

THIS LICENSE AGREEMENT made this 6th day of April 2024

BETWEEN:

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

OF THE FIRST PART

- and -

Elite Performance and injury Centre
(collectively referred to as the "**EPIC**" or "**Licensee**")

OF THE SECOND PART

WHEREAS the Municipality is the owner and operator of lands used for the purposes of the main parking lot and rear grass area associated with the Komoka Wellness Centre and municipally identified at 1 Tunks Lane, Komoka, Ontario (the "**Wellness Centre Parking Lot**");

AND WHEREAS Elite Performance and Injury Centre is a for profit organization that provides physiotherapy and medical services to community-based and professional individuals and is providing limited services associated with the physiotherapy and exercise services provided by EPIC's clients (the "**Services**") on a temporary basis at the Wellness Centre Parking Lot specifically 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 EPIC will be erecting a temporary tent structure that will be located in the Licensed Area for the purposes of providing the Services (the "**Temporary Structure**");

AND WHEREAS the Municipality agrees to allow EPIC non-exclusive use of the Licensed Area subject to the terms, covenants and conditions set out in this Agreement;

AND WHEREAS at all times during its use of the Licensed Area the Licensee shall comply with all applicable laws which shall be broadly defined to include but not limited to the Municipality's by-laws, rules, policies and guidelines any applicable Provincial or Federal laws, regulations, policies, guidelines and directives or orders of any governmental authority (collectively referred to as "**Applicable Law**" or "**Applicable Laws**") 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;

AND WHEREAS EPIC 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**”) to provide the Services in the temporary tent structure at the Licensed Area;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the covenants and agreements hereinafter contained on the part of the Licensee to be observed, fulfilled and performed, and the sum of TEN DOLLARS (\$10.00) now paid by the Licensee to the City, the receipt of which is hereby acknowledged, the Licensor hereby grants to the Licensee permission to access and/or encroach upon the Licensed Lands in the manner set out in this Agreement, subject to the limitations and provisions hereinafter set out:

RECITALS

1. The undersigned Parties agree that the above recitals are true in substance and in fact and are hereby incorporated into this License Agreement by reference.

TERM

2. This License Agreement shall be in force from April 1, 2024, and continuing until October 31, 2024, unless terminated prior thereto in accordance with the terms of this Agreement (the “**Initial Term**”).
3. Either Party may terminate this License Agreement upon provided the other with a minimum of thirty (30) days written notice of its intention to terminate the License Agreement.

GRANT OF LICENSE

4. Subject to the terms and conditions of this License Agreement, the Municipality grants to the Licensee a non-exclusive license to use the Licensed Area subject to the terms and conditions set out in this Agreement;
5. The Licensee confirms that all necessary permits, permissions, approvals and any other authorizations (collectively the “**Permits**”) as it relates to the provisions of the Services and construction of the Temporary Structure have, or shall be, obtained prior to constructing the Temporary Structure and initiating the provision of the Services and any such Permits shall remain in full force and effect during the Licensees use of the Licensed Lands for the Services and Temporary Structure set out in this Agreement.

The Licensee acknowledges and agrees that at all times it shall comply with all Applicable Laws for the sole purposes of providing the Services during the Initial 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 prior to the Licensee commencing any Services on the Licensed Lands. The Municipality may alter the routes in its sole and absolute condition at which time it shall immediately advise the Licensee of such alterations in writing. The Licensee shall post signage to the satisfaction of the Municipality, acting reasonably, clearly identifying the ingress and egress routes.
7. 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

8. In consideration for the License granted by the Municipality to the Licensee, the Licensee shall pay to the Municipality a fee in the amount of \$2 (two dollars)..

USE OF LICENSED AREA

9. The Licensed Area shall be used by the Licensee solely for the purposes of the Services and for no other purpose unless agreed to in advance in writing by the Municipality.
10. The Licensee shall at all times be responsible for and supply all of its own equipment and supplies to conduct the Services.
11. 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.
12. 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.

