver of any succeeding breach of the same or any other covenant;
- l. The Municipality at all reasonable times, may enter upon and view the state of repair of the Designated Areas and the Optimist Club agrees to comply with all reasonable requirements of the Municipality with regard to the care, maintenance, and repair thereof, to the extent that the Optimist Club is responsible under this Management Agreement for such care, maintenance and repair;
- m. At all times during its use of the Designated Areas the Optimist Club shall comply with all of the Municipality's applicable by-laws, rules, policies, directive, standards and guidelines in addition to any applicable Provincial or Federal laws, regulations, policies, guidelines and directives ("**Applicable Law**") that in any manner relate to or affect the Designated Areas and the use of the Designated Areas by the Optimist Club for the purposes set out in this Management Agreement;

- n. The Optimist Club shall not assign this Management Agreement or sublet the Designated Areas without obtaining the prior written consent of the Municipality and such consent may be arbitrarily withheld by the Municipality;
- o. The Municipality covenants with the Optimist Club for quiet enjoyment; and
- p. All of the provisions of this Management Services 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**

- 18. 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 Management Agreement.

#### **COUNTERPARTS**

- 19. This Management 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 Management Agreement.

***One signature page to follow.***



**IN WITNESS WHEREOF** the proper officers of the Parties hereto have executed this Management Agreement.

**OPTIMIST CLUB KOMOKA-KILWORTH**

Per: \_\_\_\_\_  
Name:  
Title:

I have the authority to bind the Optimist Club.

**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"**

THIS MANAGEMENT AGREEMENT dated the 1<sup>st</sup> day of March 2023

B E T W E E N:

**THE MUNICIPALITY OF MIDDLESEX CENTRE**  
(hereinafter called the "Licensor" or "Municipality")

OF THE FIRST PART

- and -

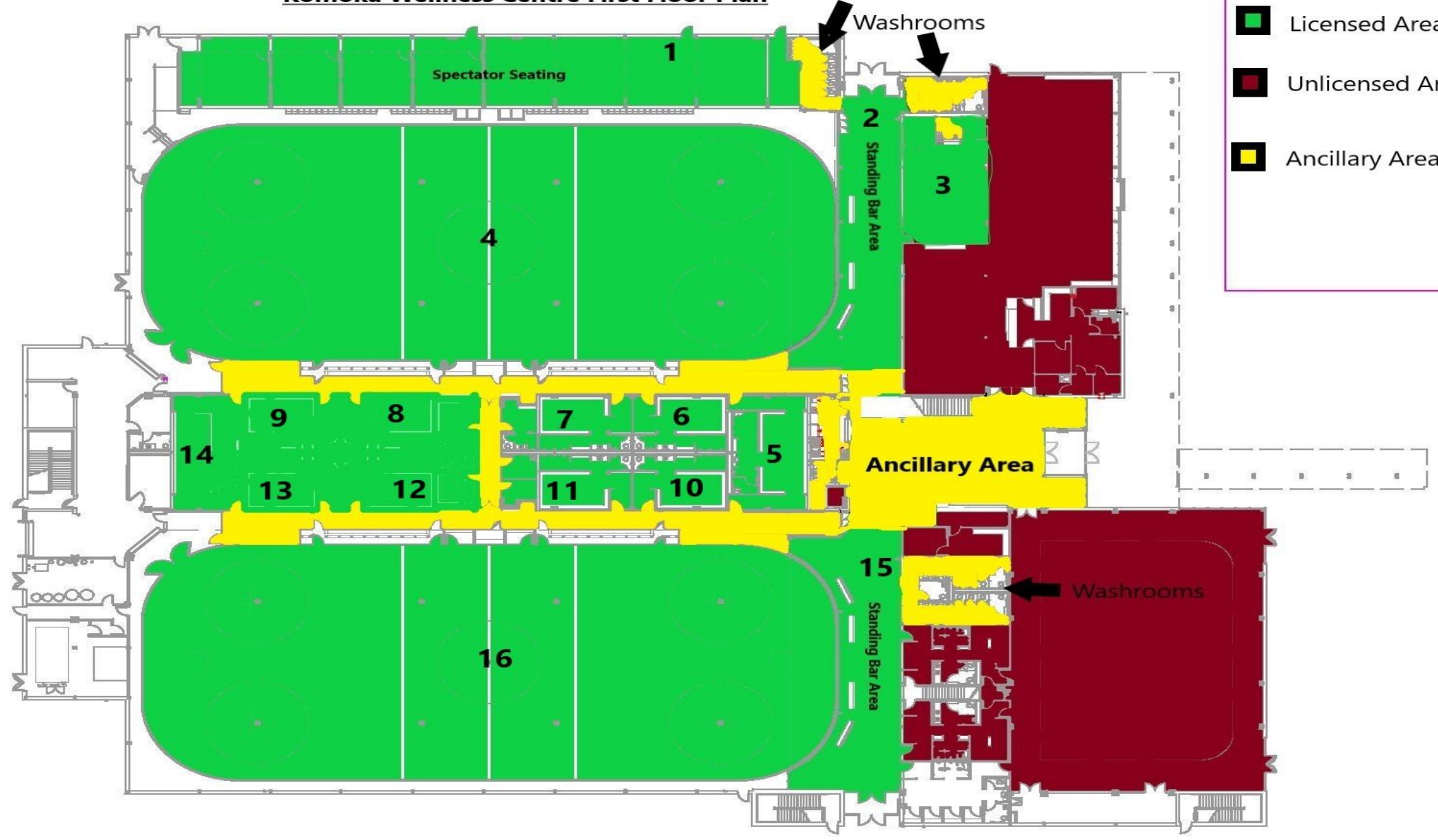
**KOMOKA-KILWORTH OPTIMIST CLUB**  
(hereinafter called the "Optimist Club")

