

THIS LEASE made as of the 1st day of January, 2012, in pursuance of the *Short Forms of Leases Act*.

B E T W E E N:

CITY OF GREATER SUDBURY

(Hereinafter called the "Landlord")

- and -

SUDBURY WINTER TENNIS CLUB

(Hereinafter called the "Tenant")

WHEREAS the Landlord is the owner of certain lands municipally known as **0 Cypress Street, Sudbury**, and legally described as PIN 73585-0852 (LT), part of Lot 6, Concession 3, Township of McKim, which is utilized by the Landlord as a public park and recreation area commonly known as Queen's Athletic Field;

AND WHEREAS pursuant to Agreement made between the Landlord and the Tenant, dated September 22nd, 1992, the Landlord allowed the Tenant to use, for its own purposes, part of a field house at Queen's Athletic Field and to construct a removable, air-supported structure thereon within which the Tenant operated an indoor tennis facility for the use and benefit of its members and the public, on the terms and conditions set out in that Agreement;

AND WHEREAS the Agreement between the Landlord and the Tenant expired on October 1st, 2002, and the Tenant has requested that the Landlord enter into a new Agreement to allow the continued occupation of part of the field house at Queen's Athletic Field and the continued use of part of the land at Queen's Athletic Field for its structure for the continued operation of the indoor tennis facility;


AND WHEREAS the parties wish to set out the terms for the continued use and occupation of part of Queen's Athletic Field by the Tenant as a tennis facility open both to its members and to the public;

NOW THEREFORE in consideration of the mutual covenants contained herein and other good and valuable consideration, the parties hereto agree as follows:

Terminology

1.(1) For the purposes of this Agreement:

- (a) "Common Areas" includes that portion of the field house structure at Queen's Athletic Field not leased to the Tenant, including the washrooms, shower rooms, locker rooms, walkways to the field house structure, all in common with all others entitled thereto from time to time;
- (b) "Field House" shall mean that portion of the Field House located on Queen's Athletic Field leased to the Tenant pursuant to this Lease as illustrated on the sketch attached as Schedule 'B';
- (c) "Leased Areas" shall mean the Structure Lands and the Field House collectively;
- (d) "Queen's Athletic Field" shall mean property owned by the Landlord municipally known as 0 Cypress Street, Sudbury, and legally described as PIN 73585-0852(LT), part of Lot 6, Concession 3, Township of McKim;
- (e) "Structure" shall mean the removable air-supported structure owned by and erected by or on behalf of the Tenant on the Leased Land which

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structure is commonly referred to as the tennis bubble and includes the enclosed walkway from the Field House to the Structure, all supports and shall also include any replacement structure or structures and any extension to the structure authorized pursuant to this Lease; and

- (f) "Structure Lands" shall mean that part of Queen's Athletic Field leased to the Tenant for the Structure in the approximate location shown on the sketch attached as Schedule 'A'.

The Landlord grants to the Tenant on the terms and conditions set out in this Agreement a lease of the Field House and the Structure Lands, TOGETHER WITH the non-exclusive right for the Tenant, its officers, directors, members, employees, contractors, members, visitor and all those persons permitted on the Leased Areas by the Tenant to use the Common Areas. The right of use of the Common Areas shall be restricted to their intended use and shall be subject to such rules and regulations as may be imposed from time to time by the Landlord. The Landlord may from time to time temporarily obstruct or close off parts or all of the Common Areas in order to carry out maintenance or repair or any municipal purpose, as the Landlord, in its sole discretion, deems advisable and such obstruction or closing of shall not be deemed to be an interference with the Tenant's right of the use thereof. The Landlord shall, in its sole discretion, determine the standard of repair and maintenance, if any to any of the Common Areas.

The Tenant acknowledges that the Leased Areas are within a public park area, and subject to any Parks By-law of the City of Greater Sudbury.

Term

2. Unless this Agreement is earlier terminated, the Tenant shall have the right to have and to hold the Leased Areas with all privileges and appurtenances pertaining thereto, for a term of 10 years commencing on the 1st day of January, 2012, to and including the 31st day of December, 2021 (the "Term").

Rent

- 3.(1) In consideration of the Tenant providing tennis facilities for the use and benefit of its members and the public, the Tenant shall not be required to pay any Base Rent to the Landlord.
- (2) The Tenant shall be responsible for and pay all charges, impositions, costs and expenses of every nature and kind relating to the Structure on the Leased Land and all improvements thereon or thereto and to the use and occupancy of the Structure and the Leased Areas except as expressly provided to the contrary herein.
- (3) All payments required to be made by the Tenant pursuant to this shall be payable as additional rent ("Additional Rent"), whether payable directly to the Landlord or not, and whether or not identified herein as 'additional rent'.
- (4) The obligation to pay Additional Rent shall survive the expiry or other termination of this Lease.

Real Property Taxes

4. The Tenant covenants to pay as Additional Rent, as and when due, all real property taxes (including taxes for education, schools and local improvements) charged, levied or assessed against Queen's Athletic Field or the Leased Areas, as a result of the Tenant's use and occupation of the Leased Areas and any amounts levied, imposed, assessed or charged in substitution for or in lieu of any of the foregoing. The Tenant acknowledges that as of the Lease

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commencement date, no real property taxes are being levied against the Leased Areas. However, the use and occupation of the Leased Areas by the Tenant may trigger an assessment change resulting in property taxes being levied. The Tenant further understands that any re-assessment and tax impact may be delayed, and result in a retroactive assessment to the date of possession.