13. The Municipality is not responsible for items that are damaged or missing from the Licensed Area or any damage to the Temporary Structure.
14. The Municipality shall provide access to the washrooms in the Komoka Wellness Centre during the term of this Agreement for those individuals using the Services provided by the Licensee in the Temporary Structure.
15. Any additional supporting infrastructure including but not limited to electrical power, water, and any other utility / service deemed necessary shall be at the sole cost and expense of the Licensee and shall be provided in accordance with all Applicable Laws. The Licensee shall be solely responsible for any and all requirements necessary to provide its Services including but not limited to electrical power, water or any other utility/services and the Licensee.
16. It is the responsibility of the Licensee to ensure walking paths, fire routes and access points are maintained free and clear at all times and in accordance with all Applicable Laws.
17. It is the responsibility of the Licensee to clearly and physically delineate the Licensed Area to its patrons.
18. The Structure and any tents, shade structures, product and displays shall be permitted on the Licensed Area and shall at all times be secured in such a manner that does not result in any damage to the Temporary Structure, Komoka Wellness Centre or any other buildings and structures in the area in a manner that does not cause or result in any damage and deemed safe for the public and in accordance with all Applicable Law.

STATE OF THE LANDS

19. Once the Term of this License Agreement is fulfilled, the Licensee shall forthwith remove all Structures and any other appurtenance thereto from the Licensed Area.
20. The Licensee agrees to accept the Licensed Lands on an “as is, where is” basis.
21. The Licensee covenants and agrees that, upon expiration or other termination of this License, it shall remediate the Licensed Lands to the state and standard of repair to which they existed prior to the installation of the Temporary Structure, in the sole and

absolute discretion of the Municipality, reasonable wear and tear excepted.

PUBLIC HEALTH

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

GENERAL LIABILITY INSURANCE

23. The Licensee shall, at their expense obtain and keep in force during the term of the Agreement, Commercial General Liability Insurance to the satisfaction of 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 \$5 million/occurrence;
 - b. Add the Municipality of Middlesex Centre as an additional insured with respect to the operations of the Named Insured;
 - c. Products and completed operations coverage;
 - d. Broad Form Property Damage;
 - e. Contractual Liability;
 - f. Hostile fire.
24. Forthwith after the execution of this License Agreement, Licensee shall provide the Municipality with evidence of such insurance to be provided as required in section 21 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 April 6, 2024 between the Municipality of Middlesex Centre and EPIC.

INDEMNIFICATION

25. 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), administrative penalties, Orders, 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 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 this provision shall survive the termination of this License Agreement.

NOTICE

26. 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

The Licensee: Elite Performance and Injury Centre
317 Elderberry Ave, London, ON
CHRIS CHANT
chris@epicsportscentre.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 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

27. 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

28. 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, inoperability, or destruction of the Licensed Area (unless by reason of the negligence of any Party to this Agreement).

FAILURE TO PAY

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

LICENSEE'S COVENANTS

30. The Licensee shall not do or permit anything to be done on the Licensed Lands that may cause, or result in:

- a. a nuisance;
- b. damage to the Licensed Lands, surrounding area or Komoka Wellness Centre;
- c. injury or annoyance to occupants or owners of any neighbouring properties or properties in close proximity to the Licensed Lands;
- d. any insurance on the Licensed Lands becoming void or voidable;
- e. a breach of any Applicable Laws; and/or
- f. a lien, mortgage, or other encumbrance to be incurred or registered against the Licensed Lands.

GENERAL PROVISIONS

31. 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, employee or employer, 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. 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;
- h. 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;
- i. 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

- 32. 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

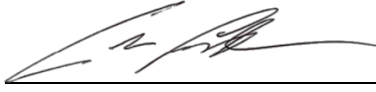
- 33. This Agreement may be executed in counterparts and delivered by facsimile transmission or e-mail, and when each party has executed and delivered a

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.

CHRIS CHANT

Per: 
Name: Chris Chant
Title: Founder/Co-owner, EPIC

I have the authority to bind the . The Elite Performance and Injury Centre

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