OF THE SECOND PART

**DESIGNATED AREAS**

*See following pages for location of the designated areas and dimensions and capacity numbers.*

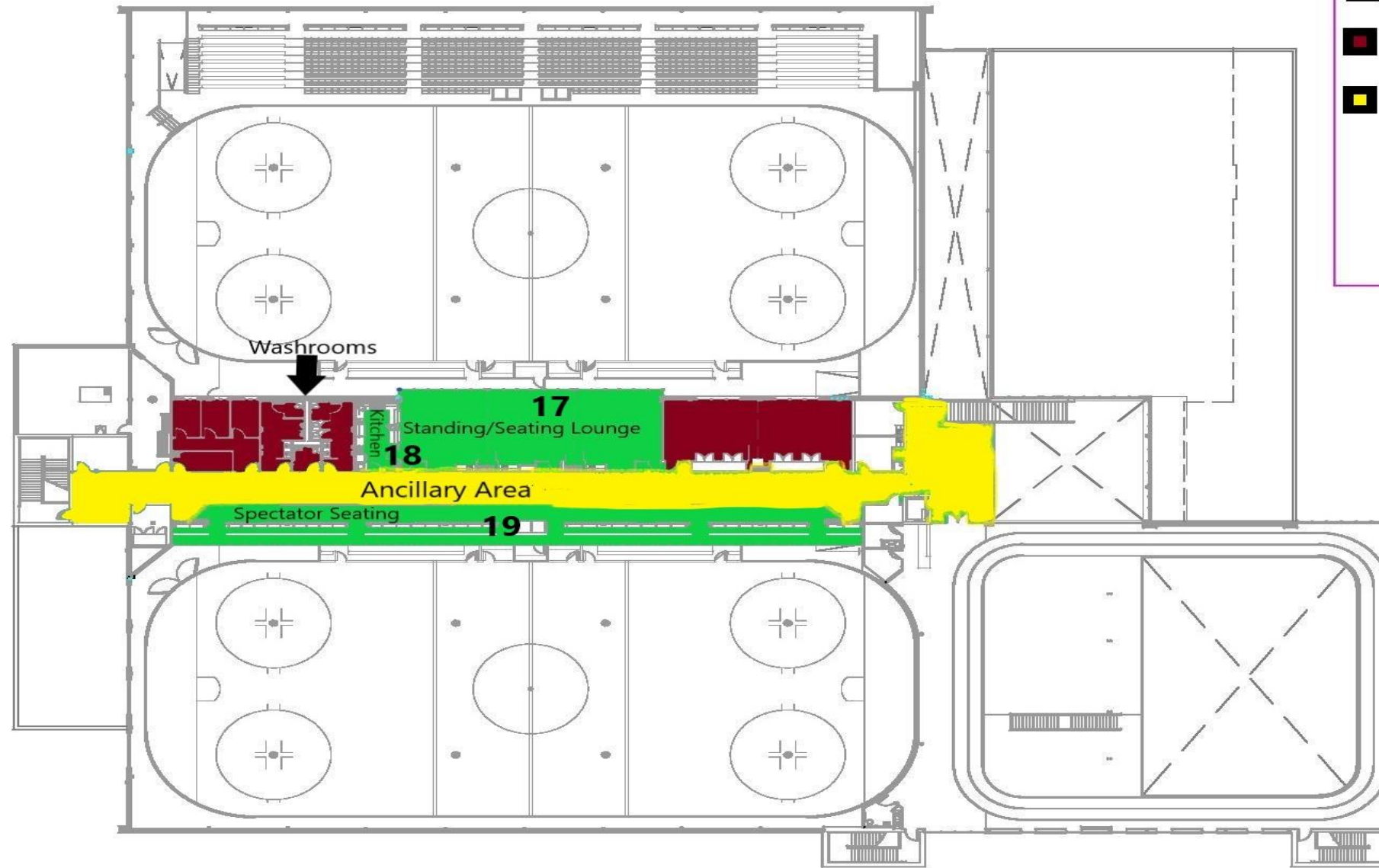
**Komoka Wellness Centre First Floor Plan**