Tenant - Services to Structure

5. The Tenant covenants to pay as Additional Rent, as and when due and all costs and expenses associated with the extension of or relocation of any natural gas service to the Structure necessary to provide heat, air conditioning, air support or other services for the Structure, the installation of meter, the provision of and the cost of natural gas supplied to or used or consumed within the Structure for any purpose. The Tenant agrees to place in its name the account for the gas service provided to the Structure for which the Tenant is responsible, and further agrees to provide to the Landlord upon request, from time to time, confirmation from the provider that payment is current.

Telephone and Similar Charges

6. The Tenant covenants to pay as and when due, all installation charges, monthly services charges and all subsequent charges relating to telephone, internet or cable service or for any other service for the benefit or use of the Tenant placed in or extended to the Leased Areas, or the Structure.

Use of Leased Areas

7. During term of the Lease, the Tenant covenants to use the Leased Areas for the operation of an indoor tennis facility and for no other purpose.

Accepts in current condition

8. The Tenant accepts the Leased Areas in the current condition and enters thereon solely at the Tenant's own risk.

Improvements

- 9.(1) The Landlord acknowledges that the Structure belongs to the Tenant and was constructed as an Improvement with the consent of the former The Corporation of the City of Sudbury, as then owner of Queen's Athletic Field, pursuant to a now expired agreement.
- (2) The Tenant shall not replace or reconstruct the Structure or any part thereof; shall not demolish the Structure or erect a new or replacement Structure; shall not effect any exterior renovations to the Structure or other structure which has been constructed, erected or placed on the Leased Areas; shall not make any installations, alterations, renovations or additions in or about the Field House or any part of the Leased Areas; shall not make any changes in grade, surfacing or landscaping of any part of the Leased Areas; all collectively referred to as "Improvements" unless:
 - (a) the Tenant first secures the consent of the Landlord's Director of Asset Services, to the proposed Improvements, which consent will not be unreasonably withheld but may be given subject to conditions;
 - (b) prior to commencing any approved Improvements, the Tenant obtains at its expense, all necessary permits and licences from any relevant authority, including without limitation, a building permit for the construction or erection of a new or replacement Structure. The consent of the Landlord to the making of Improvements shall not be construed or

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deemed to be a waiver of any obligation to obtain any necessary permit, licence, authorization or approval or construed or deemed to be an approval by the Landlord in its capacity as an issuer of any permit or licence, approval or authorization; and

- (c) the Tenant completes the approved Improvements in a good and workman like manner and in compliance with all laws, the Landlord's reasonable requirements and all other applicable requirements of any relevant Authority.
- (2) If the Tenant performs any Improvements without compliance with all of the provisions of this Section 9, the Landlord shall have the right to require the Tenant to remove such Improvements, forthwith, at the Tenant's expense, and to restore the Leased Areas or Structure to its prior condition.
- (3) The Tenant shall promptly pay for all materials supplied and work done in respect of any Improvements or other work done by the Tenant in the Leased Areas or Queen's Athletic Field except for any amount claimed to be due which is bona fide disputed by the Tenant. The Tenant shall use all reasonable efforts to ensure that no construction or other lien with respect thereto is registered against or attaches to Queen's Athletic Field or any part thereof, or against the Landlord's or Tenant's interest therein. If any such lien is so registered or so attaches, the Tenant shall discharge same at the Tenant's cost within 15 days after receipt of the Tenant of notice of such lien, failing which the Landlord may at its option discharge the lien by paying the amount claimed to be due and such other amount as is required by law into court and the amount so paid and all reasonable expenses of the Landlord (including legal fees and disbursements) shall be paid by the Tenant to the Landlord upon demand and if not so paid, the Landlord shall be entitled to the same remedies and may take the same steps for recovery of the unpaid amounts as if same were rent in arrears.

Repair / Replacement

- 10.(1) The parties acknowledge that the Structure is the property of the Tenant and the Tenant is solely responsible, at its own expense, to repair, maintain, replace the Structure, the systems serving the Structure, to keep same in a safe condition and otherwise exercise all incidents of ownership. The Tenant covenants that it shall, at its sole cost and expense at all times during the Term keep and maintain the Structure, including heating, ventilation, plumbing, electrical and other systems therein), and any Improvements, made or owned by it on the Leased Areas, and the Tenant's trade fixtures therein in a first-class condition and state of repair, replacing all or any part thereof as may be required from time to time, as would a prudent owner of such structures and improvements. All such work shall be done in a good and workmanlike manner with due diligence, in accordance with all applicable requirements of any relevant authority.
- (2) The Landlord's Director of Asset Services shall have the right to enter the Structure and the Leased Areas and any building or structure thereon, after giving the Tenant reasonable prior notice, to view the state of repair and condition thereof and the Tenant shall perform any maintenance, repairs or replacements according to the Landlord's notice and the Tenant's obligations hereunder.