**LEGEND**

- Licensed Area
- Unlicensed Area
- Ancillary Area

### Komoka Wellness Centre Second Floor Plan



**LEGEND**

- Licensed Area
- Unlicensed Area
- Ancillary Area

Washrooms

17 Standing/Seating Lounge

18 Kitchen

Ancillary Area

19 Spectator Seating

**Legend for Dimensions/Capacity Limits for:**

Komoka Wellness Centre and Recreation Complex  
1 Tunks Lane  
Komoka ON  
NOL 1R0

- Zone 1: Rink 1 Ice Pad Spectator Seating/Standing Area- (50.84m x 8.46m = **430.1m2**)
- Zone 2: Rink 1 Ice Pad Lobby Standing Area- (5.45m x 30.69m = **167.26m2**)
- Zone 3: Plunkett Meeting Room- (7.01m x 10.75m = **75.35m2**)
- Zone 4: Rink 1 Ice Pad Surface - (60.96m x 25.9m = **1578m2**)
- Zone 5: Dressing Room Number 1 – (2.73m x 10.70m = **29.21m2**)
- Zone 6: Rink 1 Ice Pad Dressing Room Number 2 – (4.10m x 7.82m = **32.06m2**)
- Zone 7: Rink 1 Ice Pad Dressing Room Number 3- (4.10m x 7.82m = **32.06m2**)
- Zone 8: Rink 1 Ice Pad Dressing Room Number 4- (4.10m x 7.82m = **32.06m2**)
- Zone 9: Rink 1 Ice Pad Dressing Room Number 5- (4.10m x 7.82m = **32.06m2**)
- Zone 10: Rink 2 Ice Pad Dressing Room Number 2 – (4.10m x 7.82m = **32.06m2**)
- Zone 11: Rink 2 Ice Pad Dressing Room Number 3- (4.10m x 7.82m = **32.06m2**)
- Zone 12: Rink 2 Ice Pad Dressing Room Number 4 –(4.10m x 7.82m = **32.06m2**)
- Zone 13: Rink 2 Ice Pad Dressing Room Number 5 – (4.10m x 7.82m = **32.06m2**)
- Zone 14: Dressing Room Number 6 - (2.73m x 10.70m = **29.21m2**)
- Zone 15: Rink 2 Ice Pad Lobby Standing Area- (5.45m x 29.44m = **160.44m2**)
- Zone 16: Rink 2 Ice Pad Surface - (60.96m x 25.9m = **1578m2**)
- Zone 17: Second Floor Rink 1 Second Floor Spectator Viewing Area – (20.79m x 7.00m = **145.53m2**)
- Zone 18: Second Floor Kitchen – (2.57m x 6.36m = **16.34m2**)
- Zone 19: Rink 2 Second Floor Spectator Seating/Standing Area- (47.48m x 4m = **189.92m2**)

*\*\*Note: Areas Calculated by Middlesex Centre's Fire Department Fire Prevention Officer*