Notice of Defects

- 11. The Tenant, shall, when it becomes aware of same, give notice to the Landlord of any accident, defect or damage in any part of the Leased Areas or the Common Areas which comes to the attention of the Tenant or any of its employees, members or contractors, notwithstanding the fact that the Landlord may not have any obligation in respect of the same.

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Keep Clean

12.(1) The Tenant covenants that it shall, at its sole cost and expense:

- (a) keep the Structure and Leased Areas clean and free from waste, refuse, garbage, litter and other objectionable material;
 - (b) implement appropriate programs for the management of waste, prohibited waste, and recyclable materials, as would a reasonably prudent Tenant in the circumstances of the Tenant; and
 - (c) arrange as necessary, for the removal and appropriate disposal of all waste, prohibited waste and recyclable material generated on or about the Structure or Leased Areas.
- (2) For the purposes of Subsection 12.(1), "waste", "prohibited waste" and "recyclable materials" shall have the meaning assigned in the Waste Management By-law of the City of Greater Sudbury in effect from time to time.

Keys and Security

- 13.(1) The Tenant shall control and limit the provision and use of keys and other devices permitting entry to the Field House and the gate to Queen's Athletic Field as would a reasonably prudent Tenant, and shall surrender to the Landlord upon expiry or other termination of the Lease, all keys and other devices permitting entry to the Field House, to the gate to the fence around Queen's Athletic Field and to the Structure, should the Tenant determine not to remove same.
- (2) The Tenant shall comply with any requirements established by the Landlord from time to time with respect to security systems and procedures for the security and safety of the Field House and Queen's Athletic Field including restricting or prohibiting access during non-business hours.

Hazardous Materials/Waste

14. The Tenant covenants that it shall:

- (a) not store, bring in or permit to be placed, any environmental contaminant or hazardous material in the Leased Areas or Structure; and
- (b) at its expense, remove any hazardous waste material from the Structure or Leased Areas in accordance with applicable legislation and regulations.

Floors/ Electrical Systems

- 15.(1) The Tenant covenants that it shall not bring or permit to be brought into any part of the Field House, any machinery, equipment, object or thing that by reason of its weight, size or use, might damage or endanger any part of the Field House and shall not at any time overload or permit the overloading of the floors of the Field House.
- (2) The Tenant shall not bring any material or equipment which could cause undue loads on electrical circuits or undue vibration, heat or noise into the Field House or any part of the Leased Areas or Structure or use or permit same to be used therein by or on behalf of the Tenant.
- (3) The Tenant shall not do, cause or permit to be done, any act or thing on the Leased Areas or in the Structure which may damage, injure or impair the operation of any drainage system, sanitary sewer system, or any facility provided for the protection of the general public or the operation of the Field House in general or for Queen's Athletic Field in general. Without limiting the generality of

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the foregoing, the Tenant shall not discharge, cause or permit to be discharged or howsoever to pass into the sewer system, storm drains or surface drainage facilities at the Leased Areas, any deleterious material, noxious, contaminated, poisonous or hazardous substances, all as determined by the Landlord.

Not Increase Insurance Costs or Fire Risk

16. The Tenant shall not use or permit the Leased Areas or Structure to be used for any purpose, or keep or permit to be kept anything on the Leased Areas or Structure, which may cause or result in any increase in premiums for any insurance, or cause or result in the cancellation of any insurance, carried by the Landlord with respect to any part of the Leased Areas and forthwith upon request of the Landlord, shall discontinue any such use of the Leased Areas cease to keep any such thing on the Leased Areas or in or about the Structure and shall not do or permit to be done in the Leased Areas or Structure or bring or keep anything therein which will in any way increase the risk of fire or violate or act at variance with the laws relating to fires or with the regulations of the Fire Department or Health Unit.

Tenant Other Covenants

- 17.(1) The Tenant covenants that during the Term of the Lease it will, at its expense:
- (a) comply with all plans, policies, rules and regulations of general application to Queens Athletic Field or the Field House which may be established by the Landlord from time to time; and
 - (b) comply with any policy implemented by the Landlord from time to time, for conservation of energy and water;
- (2) The Tenant will not use any means of heating or cooling the Field House other than that provided by the Landlord, or of heating or cooling the Structure, other than as permitted by the Landlord.

Signs

- 18.(1) The Tenant shall not erect, install or display any sign on the Leased Areas which can be viewed from outside the Leased Areas, without the prior written consent of the Landlord's Director of Assets Services as to size, design, location, specifications and method of installation, which approval will not be unreasonably withheld.
- (2) The Tenant shall erect, install or affix any sign authorized under this Lease at its own cost and expense and in a safe and secure fashion and shall thereafter maintain any such sign in a good condition and state of repair.
- (3) The Tenant shall comply with the City of Greater Sudbury's By-law in effect from time to time, and secure any necessary permits or approvals prior to erection of any sign. No consent by the Landlord's Director of Asset Services to the affixing, erection or installation of a sign shall be deemed to be in lieu of such compliance.

Noise, Odours, Nuisance etc.

- 19.(1) The Tenant shall not cause, permit or suffer any unusual or objectionable noises or odours to emanate from the Structure or Leased Areas or to be caused by or result from its use of the Leased Areas or the Structure thereon.
- (2) The Tenant shall not do, permit or keep at or on the Leased Areas or in any structure, building or improvement thereon, any thing which is or may be a

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nuisance or which causes or may cause damage to or interfere with normal usage of any adjoining property.

Comply with Laws

20. The Tenant shall observe and comply, at its own expense, with all applicable by-laws, rules and regulations of the municipality and any statutes, regulations, rules of any federal, provincial or municipal authority, respecting the use, conduct of the operations of the Tenant, access to services and facilities in the Leased Areas, the condition and occupation of the Leased Areas and all buildings, structures, equipment and improvements located therein and to obtain from the appropriate authorities and maintain in good standing, all necessary permits, licences and approvals to permit the Tenant to conduct its business / operations on the Leased Areas and to occupy the Leased Areas.

Not Block Ingress/Egress Routes

21. The Tenant shall not block and shall not cause, authorize or permit its officers, directors, employees, members, contractors or persons it authorizes on the Leased Areas to block or obstruct any Common Area.

Release

22. The Tenant agrees that the Landlord, its officers, directors, employees, agents, and those for whom the Landlord is at law responsible, shall not be liable for any personal injury to, bodily injury to (including death of) or for any damage or loss to any property (including loss of use thereof) or for any incidental, indirect, special or consequential damages or any loss of use, revenue or profit arising out of or in anyway related to the use or occupation of the Leased Areas or Common Areas, or any building, structure, improvement, equipment, property thereon, which is or may be suffered or incurred by the Tenant or its officers, directors, members, employees, agents, servants, contractors, subcontractors, guests, licensees, volunteers or invitees, for any reason whatsoever, unless caused by or resulting from the negligence of the Landlord, its employees or agents while acting within the scope of his or her employment or agency respectively.

Tenant's Insurance

- 23.(1) The Tenant shall place and at all times, maintain during the currency of this Lease, with an insurer licenced to operate in Ontario, general commercial liability insurance in the amount of not less than \$2,000,000 per occurrence, insuring against any claims for personal injury, death or loss or damage to property arising out of any act or the operations of the Tenant under this Lease, or of the Acts or omissions of the Tenant or any of the Tenant's agents, employees or servants and such insurance shall be with a company or companies acceptable to the Landlord. The Tenant shall provide or cause to be provided to the Landlord, a Certificate from its insurer, in the Landlord's standard form, which shows that the policy or policies placed and maintained by it complies with the requirements of this Lease and shall refer to the Landlord as an additional insured. No review or approval of any such insurance certificate by the Landlord shall derogate from or diminish the Landlord's right or the Tenant's obligation contained in this Lease.
- (2) The Insurance policy shall provide that the insurance policy will not be cancelled, terminated or reduced in coverage without 30 days prior written notice by prepaid registered post addressed to the Landlord at the address indicated in Section 34 (Notices) below. Should the Landlord be of the opinion that the insurance taken out by the Tenant is inadequate in any respect for any reason whatsoever, it shall forthwith advise the Tenant of its reasons therefore and the Tenant shall forthwith obtain additional insurance satisfactory to the Landlord.

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- (3) The Tenant shall not do or omit to do or suffer anything to be done or omitted to be done on the Leased Areas which will in any way impair or invalidate such policy or policies.
- (4) If any policy of insurance upon the Leased Areas or the contents shall be cancelled or refused to be renewed or granted by an insurer by reason of the use or occupation of the Leased Areas by the Tenant or any of its employees, servants, or agents, the Tenant shall immediately remedy or rectify such use or occupation.
- (5) The issuance of any policy of insurance hereunder shall not relieve the Tenant of any of its obligations under this Lease.
- (6) The Tenant shall place and shall at all times maintain during the currency of this Lease, insurance against fire with respect to any improvements, buildings, or structures constructed, brought or placed upon the Leased Areas by the Tenant during the term of this Lease, and any renewals hereof and all policies for such insurance shall be in an amount and in a form satisfactory to the Landlord.

Indemnity

24. The Tenant undertakes and agrees to indemnify and save harmless the Landlord and its officers, employees, and agents, from and against all claims, demands, loss, cost, expenses, actions and other proceedings incurred, made, brought or prosecuted in any manner based upon, occasioned by or attributable to by reason of the Tenant's use or occupation of the Leased Areas, the Structure or Common Areas, the exercise or non-exercise of any right or obligation hereunder, or by the Tenant's negligence or that of its employees, agents, volunteers or persons permitted on the Leased Areas or Common Areas or the Structure by the Tenant or by reason of any injury to any person or property in or upon the Leased Areas or Structure from any cause whatsoever and such indemnity shall include all legal costs incurred by the Landlord (including fees and disbursements) and any administrative costs incurred by the Landlord. This obligation to indemnify shall survive the expiry or other termination of this Agreement.

Quiet Enjoyment

25. The Landlord covenants that the Tenant may peacefully and quietly have, hold, occupy, possess and enjoy the Leased Areas for the term of the Lease, provided the Tenant pays any additional rent and other sums it is required to pay hereunder, as set out and keeps, observes and performs all of the other covenants and provisions as required in this Lease.

Landlord's Obligations

- 26.(1) The Landlord covenants that it will provide at its expense, and to standards established by the Landlord from time to time:
 - (a) electricity, water, heat, to the Field House and where applicable, to the Common Areas;
 - (b) electricity to the Structure for lights;
 - (c) cleaning and janitorial services for the Common Areas, where applicable; and
 - (d) winter and summer maintenance of the pathways to the Leased Areas which form part of the Common Areas.

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- (2) Except as otherwise provided herein, the Landlord shall, at its expense, maintain and repair the heating, electrical and plumbing systems in the Field House and Common Areas in good working order and shall replace in whole or in part any such system or systems should the Landlord, in its sole discretion, determine it is appropriate to do so.
- (3) The Landlord is not liable for interruption or cessation of, or failure in, the supply of utilities, services or systems in, to or serving the Field House where they are supplied by the Landlord or others, unless the interruption or cessation has been cause, or to the extent contributed to, by the act, omission, negligence, fault or default of the Landlord.

Structural Repair

- 27.(1) Except as otherwise provided herein, the Landlord shall, at its expense, maintain the foundation, the outer walls, the floors and roof of the Field House building on Queen's Athletic Field, including the Field House in proper structural repair.
- (2) The Tenant covenants to permit the Landlord and its agents, contractors and employees to enter upon the Field House to make any necessary structural repairs to the Field House building on Queen's Athletic Field, including the Field House or repairs or replacements to the systems serving the Field House or field house building. Such entry shall be at reasonable times and upon prior reasonable notice, except in instances of emergency, when entry may be made at any time and without notice.
- (3) If the Field House building on Queen's Athletic Field, including without limitation, any part of the heating, electrical or plumbing system or other equipment of the Landlord in the Field House building; the roof; the outside walls; or the exterior doors; become damaged or destroyed through the negligence, carelessness of the Tenant or anyone permitted by the Tenant to be in the Leased Areas or Structure, the expense of any necessary repairs, replacement or alterations shall be paid by the Tenant to the Landlord forthwith upon demand, despite any provision to the contrary in this Lease.

Termination By Landlord

28.(1) It is expressly agreed that:

- (a) if the Tenant shall be in default in the payment of rent or amounts payable hereunder as Additional Rent, whether lawfully demanded or not, and such default shall continue for a period of 15 days after the Additional Rent has become due and payable, or
- (b) if the Tenant shall be in default of any of its covenants or agreements hereunder (other than its covenant to pay Additional and such default shall continue for a period of 30 days (or such longer period as may be reasonably necessary to cure such default considering the nature thereof) after written notice by the Landlord to the Tenant specifying with reasonable particularity the nature of such default and requiring the same to be remedied; or
- (c) if the Tenant shall make an assignment for the benefit of creditors, or shall make an assignment or have a receiving order made against it under the *Bankruptcy and Insolvency Act*, or becoming bankrupt or insolvent shall make application for relief under the provisions of any statute now or hereinafter in force concerning bankrupt or insolvent debtors, or any action whatsoever, legislative or otherwise shall be taken with a view to the winding up, dissolution or liquidation of the Tenant; or

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- (d) this Lease or any of the goods or chattels of the Tenant on the Leased Areas are at any time seized or taken in execution or in attachment by any creditor of the Tenant; or
- (e) the Tenant executes any chattel mortgage or bill of sale of any of its goods and chattels, including the Structure or any replacement Structure, other than a bill of sale of any of its goods in the ordinary course of the Tenant's business, without the prior written consent of the Landlord; or
- (f) any distress is levied upon any of the Tenant's Goods upon the Leased Areas; or
- (g) the Tenant ceases to operate an indoor tennis facility on the Leased Areas.

then at the option of the Landlord the term hereby granted shall become forfeited and void, and the Landlord may without notice of any form of legal process whatsoever forthwith re-enter upon the Leased Areas, the Structure, or any part thereof in the name of the whole and repossess and enjoy the same as of its former estate, anything contained in any statute or law to the contrary notwithstanding.

- (2) No condoning, excusing, overlooking or delay in acting upon by the Landlord or any default, breach or non-observance by the Tenant at any time or times shall operate as waiver of the Landlord's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance by the Tenant unless the Landlord has signed an express waiver in writing.
- (3) All rights and remedies of the Landlord under this Agreement are cumulative and not alternative.

Termination by Tenant

- 29. Despite anything else herein, the tenant may terminate this lease upon ninety (90) days written notice to the City, given in accordance with this Agreement and specifying the date of termination.

Recovery of Damages

- 30. If the Landlord at any time should terminate this Lease for any breach by the Tenant, it may recover from the Tenant all damages it incurs by reason of such breach, including the cost of recovering the Leased Areas, solicitor's fees (on a substantial indemnity basis) all of which amounts shall be immediately due and payable by the Tenant to the Landlord and if not paid, shall bear interest at the rate established by By-law for amounts owing to the City of Greater Sudbury.

Vacant Possession on Expiry or Termination

- 31. The Tenant covenants to deliver vacant possession of the Leased Areas to the Landlord at the expiry or other termination of this Lease, in the condition in which the Tenant is required to maintain the Leased Areas, reasonable wear and tear excepted and subject to Section 31.

Removal of Structure - End of Term

- 32. The Structure, and any systems servicing the Structure, all trade fixtures and other improvements to the Structure and to the Leased Areas shall, upon the expiry or earlier termination of this Lease shall be vested in the Landlord without any right to compensation on the part of the Tenant; nevertheless, the Landlord shall have the right of compelling the Tenant upon written notice, to remove the Structure, and any systems servicing the Structure, all trade fixtures and other

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improvements to the Leased Areas, and the Tenant shall be so bound to do so, at its cost and expense and shall restore the Structure Lands to a condition comparable to the surrounding lands at Queen's Athletic Park and the Field House to a condition comparable to the rest of the Field House, all at the cost and expense of the Tenant and without any right on the part of the Tenant to seek compensation for any reason whatsoever.

- (2) Should the Tenant fail to remove the Structure as directed by the Landlord, the Landlord shall have the right, in its sole discretion, but not the obligation to remove, store, sell, destroy or otherwise dispose of the Structure, and associated attachments and shall not be accountable for any of the foregoing or for any proceeds of same. The Tenant shall pay to the Landlord forthwith upon demand, any costs incurred by the Landlord (including legal fees and administrative costs) in the exercise of such rights. This obligation shall survive the expiry or other termination of this agreement. Any unpaid amount shall bear interest from the date due until payment in full, in accordance with the rate applicable to monies owing to the Landlord as established by By-law.

Right of Re-entry to Perform Covenants

33. If the Tenant should default in the performance of any covenant in this Lease (except a covenant to pay rent) and if such default should continue for 10 business days, the Landlord may perform that covenant on the Tenant's behalf and may enter the Leased Areas for that purpose and shall not be liable to the Tenant for any loss or damage to the Tenant's stock, furnishings or business so caused. If the Landlord 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 Tenant under this Lease (including any action or proceeding against the Tenant) any reasonable sum including solicitor/client costs so paid by the Landlord together with all interest and damages shall be payable the Tenant on demand as additional rent and if unpaid, shall be treated as unpaid rent or additional rent.

Overholding

34. If the Tenant continues to occupy the Leased Areas after the expiration of this Lease without any further written agreement, the Tenant shall be a monthly Tenant, on the same terms and conditions regarding Additional Rent as in effect for the last month of the term immediately preceding the expiration and otherwise on the terms and conditions as herein contained.

Notices

- 35.(1) All notices which it may be necessary or proper for either party to serve upon the other shall be served by delivery to the person to whom the notice is to be given or sent postage pre-paid to the following addresses or by facsimile transmission to the facsimile number set out below:

To the Landlord: CITY OF GREATER SUDBURY
200 Brady Street
P.O. Box 5000, Station 'A'
Tom Davies Square
Sudbury ON P3A 5P3

Attention: Director of Asset Services
Facsimile number: (705) 673-5171

To the Tenant: SUDBURY WINTER TENNIS CLUB
P.O. Box 545, Station 'A'
Sudbury ON P3E 4P8

Attention: Janice Worms, President
Phone: (705) 560-4758

- (2) Service shall be deemed effective immediately, upon delivery in person, or if mailed, on the fifth day after mailing, or if sent by facsimile transmission, on the same day, if transmitted before 4:00 p.m. on a day which is a business day and on the next following day which is not a statutory holiday, or weekend, if transmitted after 4:00 p.m.
- (3) Either party may from time to time specify in writing a new address to which any such notice shall thereafter and until further notice be sent.
- (4) In the event of a mail disruption or threatened mail disruption, no notices shall be served by mail.

Right to Register Notice of Lease

36. The Tenant covenants and agrees with the Landlord that the Tenant will not register this Lease in the Land Titles Office save and except any registrations necessary to evidence a mortgage of the Lease, the consent to the registration of which shall not be unreasonably or arbitrarily refused or delayed. If the Tenant desires to make a registration for the purpose only of giving notice of this Lease, then the parties hereto shall execute a short form hereof, in a form acceptable to the Landlord, solely for the purpose of supporting an application for registration of notice hereof. Upon the termination of the Lease for any reason, the Tenant covenants to co-operate as necessary, and sign such documentation as may be necessary to support an application to amend the register to remove the notice from title, upon request of the Landlord. All costs for the preparation of the documentation to register the notice, and to remove the notice from title, together with associated registration costs shall be borne by the Tenant.

Not Liable for Damage - Public Works - Actions of Others

37. The Landlord and its agents shall not be liable for any loss or damage caused by the construction of any public or quasi-public works or for any loss or damage caused by acts of omissions of any other Tenant or any occupant of the Leased Areas, its or their employees or agents, or any person not the employee or agent of the Landlord.

Waiver or Condonation of a Breach

38. No waiver of a breach of any of the covenants of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

Assignment or Subletting

- 39.(1) The Tenant may not sublet or assign or transfer its interest or any portion thereof in this Lease. The Tenant acknowledges that this Lease has been entered into in recognition of the value to the City of provision of an indoor tennis facility, operated by a non-profit corporation, which is open to the public, and as such is not assignable.
- (2) For the purpose of this Section 38, any change in the corporate structure of the tenant shall be deemed an assignment by the tenant of this Lease.

Force Majeure

40. The parties shall not be liable for any failure to perform their obligations hereunder if the non-performance is due to lightning, tempest, explosion,

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earthquake, acts of God, mob violence, acts of the Queen's enemies, strikes, lockouts or labor disruption or any catastrophic cause beyond their control.

The provisions of this Section 39 shall not operate to excuse the Tenant from the payment of Additional Rent in the amounts and at the times specified in this Lease. The parties agree that the party claiming the benefit of Force Majeure shall inform the other party in writing promptly on learning of such delay and shall, where possible, use commercially reasonable efforts to mitigate the effect of such delay.

General

41. All of the provisions of this Lease are to be construed as covenants and agreements as though words importing such covenants and agreements were used in each separate paragraph hereof.
42. All obligations of the Tenant shall expressly or by their nature survive termination or expiration of this Agreement and shall continue in full force subsequent to and notwithstanding such termination or expiration until and unless they are satisfied or by their nature expire.
43. This Agreement and the attached Schedules embody the entire Agreement and supercedes any other understanding or agreement, collateral, oral or otherwise, existing between the parties at the date of execution.
44. Unless otherwise specifically provided in this agreement, no consent or approval of the Landlord shall be unreasonably withheld or delayed and all determinations and decisions by the Landlord shall be made by the Landlord acting reasonably.
45. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.
46. All provisions herein shall be binding upon the parties hereto and shall enure to the benefit of the parties hereto and their respective heirs, executors, estate trustees, successors and assign.
47. This Agreement shall be read with the appropriate changes in gender and number as may be required in the circumstances.

IN WITNESS WHEREOF the parties sign the within Agreement by its duly authorized signing officers in that regard.

CITY OF GREATER SUDBURY

Per:

Daniel Reeve
Director of Asset Services

SUDBURY WINTER TENNIS CLUB

Per:

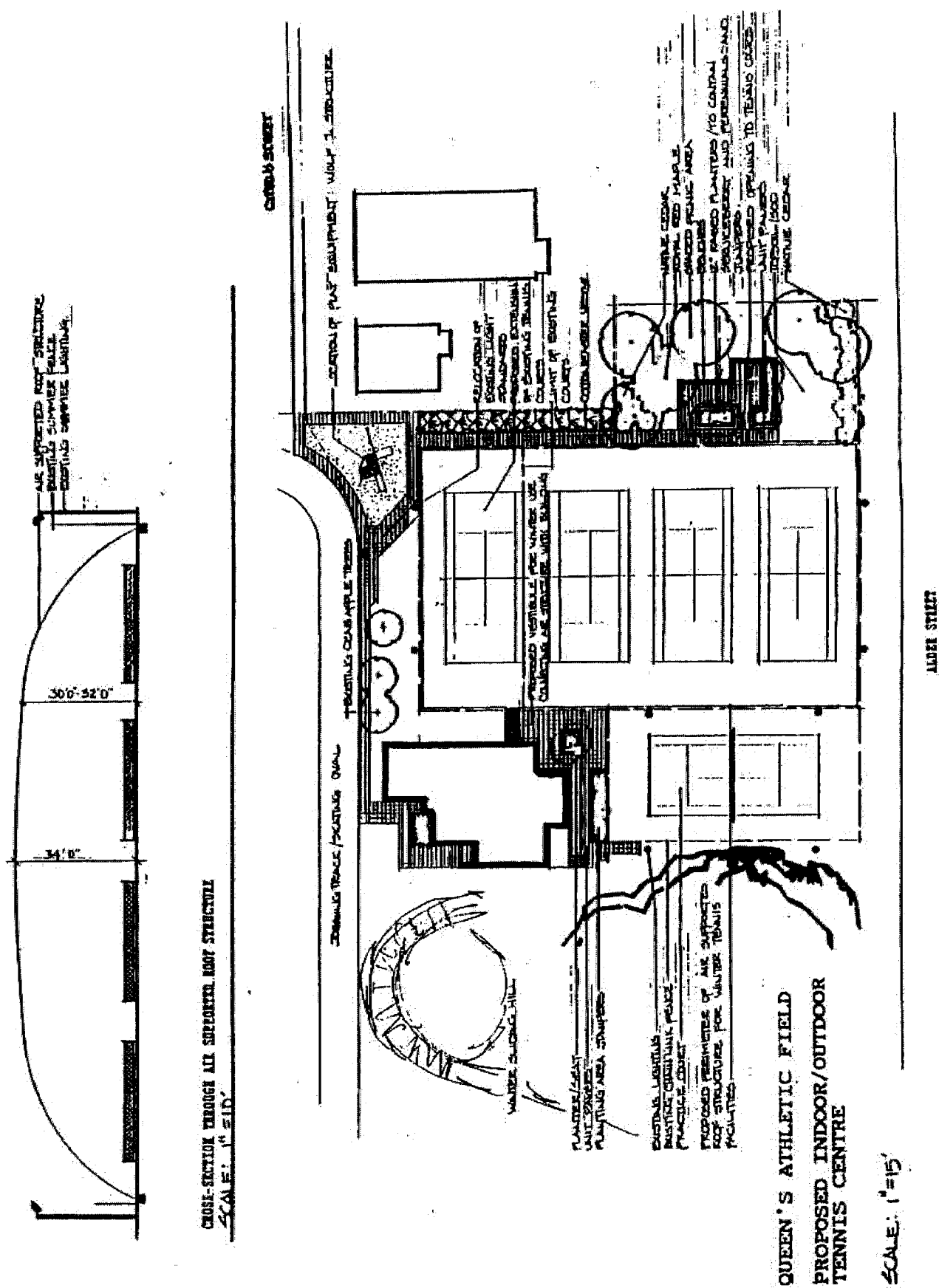
Janice Worms
Janice Worms
(Print Name, Title)

President

Sudbury Indoor Tennis Centre
(Print Name, Title)

I/We have authority to bind the Corporation.

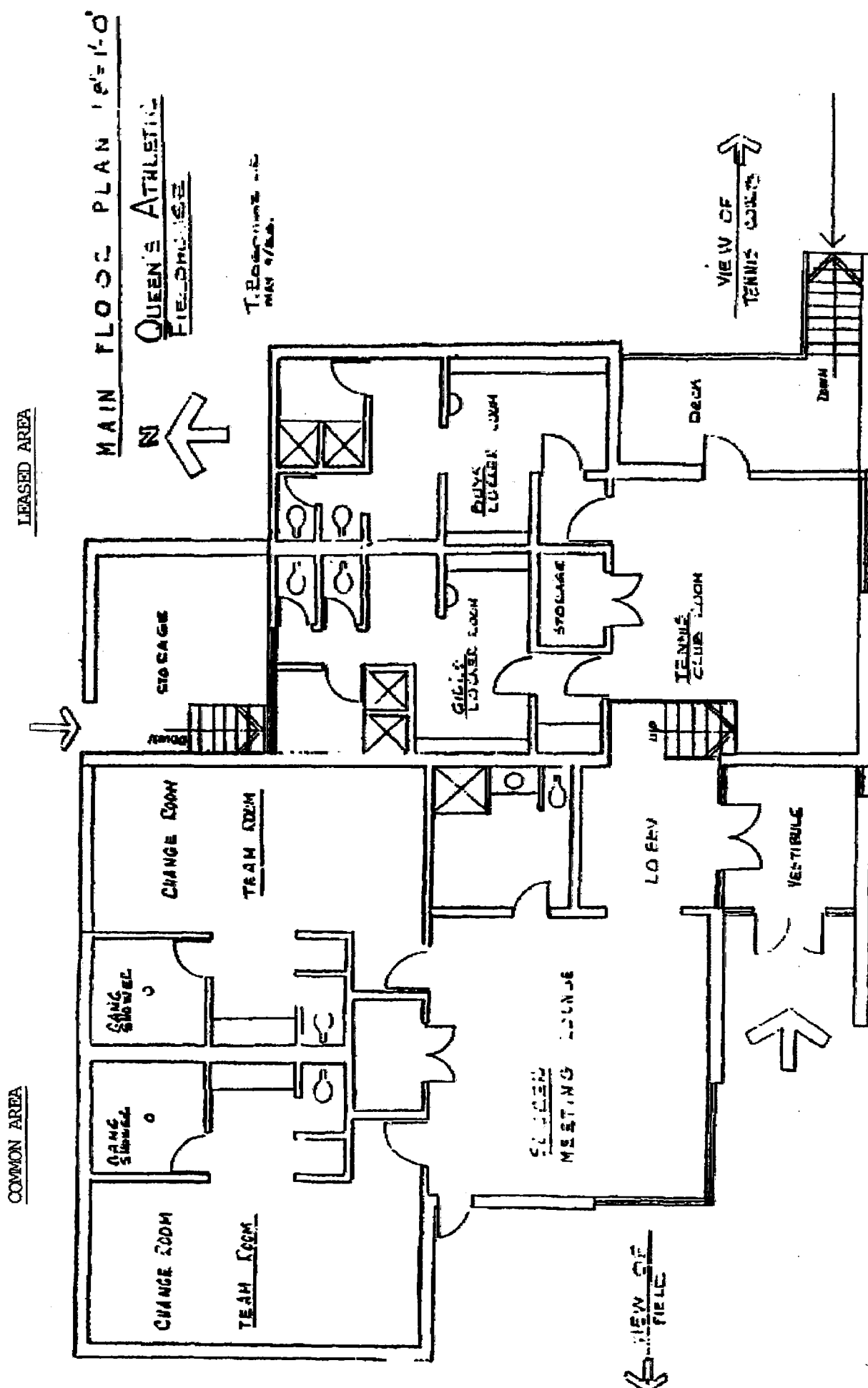
Schedule 'A'



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Schedule 'B'



DATED this 1st day of January, 2012

CITY OF GREATER SUDBURY

- and -

SUDBURY WINTER TENNIS CLUB

L E A S E

CITY OF GREATER SUDBURY
Real Estate Section
P.O. Box 5000, Station A
200 Brady Street
Sudbury ON P3A 5P3

Katherine Bowschar-Lische
Property Administrator
(705) 674-4455 ext. 2522

*sb